



POLITY AND GOVERNANCE PREVIOUS YEAR QUESTIONS 2013-2022 (SYLLABUS-WISE)

Indian Constitution: Historical underpinnings, evolution, features, amendments, significant provisions and basic structure

- “Right of movement and residence throughout the territory of India are freely available to the Indian citizens, but these rights are not absolute.” Comment. (2022) 10
- ‘Constitutional Morality’ is rooted in the Constitution itself and is founded on its essential facets. Explain the doctrine of ‘Constitutional Morality’ with the help of relevant judicial decisions. (2021) 10
- “Parliament’s power to amend the Constitution is a limited power and it cannot be enlarged into absolute power.” In the light of this statement explain whether Parliament under Article 368 of the Constitution can destroy the Basic Structure of the Constitution by expanding its amending power? (2019) 15
- Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. (2017) 15
- Discuss each adjective attached to the word ‘Republic’ in the ‘Preamble’. Are they defendable in the present circumstances? (2016) 12.5
- Did the Government of India Act, 1935 lay down a federal constitution? Discuss. (2016) 12.5
- Discuss the possible factors that inhibit India from enacting for its citizen a uniform civil code as provided for in the Directive Principles of State Policy. (2015) 12.5
- Starting from inventing the ‘basic structure’ doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy. (2014) 12.5
- What do you understand by the concept “freedom of speech and expression”? Does it cover hate speech also? Why do the films in India stand on a slightly different plane from other forms of expression? Discuss. (2014) 12.5
- Discuss Section 66A of IT Act, with reference to its alleged violation of Art 19. (2013) 10
- ‘The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution.’ Discuss critically. (2013) 10
- The size of the cabinet should be as big as governmental work justifies and as big as the Prime Minister can manage as a team. How far is the efficacy of a government then inversely related to the size of the cabinet? Discuss. (2014) 12.5
- Many State Governments further bifurcate geographical administrative areas like Districts and Talukas for better governance. In light of the above, can it also be justified that more number of smaller States would bring in effective governance at State level? Discuss. (2013) 10

Functions and responsibilities of the Union and the States, Issues and challenges pertaining to the federal structure

- The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging an FIR and conducting probe within a particular state is being questioned by various States. However, the power of States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India. (2021) 15
- How far do you think cooperation, competition and confrontation have shaped the nature of federation in India? Cite some recent examples to validate your answer (2020) 15

- Indian constitution exhibits centralising tendencies to maintain unity and integrity of the nation. Elucidate in the perspective of the Epidemic Diseases Act, 1897; The Disaster Management Act, 2005 and recently passed Farm Acts. (2020) 15
- From the resolution of contentious issues regarding distribution of legislative powers by the courts, 'Principle of Federal Supremacy' and 'Harmonious Construction' have emerged. Explain. (2019) 10
- Explain the salient features of the constitution (One Hundred and First Amendment) Act, 2016. Do you think it is efficacious enough 'to remove cascading effect of taxes and provide for common national market for goods and services'? (2017) 15
- To what extent is Article 370 of the Indian Constitution, bearing marginal note "Temporary provision with respect to the State of Jammu and Kashmir", temporary? Discuss the future prospects of this provision in the context of Indian polity. (2016) 12.5
- The concept of cooperative federalism has been increasingly emphasised in recent years. Highlight the drawbacks in the existing structure and the extent to which cooperative federalism would answer the shortcomings. (2015) 12.5
- Though the federal principle is dominant in our Constitution and that principle is one of its basic features, but it is equally true that federalism under the Indian Constitution leans in favour of a strong Centre, a feature that militates against the concept of strong federalism. Discuss. (2014) 12.5

Devolution of powers and finances up to local levels and challenges therein

- To what extent, in your opinion, as the decentralisation of power in India changed the governance landscape at the grassroots?(2022) 10
- The strength sustenance of local institutions in India has shifted from their formative phase of 'Functions, Functionaries and Funds' to the contemporary stage of 'Functionality'. Highlight the critical challenges faced by local institutions in terms of their functionality in recent times. (2020) 15
- "The reservation of seats for women in the institutions of local self- government has had a limited impact on the patriarchal character of the Indian Political Process." Comment. (2019) 15
- Assess the importance of the Panchayat system in India as a part of local government. Apart from government grants, what sources the Panchayats can look out for financing development projects? (2018) 15
- "The local self-government system in India has not proved to be effective instrument of governance". Critically examine the statement and give your views to improve the situation. (2017) 10
- In absence of well-educated and organised local level government system, 'Panchayats' and 'Samitis' have remained mainly political institutions and not effective instruments of governance. Critically discuss. (2015) 12.5
- Khap panchayats have been in the news for functioning as extra-constitutional authorities, often delivering pronouncements amounting to human rights violations. Discuss critically the actions taken by the legislative, executive and the judiciary to set the things right in this regard. (2015) 12.5

Separation of powers between various organs, dispute redressal mechanisms and institutions

- Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness. (2021) 10
- Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context justify the filing of large number of public interest petitions praying for issuing guidelines to executive authorities. (2020) 15
- Do you think that constitution of India does not accept principle of strict separation of powers rather it is based on the principle of 'checks and balance'? Explain (2019) 10
- Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. (2018) 15
- Discuss the essentials of the 69th Constitutional Amendment Act and anomalies, if any, that have led to recent reported conflicts between the elected representatives and institution of Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of the Indian Federal Politics? (2016) 12.5

Parliament and State Legislatures - structure, functioning, conduct of business, powers & privileges and issues arising out of these -

- While the national political parties in India favour centralisation, the regional parties are in favour of State autonomy." Comment(2022) 15
- Do Department -related Parliamentary Standing Committees keep the administration on its toes and inspire reverence for parliamentary control? Evaluate the working of such committees with suitable examples. (2021) 15
- Explain the constitutional provisions under which Legislative Councils are established. Review the working and current status of Legislative Councils with suitable illustrations. (2021) 15
- To what extent, in your view, the Parliament is able to ensure accountability of the executive in India? (2021) 10
- "Once a speaker, Always a speaker'! Do you think the practice should be adopted to impart objectivity to the office of the Speaker of Lok Sabha? What could be its implications for the robust functioning of parliamentary business in India. (2020) 10
- Rajya Sabha has been transformed from a 'useless stepney tyre' to the most useful supporting organ in past few decades. Highlight the factors as well as the areas in which this transformation could be visible. (2020) 15
- Individual Parliamentarian's role as the national lawmaker is on a decline, which in turn, has adversely impacted the quality of debates and their outcome. Discuss. (2019) 15
- Why do you think the committees are considered to be useful for parliamentary work? Discuss, in this context, the role of the Estimates Committee. (2018) 10
- The Indian Constitution has provisions for holding a joint session of the two houses of the Parliament. Enumerate the occasions when this would normally happen and also the occasions when it cannot, with reasons thereof. (2017) 15
- "The Indian party system is passing through a phase of transition which looks to be full of contradictions and paradoxes." Discuss. (2016) 12.5
- What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution? (2016) 12.5
- The 'Powers, Privileges and Immunities of Parliament and its Members' as envisaged in Article 105 of the Constitution leave room for a large number of un-codified and un-enumerated privileges to continue. Assess the reasons for the absence of legal codification of the 'parliamentary privileges'. How can this problem be addressed? (2014) 12.5
- The role of individual MPs (Members of Parliament) has diminished over the years and as a result healthy constructive debates on policy issues are not usually witnessed. How far can this be attributed to the anti-defection law which was legislated but with a different intention? (2013) 10
- Constitutional mechanisms to resolve the inter-state water disputes have failed to address and solve the problems. Is the failure due to structural or process inadequacy or both? Discuss. (2013) 10

Structure, organization and functioning of the Executive and the Judiciary; Ministries and Departments of the Government

- Discuss the role of the Vice -Presidents of India as the chairman of the Rajyasabha (2022) 10
- Discuss the essential conditions for exercise of the legislative powers by ne Governor. Discuss the legality of re-promulgation of ordinances by the Governor without placing them before the Legislature.(2022) 15
- Critically examine the procedures through which the Presidents of India and France are elected.(2022) 15
- "The Attorney-General is the chief legal adviser and lawyer of the Government of India." Discuss. (2019) 15
- Under what circumstances can the Financial Emergency be proclaimed by the President of India? What consequences follow when such a declaration remain in force? (2018) 10
- How far do you agree with the view that tribunals curtail the jurisdiction of ordinary courts? In view of the above, discuss the constitutional validity and competency of the tribunals in India? (2018) 15
- Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India. (2017) 10

- Resorting to ordinances has always raised concern on violation of the spirit of separation of powers doctrine. While noting the rationales justifying the power to promulgate ordinances, analyse whether the decisions of the Supreme Court on the issue have further facilitated resorting to this power. Should the power to promulgate the ordinances be repealed? (2015) 12.5
- What are the major changes brought in the Arbitration and Conciliation Act, 1996 through the recent Ordinance promulgated by the President? How far will it improve India's dispute resolution mechanism? Discuss. (2015) 12.5
- Does the right to clean environment entail legal regulation on burning crackers during Diwali? Discuss in the light of Article 21 of Indian Constitution and Judgement(s) of the Apex court in this regard. (2015) 12.5
- Instances of President's delay in commuting death sentences has come under public debate as denial of justice. Should there be a time limit specified for the President to accept/reject such petitions? Analyse. (2014) 12.5

Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies, Statutory, regulatory, and various quasi-judicial bodies

- Discuss the role of the National Commission for Backward Classes in the wake of its transformation from a statutory body to a constitutional body. (2022) 10
- Though the Human Rights Commissions have contributed immensely to the protection of human rights in India, yet they have failed to assert themselves against the mighty and powerful.
- Analyzing their structural and practical limitations, suggest remedial measures. (2021) 15
- How have the recommendations of the 14th Finance Commission of India enabled the states to improve their fiscal position? (2021) 10
- Which steps are required for constitutionalization of a commission? Do you think imparting constitutionality to the National Commission for Women would ensure greater gender justice and empowerment in India? Give reasons. (2020) 15
- "The Central Administration Tribunal which was established for redressal of grievances and complaints by or against central government employees, nowadays is exercising its powers as an independent judicial authority." Explain. (2019) 10
- In the light of recent controversy regarding the use of Electronic Voting Machine (EVM), what are the challenges before the Election Commission of India to ensure the trustworthiness of elections in India? (2018) 10
- "The Comptroller and Auditor General (CAG) has a very vital role to play." Explain how this is reflected in the method and terms of his appointment as well as the range of powers he can exercise. (2018) 10
- How is the Finance Commission of India constituted? What do you know about the terms of reference of the recently constituted Finance Commission? Discuss. (2018) 15
- Whether National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine. (2018) 10
- Multiplicity of various commissions for the vulnerable sections of the society leads to problems of overlapping jurisdiction & duplication of functions. Is it better to merge all commissions into an umbrella human rights commission? Argue your case. (2018) 15
- Exercise of CAG's powers in relation to the accounts of the Union and the States is derived from Article 149 of the Indian Constitution. Discuss whether audit of the Government's policy implementation could amount to overstepping its own (CAG) jurisdiction. (2016) 12.5
- What is quasi-judicial body? Explain with the help of concrete examples. (2016) 12.5
- National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure the accountability of a government. In light of the above observation assess the role of NHRC as an effective complement to the judiciary and other institutions in promoting and protecting human rights standards. (2014) 12.5
- Discuss the recommendations of the 13th Finance Commission which have been a departure from the previous commissions for strengthening the local government finances. (2013) 10
- The product diversification of financial institutions and insurance companies, resulting in overlapping of products and services strengthens the case for the merger of the two regulatory agencies namely SEBI and IRDA. Justify. (2013) 10

Comparison of the Indian constitutional scheme with that of other countries

- Analyze the distinguishing features of the notion of Equality in the Constitutions of the USA and India. (2021) 15
- The judicial systems in India and UK seem to be converging as well as diverging in the recent times. Highlight the key points of convergence and divergence between the two nations in terms of their judicial practices. (2020) 10
- What can France learn from the Indian Constitution's approach to secularism? (2019) 10
- India and USA are the two large democracies. Examine the basic tenets on which the two political systems are based. (2018) 15

Salient features of the Representation of People's Act

- Discuss the procedures to decide the disputes arising out of the election of a Member of the Parliament or State Legislature under The Representation of the People Act, 1951. What are the grounds on which the election of any returned candidate may be declared void? What remedy is available to the aggrieved party against the decision ? Refer to the case laws.(2022)15
- "There is a need for simplification of procedure for disqualification of persons found guilty of corrupt practices under the Representation of peoples Act" Comment (2020) 10
- On what grounds a people's representative can be disqualified under the Representation of People Act, 1951? Also mention the remedies available to such person against his disqualification. (2019) 15
- 'Simultaneous election to the Lok Sabha and the State Assemblies will limit the amount of time and money spent in electioneering but it will reduce the government's accountability to the people' Discuss. (2017) 10
- To enhance the quality of democracy in India the Election Commission of India has proposed electoral reforms in 2016. What are the suggested reforms and how far are they significant to make democracy successful? (2017) 15

Governance and Policy Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

- "Besides being a moral imperative of Welfare State, primary health structure is a necessary precondition for sustainable development." Analyze. (2021) 10
- 'In the context of neo-liberal paradigm of development planning, multi-level planning is expected to make operations cost effective and remove many implementation blockages.'- Discuss. (2019) 15
- "Policy Contradictions among various competing sectors and stakeholders have resulted in inadequate 'protection and prevention of degradation' to environment." Comment with relevant illustrations. (2018) 10
- Has the Indian governmental system responded adequately to the demands of Liberalization, Privatization and Globalization started in 1991? What can the government do to be responsive to this important change? (2016) 12.5
- "For achieving the desired objectives, it is necessary to ensure that the regulatory institutions remain independent and autonomous." Discuss in the light of experiences in recent past. (2015) 12.5
- Two parallel run schemes of the Government, viz. the Adhaar Card and NPR, one as voluntary and the other as compulsory, have led to debates at national levels and also litigations. On merits, discuss whether or not both schemes need run concurrently. Analyse the potential of the schemes to achieve developmental benefits and equitable growth. (2014) 12.5
- Though 100 percent FDI is already allowed in non-news media like a trade publication and general entertainment channel, the Government is mulling over the proposal for increased FDI in news media for quite some time. What difference would an increase in FDI make? Critically evaluate the pros and cons. (2014) 12.5
- The setting up of a Rail Tariff Authority to regulate fares will subject the cash strapped Indian Railways to demand subsidy for obligation to operate non-profitable routes and services. Taking into account the experience in the power sector, discuss if the proposed reform is expected to benefit the consumers, the Indian Railways or the private container operators. (2014) 12.5

- An athlete participates in Olympics for personal triumph and nation's glory; victors are showered with cash incentives by various agencies, on their return. Discuss the merit of state sponsored talent hunt and its cultivation as against the rationale of a reward mechanism as encouragement. (2014) 12.5
- Recent directives from Ministry of Petroleum and Natural Gas are perceived by the 'Nagas' as a threat to override the exceptional status enjoyed by the State. Discuss in light of Article 371A of the Indian Constitution. (2013) 10

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POLITY AND GOVERNANCE PREVIOUS YEAR QUESTIONS 2013-2022 (SYLLABUS-WISE)

Topic	Previous Year Question (2013-2022)
Preamble and Constitution	<p>1.What was the exact constitutional status of India on 26th January, 1950?(2021)</p> <p>(a) A Democratic Republic (b) A Sovereign Democratic Republic (c) A Sovereign Secular Democratic Republic (d) A Sovereign Socialist Secular Democratic Republic</p> <p>2.The Preamble to the Constitution of India is(2020)</p> <p>(a) a part of the Constitution but has no legal effect (b) not a part of the Constitution and has no legal effect either (c) part of the Constitution and has the same legal effect as any other part (d) a part of the Constitution but has no legal effect independently of other parts</p> <p>3. The mind of the makers of the Constitution of India is reflected in which of the following? (2017)</p> <p>(a)The Preamble (b)The Fundamental Rights (c)The Directive Principles of State Policy (d) The Fundamental Duties</p> <p>4. Which one of the following objectives is not embodied in the Preamble to the Constitution of India?(2017)</p> <p>(a) Liberty of thought (b) Economic liberty (c) Liberty of expression (d) Liberty of belief</p>
Fundamental rights	<p>1.Right to Privacy' is protected under which Article of the constitution of India?(2021)</p> <p>(a) Article 15 (b) Article 19 (c) Article 21 (d) Article 29</p> <p>2. Which one of the following categories of 'Fundamental Rights incorporated against untouchability as a form of discrimination?(2020)</p> <p>(a) Right against Exploitation (b) Right to Freedom (c) Right to Constitutional Remedies (d) Right to Equality</p> <p>3. Which Article of the Constitution of India safeguards one's right to marry the person of one's choice?(2019)</p> <p>(a) Article 19 (b) Article 21</p>

	<p>(c) Article 25 (d) Article 29</p> <p>4. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement? (2018)</p> <p>(a) Article 14 and the provisions under the 42nd Amendment to the Constitution (b) Article 17 and the Directive Principles of State Policy in Part IV (c) Article 21 and the freedoms guaranteed in Part. III (d) Article 24 and the provisions under the 44th Amendment to the Constitution</p> <p>5. Which of the following are regarded as the main features of the "Rule of Law"? (2018)</p> <p>1. Limitation of Powers 2. Equality before law 3. People's responsibility to the Government 4. Liberty and civil rights</p> <p>Select the correct answer using the code given below:</p> <p>(a) 1 and 3 only (b) 2 and 4 only (c) 1, 2 and 4 only (d) 1, 2, 3 and 4</p> <p>6. Which of the following are envisaged by the Right against Exploitation in the Constitution of India? (2017)</p> <p>1. Prohibition of traffic in human beings and forced labour 2. Abolition of untouchability 3. Protection of the interests of minorities 4. Prohibition of employment of children in factories and mines</p> <p>Select the correct answer using the code give below:</p> <p>(a) 1, 2 and 4 only (b) 2, 3 and 4 only (c) 1 and 4 only (d) 1, 2, 3 and 4</p> <p>7. Which one of the following statements is correct? (2017)</p> <p>(a) Rights are claims of the State against the citizens. (b) Rights are privileges which are incorporated in the Constitution of a State. (c) Rights are claims of the citizens against the State. (d) Rights are privileges of a few citizens against the many.</p>
Fundamental duties	<p>1. What is the position of the Right to Property in India? (2021)</p> <p>(a) Legal right available to citizens only (b) Legal right available to any person (c) Fundamental Right available to citizens only (d) Neither fundamental Right nor legal right</p> <p>2. Which of the following statements is/are true of the Fundamental Duties of an Indian citizen? (2017)</p> <p>1. A legislative process has been provided to enforce these duties. 2. They are correlative to legal duties.</p> <p>Select the correct answer using the code given below:</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p>

	<p>3. In the context of India, which one of the following is the correct relationship between Rights and Duties?(2017)</p> <p>(a) Rights are correlative with Duties. (b) Rights are personal and hence independent of society and Duties. (c) Rights, not Duties, are important for the advancement of the personality of the citizen. (d) Duties, not Rights, are important for the stability of the State.</p> <p>4. “To uphold and protect the Sovereignty Unity and Integrity of India” is a provision made in the(2015)</p> <p>(a) Preamble of the Constitution (b) Directive Principles of State Policy (c) Fundamental Rights (d) Fundamental Duties</p>
Directive principles of state policy	<p>1.Under the Indian constitution concentration of wealth violates(2021)</p> <p>(a) The Right to Equality (b) The Directive Principles of State Policy (c) The Right to Freedom (d) The Concept of Welfare</p> <p>2. In India, separation of judiciary from the executive is enjoined by(2020)</p> <p>(a) the Preamble of the Constitution (b) a Directive Principle of State Policy (c) the Seventh Schedule (d) the conventional practice</p> <p>3.Which part of the Constitution of India declares the ideal of a Welfare State?(2020)</p> <p>(a) Directive Principles of State Policy (b) Fundamental Rights (c) Preamble (d) Seventh Schedule</p> <p>4. With reference to the provisions contained in Part IV of the Constitution of India, which of the following statements is/are correct?(2020)</p> <p>1. They shall be enforceable by courts. 2. They shall not be enforceable by any court. 3. The principles laid down in this part are to influence the making of laws by the State.</p> <p>Select the correct answer using the code given below:</p> <p>(a) 1 only (b) 2 only (c) 1 and 3 only (d) 2 and 3 only</p> <p>5.Consider the following statements:</p> <p>With reference to the Constitution of India, the Directive Principles of State Policy constitute limitations upon</p> <p>1. legislative function. 2. executive function.</p> <p>Which of the above statements is/are correct?(2017)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p>

	<p>6. Consider the following Statements regarding the DPSP/ Directive Principles of State Policy:</p> <p>1. The Principles spell out the socio-economic democracy in the country 2. The provisions contained in these Principles are not enforceable by any court.</p> <p>Which of the statements given below is correct?(2015)</p> <p>(a) 1 only (b) 2 only (c) Both 1 & 2 (d) Neither 1 nor 2</p> <p>7. The ideal of “Welfare State” in the Indian Constitution is enshrined in its(2015)</p> <p>(a) Preamble (b) Directive Principles of State Policy (c) Fundamental Rights (d) Seventh Schedule</p> <p>8. Consider the following statements:</p> <p>1. The Legislative Council of a state in India can be larger in size than half of the Legislative Assembly of that particular state. 2. The Governor of a State nominates the Chairman of the Legislative Council of that particular state.</p> <p>Which of the statements given above is/are correct?(2015)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>9. In the Constitution of India, promotion of international peace and security is included in the(2014)</p> <p>(a) Preamble to the Constitution (b) Directive Principles of State Policy (DPSP) (c) Fundamental Duties (d) Ninth Schedule</p> <p>10. ‘Economic Justice’ the objectives of Constitution has been as one of the Indian provided in(2013)</p> <p>(a) the Preamble and Fundamental Rights (b) the Preamble and the Directive Principles of State Policy (c) the Fundamental Rights and the Directive Principles of State Policy (d) None of the above</p> <p>11. According to the Constitution of India, which of the following are fundamental for the governance of the country?(2013)</p> <p>(a) Fundamental Rights (b) Fundamental Duties (c) Directive Principles of State Policy (d) Fundamental Rights and Fundamental Duties</p>
Legislature	<p>1.Consider the following statements(2022)</p> <p>1. A bill amending the Constitution requires a prior recommendation of the President of India. 2. When a Constitution Amendment Bill is presented to the President of India, it is obligatory for the President of India to give his/her assent. 3. A Constitution Amendment Bill must be passed by both the Lok Sabha and Rajya Sabha by a special majority and there is no provision for joint sitting.</p> <p>Which of the statements given above are correct?</p> <p>(a) 1 and 2 only</p>

- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

2. Which of the following is/are the exclusive power(s) of Lok Sabha?

- 1. To ratify the declaration of Emergency
- 2. To pass a motion of no-confidence against the Council of Ministers
- 3. To impeach the President of India

Select the correct answer using the code given below(2022)

- (a) 1 and 2
- (b) 2 only
- (c) 1 and 3
- (d) 3 only

3. We adopted parliamentary democracy based on the British model, but how does our model differ from that model?(2021)

- 1. As regards legislation, the British Parliament is supreme or sovereign but in India, the power of the parliament to legislate is limited.
- 2. In India, matters related to the constitutionality of the Amendment of an Act of the Parliament are referred to the Constitution Bench by the Supreme Court.

Select the correct answer using the code given below.

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

4. Consider the following statements:

- 1. In India, there is no law restricting the candidates from contesting in one Lok Sabha election from three constituencies.
- 2. In 1991 Lok Sabha Election, Shri Devi Lal contested from three Lok Sabha constituencies.
- 3. As per the existing rules, if a candidate contests in one Lok Sabha election from many constituencies, his/her party should bear the cost of bye-elections to the constituencies vacated by him/her in the event of him/her winning in all the constituencies.

Which of the statements given above is/are correct?(2021)

- (a) 1 only
- (b) 2 only
- (c) 1 and 3
- (d) 2 and 3

5. Rajya Sabha has equal powers with Lok Sabha in(2020)

- (a) the matter of creating new All India Services
- (b) amending the Constitution
- (c) the removal of the government
- (d) making cut motions

6. Along with the Budget, the Finance Minister also places other documents before the Parliament which include 'The Macro Economic Framework Statement'. The aforesaid document is presented because this is mandated by(2020)

- (a) Long standing parliamentary convention
- (b) Article 112 and Article 110(1) of the Constitution of India
- (c) Article 113 of the Constitution of India
- (d) Provisions of the Fiscal Responsibility and Budget Management Act, 2003

7. Consider the following statements:

- 1. The President of India can summon a session of the Parliament at such a place as he/she thinks fit.

2. The Constitution of India provides for three sessions of the Parliament in a year, but it is not mandatory to conduct all three sessions.
3. There is no minimum number of days that the Parliament is required to meet in a year.
Which of the statements given above is/are correct?(2020)
(a) 1 only
(b) 2 only
(c) 1 and 3 only
(d) 2 and 3 only

8. Consider the following statements(2019)

1. The Parliament (Prevention of Disqualification) Act, 1959 exempts several posts from disqualification on the grounds of 'Office of Profit'.
2. The above-mentioned Act was amended five times.
3. The term 'Office of Profit' is well-defined in the Constitution of India.
Which of the statements given above is/are correct?
(a) 1 and 2 only
(b) 3 only
(c) 2 and 3 only
(d) 1, 2 and 3

9. With reference to the Legislative Assembly of a State in India, consider the following statements(2019)

1. The Governor makes a customary address to Members of the House at the commencement of the first session of the year.
2. When a State Legislature does' not have a rule on a particular matter, it follows the Lok Sabha rule on that matter.
Which of the statements given above is/are correct?
(a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2

10. Consider the following statements(2018)

1. The Speaker of the Legislative Assembly Shall vacate his/her office if he/she ceases to be a member of the Assembly.
2. Whenever the Legislative Assembly is dissolved, the Speaker shall vacate his/her immediately.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2

11. With reference to the Parliament of India, which of the following Parliamentary Committees scrutinizes and reports to the house whether the powers to make regulations, rules, sub-rules, by-laws, etc. conferred by the Constitution or delegated by the Parliament are being properly exercised by the Executive within the scope of such delegation ?(2018)

- (a) Committee on Government Assurances
(b) Committee on Subordinate Legislation
(c) Rules Committee
(d) Business Advisory Committee

12. Consider the following statements:

1. In the first Lok Sabha, the single largest party in the opposition was the Swatantra Party.
2. In the Lok Sabha, a "Leader of the Opposition" was recognised for the first time in 1969.
3. In the Lok Sabha, if a party does not have a minimum of 75 members, its leader cannot be

- recognised as the Leader of the Opposition.
Which of the statements given above is/are correct?(2018)
- (a)1 and 3 only
 - (b) 2 only
 - (c) 2 and 3 only
 - (d) 1, 2 and 3

13. With reference to the Parliament of India, consider the following statements:

- 1. A private member's bill is a bill presented by a Member of Parliament who is not elected but only nominated by the President of India.
- 2. Recently, a private member's bill has been passed in the Parliament of India for the first time in its history.

Which of the statements given above is/are correct?(2017)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

14. The Parliament of India exercises control over the functions of the Council of Ministers through

- 1. Adjournment motion
- 2. Question hour
- 3. Supplementary questions

Select the correct answer using the code given below(2017)

- (a) 1 only
- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

15. The main advantage of the parliamentary form of government is that(2017)

- (a) the executive and legislature work independently.
- (b) it provides continuity of policy and is more efficient.
- (c) the executive remains responsible to the legislature.
- (d) the head of the government cannot be changed without election.

16. Out of the following statements, choose the one that brings out the principle underlying the Cabinet form of Government(2017)

- (a) An arrangement for minimizing criticism against the Government whose responsibilities are complex and hard to carry out to the satisfaction of all.
- (b) A mechanism for speeding up the activities of the Government whose responsibilities are increasing day by day.
- (c) A mechanism of parliamentary democracy for ensuring collective responsibility of the Government to the people.
- (d) A device for strengthening the hands of the head of the Government whose hold over the people is in a state of decline.

17. Consider the following statements:

- 1. In the election for Lok Sabha or State Assembly, the winning candidate must get at least 50 percent of the votes polled, to be declared elected.
- 2. According to the provisions laid down in the Constitution of India, in Lok Sabha, the Speaker's post goes to the majority party and the Deputy Speaker's to the Opposition.

Which of the statements given above is/are correct?(2017)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

18. For election to the Lok Sabha, a nomination paper can be filed by(2017)

- (a) anyone residing in India.
- (b) a resident of the constituency from which the election is to be contested.
- (c) any citizen of India whose name appears in the electoral roll of a constituency.
- (d) any citizen of India.

19. Which of the following statements is/are correct?

- 1. A bill pending in the Lok Sabha lapses on its prorogation.
- 2. A bill pending in the Rajya Sabha, which has not been passed by the Lok Sabha, shall not lapse on dissolution of the Lok Sabha.

Select the correct answer using the code given below(2016)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

20. The Parliament of India acquires the power to legislate on any item in the State List in the national interest if a resolution to that effect is passes by the(2016)

- (a) Lok Sabha by a simple majority of its total membership
- (b) Lok Sabha by a majority of not less than two-thirds of its total membership
- (c) Rajya Sabha by a simple majority of its total membership
- (d) Rajya Sabha by a majority of not less than two-thirds of its members present and voting

21. There is a Parliamentary System of Government in India because the(2015)

- (a) Lok Sabha is elected directly by the people
- (b) Parliament can amend the constitution
- (c) Rajya Sabha cannot be dissolved
- (d) Council of Ministers is responsible to the Lok Sabha

22. Consider the following statements :

- 1. The Rajya Sabha has no power either to reject or to amend a Money Bill
- 2. The Rajya Sabha cannot vote on the Demands for Grants.
- 3. The Rajya Sabha cannot discuss the Annual Financial Statement.

Which of the statements given above is/are correct?(2015)

- (a) 1 only
- (b) 1 and 2 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

23. When a bill is referred to a joint sitting both the Houses of the Parliament, has to be passed by(2015)

- (a) a simple majority of member present and voting
- (b) three-fourths majority of member present and voting
- (c) two-thirds majority of the House
- (d) absolute majority of the House

24.Consider the following statements:

- 1. The Executive Power of the Union of India is vested in the Prime Minister.
- 2. The Prime Minister is the ex officio Chairman of the Civil Services Board.

Which of the statements given above is/are correct?(2015)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

25. Which one of the following is the largest Committee of the Parliament? (2014)

- (a) The Committee on Public Accounts
- (b) The Committee on Estimates
- (c) The Committee on Public Undertakings
- (d) The Committee on Petitions

26. Consider the following statements regarding a No-Confidence Motion in India:

- 1. There is no mention of a No-Confidence Motion in the Constitution of India.
- 2. A Motion of No-Confidence can be introduced in the Lok Sabha only.

Which of the statements given above is/are correct? (2014)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

27. Consider the following statements

- 1. An amendment to the Constitution of India can be initiated by an introduction of a bill in the Lok Sabha only.
- 2. If such an amendment seeks to make changes in the federal character of the Constitution, the amendment also requires to be ratified by the legislature of all the States of India.

Which of the statements given above is/are correct? (2013)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

28. Consider the following statements:

The Parliamentary Committee on Public Accounts (PAC)

- 1. consists of not more than 25 Members of the Lok Sabha
- 2. scrutinizes appropriation and finance accounts of Government
- 3. examines the report of CAG.

Which of the statements given above is / are correct? (2013)

- (a) 1 only
- (b) 2 and 3 only
- (c) 3 only
- (d) 1, 2 and 3

29. The Parliament can make any law for whole or any part of India for implementing international treaties (2013)

- (a) with the consent of all the States
- (b) with the consent of the majority of States
- (c) with the consent of the States concerned
- (d) without the consent of any State

30. What will follow if a Money Bill is substantially amended by the Rajya Sabha?

- (a) The Lok Sabha may still proceed with the Bill, accepting or not accepting the recommendations of the Rajya Sabha
- (b) The Lok Sabha cannot consider the Bill further
- (c) The Lok Sabha may send the Bill to the Rajya Sabha for reconsideration
- (d) The President may call a joint sitting for passing the Bill

31. Consider the following statements:

- 1. The Chairman and the Deputy Chairman of the Rajya Sabha are not the members of that House.
- 2. While the nominated members of the two Houses of the Parliament have no voting right in the presidential election, they have the right to vote in the election of the Vice President.

	<p>Which of the statements given above is/are correct?(2013)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p>
Executives	<p>1. Consider the following statements:</p> <p>1. The Constitution of India classifies the ministers into four ranks viz. Cabinet Minister, Minister of State with Independent Charge, Minister of State and Deputy Minister.</p> <p>2. The total number of ministers in the Union Government, including the Prime Minister, shall not exceed 15 percent of the total number of members in the Lok Sabha.</p> <p>Which of the statements given above is/are correct?(2022)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>2. With reference to anti-defection law in India, consider the following statements:</p> <p>1. The law specifies that a nominated legislator cannot join any political party within six months of being appointed to the House.</p> <p>2. The law does not provide any time-frame within which the presiding officer has to decide a defection case.</p> <p>Which of the statements given above is/are correct?(2022)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>3. Consider the following statements:</p> <p>1. Attorney General of India and Solicitor General of India are the only officers of the Government who are allowed to participate in the meetings of the Parliament of India.</p> <p>2. According to the Constitution of India, the Attorney General of India submits his resignation when the Government which appointed him resigns.</p> <p>Which of the statements given above is/are correct?(2022)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>4. With reference to Deputy Speaker of Lok Sabha, consider the following statements:</p> <p>1. As per the Rules of Procedure and Conduct of Business in Lok Sabha, the election of Deputy Speaker shall be held on such date as the Speaker may fix.</p> <p>2. There is a mandatory provision that the election of a candidate as Deputy Speaker of Lok Sabha shall be from either the principal opposition party or the ruling party.</p> <p>3. The Deputy Speaker has the same power as of the Speaker when presiding over the sitting of the House and no appeal lies against his rulings.</p> <p>4. The well established parliamentary practice regarding the appointment of Deputy Speaker is that the motion is moved by the Speaker and duly seconded by the Prime Minister.</p> <p>Which of the statements given above are correct? (2022)</p> <p>(a) 1 and 3 only (b) 1, 2 and 3 (c) 3 and 4 only (d) 2 and 4 only</p>

5. Constitutional government means(2021)

- (a) a representative government of a nation with a federal structure
- (b) a government whose Head enjoys nominal powers
- (c) a government whose Head enjoys nominal powers
- (d) a government limited by the terms of the Constitution

6. Which one of the following in Indian polity is an essential feature that indicates that it is federal in character?(2021)

- (a) The independence of the judiciary is safeguarded
- (b) The Union Legislature has elected representatives from constituent units
- (c) the Union cabinet can have elected representatives from regional parties
- (d) The Fundamental rights are enforceable by Courts of Law

7. With reference to the Union Government, consider the following statements

- 1. N. Gopalaswamy Iyenger Committee suggested that a minister and a secretary be designated solely for pursuing the subject of administrative reform and promoting it.
- 2. In 1970, the Department of personnel was constituted on the recommendation of the Administrative Reforms Commission, 1966, and this was placed under the Prime Minister's charge.

Which of the statements given above is/are correct?(2021)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

8. A constitutional government by definition is a(2020)

- (a) government by legislature
- (b) popular government
- (c) multi-party government
- (d) limited government

9. A Parliamentary System of Government is one in which(2020)

- (a) all political parties in the Parliament are represented in the Government
- (b) the Government is responsible to the Parliament and can be removed by it
- (c) the Government is elected by the people and can be removed by them
- (d) the Government is chosen by the Parliament but cannot be removed by it before completion of a fixed term

10. In the context of India, which one of the following is the characteristic appropriate for bureaucracy?(2020)

- (a) An agency for widening the scope of parliamentary democracy
- (b) An agency for strengthening the structure of federalism
- (c) An agency for facilitating political stability and economic growth
- (d) An agency for the implementation of public policy

11. Consider the following statements:

- 1. According to the Constitution of India, a person who is eligible to vote can be made a minister in a State for six months even if he/she is not a member of the Legislature of that State.
- 2. According to the Representation of People Act, 1951, a person convicted of a criminal offence and sentenced to imprisonment for five years is permanently disqualified from contesting an election even after his release from prison.

Which of the statements given above is/are correct?(2020)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

12. Which one of the following suggested that the Governor should be an eminent person from outside the State and should be a detached figure without intense political links or should not have taken part in politics in the recent past?(2019)

- (a) First Administrative Reforms Commission (1966)
- (b) Rajamannar Committee (1969)
- (c) Sarkaria Commission (1983)
- (d) National Commission to Review the Working of the Constitution (2000)

13. Consider the following statements(2020)

- 1. No criminal proceedings shall be instituted against the Governor of a State in any court during his term of office.
- 2. The emoluments and allowances of the Governor of a State shall not be diminished during his term of office.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

14. With reference to the election of the President of India, consider the following statements:

- 1. The value of the vote of each MLA varies from State to State.
- 2. The value of the vote of MPs of the Lok Sabha is more than the value of the vote of MPs of the Rajya Sabha.

Which of the following statements given above is/are Correct?(2018)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 Or 2

15. If the President of India exercises his power as provided under Article 356 of the Constitution in respect of a particular State, then(2018)

- (a) the Assembly of the State is automatically dissolved.
- (b) the powers of the Legislature of that State shall be exercisable by or under the authority of the Parliament.
- (c) Article 19 is suspended in that State.
- (d) the President can make laws relating to that State.

16. Which of the following are not necessarily the consequences of the proclamation of the President's rule in a State?(2017)

- 1. Dissolution of the State Legislative Assembly
- 2. Removal of the Council of Ministers in the State
- 3. Dissolution of the local bodies

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2 and 3 only
- (d) 1, 2and 3

17. Consider the following statements:

- 1. The Chief Secretary in a State is appointed by the Governor of that State.
- 2. The Chief Secretary in a State has a fixed tenure

Which of the statements given above is/are correct?(2016)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

18. With reference to the Union Government consider the following statements.

1. The Department of Revenue is responsible for the preparation of Union Budget that is presented to the parliament
2. No amount can be withdrawn from the Consolidated Fund of India without the authorization of Parliament of India.
3. All the disbursements made from Public Account also need the Authorization from the Parliament of India

Which of the following statements given above is/are correct?(2015)

- (a) 1 and 2 only
- (b) 2 and 3 only
- (c) 2 only
- (d) 1, 2, and 3

19. Consider the following statements:

1. The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.
2. All executive actions of the Government of India shall be expressed to be taken in the name of the Prime Minister.

Which of the statements given above is/are correct?(2014)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

20. Which of the following are the discretionary powers given to the Governor of a State?

1. Sending a report to the President of India for imposing the President's rule
2. Appointing the Ministers
3. Reserving certain bills passed by the State Legislature for consideration of the President of India
4. Making the rules to conduct the business of the State Government

Select the correct answer using the code given below.(2014)

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2, 3 and 4 only
- (d) 1, 2, 3 and 4

21. Which of the following is/are the function/functions of the Cabinet Secretariat?

1. Preparation of agenda for Cabinet Meetings
2. Secretarial assistance to Cabinet Committees
3. Allocation of financial resources to the Ministries

Select the correct answer using the code given below.(2014)

- (a) 1 only
- (b) 2 and 3 only
- (c) 1 and 2 only
- (d) 1, 2 and 3

22. In the context of India, which of the following principles is/are implied institutionally in the parliamentary government?

1. Members of the Cabinet are Members of the Parliament.
2. Ministers hold the office till they enjoy confidence in the Parliament.
3. The Cabinet is headed by the Head of the State.

Select the correct answer using the codes given below.(2013)

- (a) 1 and 2 only
- (b) 3 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

	<p>23. Consider the following statements:</p> <p>1. The Council of Ministers in the Centre shall be collectively responsible to the Parliament. 2. The Union Ministers shall hold the office during the pleasure of the President of India. 3. The Prime Minister shall communicate to the President about the proposals for Legislation.</p> <p>Which of the statements given above is/are correct?(2013)</p> <p>(a) only 1 (b) only 2 and 3 (c) only 1 and 3 (d) 1, 2 and 3</p> <p>24. Which one of the following statements is correct?(2013)</p> <p>(a) In India, the same person cannot be appointed as Governor for two or more States at the same time (b) The Judges of the High Court of the States in India are appointed by the Governor of the State just as the Judges of the Supreme Court are appointed by the President (c) No procedure has been laid down in the Constitution of India for the removal of a Governor from his/her post (d) In the case of a Union Territory having a legislative setup, the Chief Minister is appointed by the Lt. Governor on the basis of majority support</p> <p>25. Consider the following statements:</p> <p>Attorney General of India can</p> <p>1. take part in the proceedings of the Lok Sabha 2. be a member of a committee of the Lok Sabha 3. speak in the Lok Sabha 4. vote in the Lok Sabha</p> <p>Which of the statements given above is/are correct?(2013)</p> <p>(a) 1 only (b) 2 and 4 (c) 1, 2 and 3 (d) 1 and 3 only</p>
Judiciary	<p>1. Consider the following statements(2022)</p> <p>1. Pursuant to the report of H.N. Sanyal Committee, the Contempt of Courts Act, 1971 was passed. 2. The Constitution of India empowers the Supreme Court and the High Courts to punish for contempt of themselves. 3. The Constitution of India defines Civil Contempt and Criminal Contempt. 4. In India, the Parliament is vested with the powers to make laws on Contempt of Court.</p> <p>Which of the statements given above is/are correct?</p> <p>(a) 1 and 2 only (b) 1, 2 and 4 only (c) 3 and 4 only (d) 3 only</p> <p>2. With reference to the writs issued by the Courts in India, consider the following statements:</p> <p>1. Mandamus will not lie against a private organization unless it is entrusted with a public duty. 2. Mandamus will not lie against a Company even though it may be a Government Company. 3. Any public minded person can be a petitioner to move the Court to obtain the writ of Quo Warranto.</p> <p>Which of the statements given above are correct?(2022)</p> <p>(a) 1 and 2 only (b) 2 and 3 only (c) 1 and 3 only (d) 1, 2 and 3</p>

3. With reference to Indian Judiciary, consider the following statements.

1. Any retired judge of the Supreme Court of India can be called back to sit by the Chief Justice of India with prior permission of the President of India.
2. A High court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct? (2021)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

4. Consider the following statements(2019)

1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

Which of the statements given above is/are correct? (2019)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

5. Consider the following statements(2019)

1. The motion to impeach a Judge of the Supreme Court of India cannot be rejected by the Speaker of the Lok Sabha as per the Judges (Inquiry) Act, 1968.
2. The Constitution of India defines and gives details of what Constitutes 'incapacity and proved misbehaviour' of the Judges of the Supreme Court of India.
3. The details of the process of impeachment of the Judges of the Supreme Court of India are given in the Judges (Inquiry) Act, 1968.
4. If the motion for the impeachment of a Judge is taken up for voting, the law requires the motion to be backed by each House of the Parliament and supported by a majority of total membership of that House and by not less than two-thirds of total members of that House present and voting.

Which of the statements given above is/are correct?

- (a) 1 and 2
- (b) 3 only
- (c) 3 and 4 only
- (d) 1, 3 and 4

6. With reference to the Constitution of India, prohibitions or limitations or provisions contained in ordinary laws cannot act as prohibitions or limitations on the constitutional powers under Article 142. It could mean which one of the following?(2019)

- (a) The decisions taken by the Election Commission of India while discharging its duties cannot be challenged in any court of law.
- (b) The Supreme Court of India is not constrained in the exercise of its powers by laws made by the Parliament.
- (c) In the event of a grave financial crisis in the country, the President of India can declare a Financial Emergency without the counsel from the Cabinet.
- (d) State Legislatures cannot make laws on certain matters without the concurrence of the Union Legislature.

7. With reference to the Constitution of India, consider the following statements(2019)

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.
2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.



	<p>Which of the statements given above is / are correct?</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>8. In India, Judicial Review implies(2017)</p> <p>(a) the power of the Judiciary to pronounce upon the constitutionality of laws and executive orders. (b) the power of the Judiciary to question the wisdom of the laws enacted by the Legislatures. (c) the power of the Judiciary to review all the legislative enactments before they are assented to by the President. (d) the power of the Judiciary to review its own judgements given earlier in similar or different cases.</p> <p>9. Who/Which of the following is the Custodian of the Constitution of India?(2015)</p> <p>(a) The President of India (b) The Prime Minister of India (c) The Lok Sabha Secretariat (d) The Supreme Court of India</p> <p>10. The power to increase the number of judges in the Supreme Court of India is vested in(2014)</p> <p>(a) the President of India (b) the Parliament (c) the Chief Justice of India (d) the Law Commission</p> <p>11. The power of the Supreme Court of India to decide disputes between the Centre and the States falls under its(2014)</p> <p>(a) advisory jurisdiction (b) appellate jurisdiction. (c) original jurisdiction (d) writ jurisdiction</p>
Local bodies	<p>1. Consider the following statements:</p> <p>1. The minimum age prescribed for any person to be a member of Panchayat is 25 years. 2. A Panchayat reconstituted after premature dissolution continues only for the remainder period.</p> <p>Which of the statements given above is/are correct?(2016)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>2. With reference to the 'Gram Nyayalaya Act', which of the following statements is/are correct?</p> <p>1. As per the Act, Gram Nyayalayas can hear only civil cases and not criminal cases 2. The Act allows local social activists as mediators/reconciliators.</p> <p>Select the correct answer using the code given below(2016)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p>

	<p>3. The fundamental object of the Panchayati Raj system is to ensure which among the following?</p> <ol style="list-style-type: none">1. People's participation in development2. Political accountability3. Democratic decentralization4. Financial mobilization <p>Select the correct answer using the code given below(2015)</p> <p>(a) 1, 2 and 3 only (b) 2 and 4 only (c) 1 and 3 only (d) 1, 2, 3 and 4</p> <p>4. Under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, who shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both?(2013)</p> <p>(a) State Forest Department (b) District Collector/Deputy Commissioner (c) Tahsildar /Block Development Officer / Mandal Revenue Officer (d) Gram Sabha</p> <p>5. The Government enacted the Panchayat Extension to Scheduled Areas (PESA) Act in 1996. Which one of the following is not identified as its objective?(2013)</p> <p>(a) To provide self-governance (b) To recognize traditional rights (c) To create autonomous regions in tribal areas (d) To free tribal people from exploitation</p>
Commission/ tribunals	<p>1. Consider the following statements :</p> <ol style="list-style-type: none">1. The Election Commission of India is a five-member body.2. The Union Ministry of Home Affairs decides the election schedule for the conduct of both general elections and bye-elections.3. Election Commission resolves the disputes relating to splits/mergers of recognised political parties. <p>Which of the statements given above is/are correct?(2017)</p> <p>(a) 1 and 2 only (b) 2 only (c) 2 and 3 only (d) 3 only</p> <p>2. Which of the following are associated with 'Planning' in India?</p> <ol style="list-style-type: none">1. The Finance Commission2. The National Development Council3. The Union Ministry of Rural Development4. The Union Ministry of Urban Development5. The Parliament <p>Select the correct answer using the code given below.(2014)</p> <p>(a) 1, 2 and 5 only (b) 1, 3 and 4 only (c) 2 and 5 only (d) 1, 2, 3, 4 and 5</p> <p>3. Who among the following constitute the National Development Council?</p> <ol style="list-style-type: none">1. The Prime Minister2. The Chairman, Finance Commission3. Ministers of the Union Cabinet4. Chief Ministers of the States

	<p>Select the correct answer using the codes given below(2013)</p> <p>(a) 1, 2 and 3 only (b) 1, 3 and 4 only (c) 2 and 4 only (d) 1, 2, 3 and 4</p> <p>4. Consider the following statements:</p> <p>1. The National Development Council is an organ of the Planning Commission. 2. The Economic and Social Planning is kept in the Concurrent List in the Constitution of India. 3. The Constitution of India prescribes that Panchayats should be assigned the task of preparation of plans for economic development and social justice.</p> <p>Which of the statements given above is/are correct?(2013)</p> <p>(a) 1 only (b) 2 and 3 only (c) 1 and 3 only (d) 1,2 and 3</p> <p>5. Which of the following bodies does not/do not find mention in the Constitution?</p> <p>1. National Development Council 2. Planning Commission 3. Zonal Councils</p> <p>Select the correct answer using the codes given below.(2013)</p> <p>(a) 1 and 2 only (b) 2 only (c) 1 and 3 only (d) 1, 2 and 3</p>
Schedule& articles	<p>1. If a particular area is brought under the Fifth Schedule of the Constitution of India, which one of the following statements best reflects the consequence of it?(2022)</p> <p>(a) This would prevent the transfer of land of tribal people to non-tribal people. (b) This would create a local self-governing body in that area. (c) This would convert that area into a Union Territory. (d) The State having such areas would be declared a Special Category State.</p> <p>2. A legislation which confers on the executive or administrative authority an unguided and uncontrolled discretionary power in the matter of the application of law violates which one of the following Articles of the Constitution of India?(2021)</p> <p>(a) Article 14 (b) Article 28 (c) Article 32 (d) Article 44</p> <p>3. Consider the following statements: (2018)</p> <p>1. The Parliament of India can place a particular law in the Ninth Schedule of the Constitution of India. 2. The validity of a law placed in the Ninth Schedule cannot be examined by any court and no judgement can be made on it.</p> <p>Which of the statements given above is/are correct?</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p>

	<p>4. Which one of the following Schedules of the Constitution of India contains provisions regarding anti-defection ? (2014)</p> <p>(a) Second Schedule (b) Fifth Schedule (c) Eighth Schedule (d) Tenth Schedule</p> <p>5. The Ninth Schedule was introduced in the Constitution of India during the prime ministership of (2019)</p> <p>(a) Jawaharlal Nehru (b) Lal Bahadur Shastri (c) Indira Gandhi (d) Morarji Desai</p> <p>6.The provisions in the Fifth Schedule and Sixth Schedule in the Constitution of India are made in order to(2015)</p> <p>(a) protect the interests of Scheduled Tribes (b) determine the boundaries between states (c) determine the powers, authorities, and responsibilities of Panchayats (d) protect the interests of all the border States</p>
Miscellaneous	<p>1. With reference to India, consider the following statements:</p> <p>1. Government law officers and legal firms are recognized as advocates, but corporate lawyers and patent attorneys are excluded from recognition as advocates. 2. Bar Councils have the power to lay down the rules relating to legal education and recognition of law colleges.</p> <p>Which of the statements given above is/are correct?(2022)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>2. With reference to India, consider the following statements:</p> <p>1. Judicial custody means an accused is in the custody of the concerned magistrate and such accused is locked up in police station, not in jail. 2. During judicial custody, the police officer in charge of the case is not allowed to interrogate the suspect without the approval of the court.</p> <p>Which of the statements given above is/are correct?(2021)</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2</p> <p>3. With reference to India, consider the following statements(2021)</p> <p>1. When a prisoner makes out a sufficient case, parole cannot be denied to such prisoner because it becomes a matter of his/her right. 2. State Governments have their own Prisoners Release on Parole Rules.</p> <p>Which of the statements given above is/are correct?</p> <p>(a) 1 only (b) 2 only (c) Both 1 and 2</p> <p>4. Which one of the following best defines the term “State”?(2021)</p> <p>(a) A community of persons permanently occupying a definite territory independent of external control and possessing an organized government. (b) A politically organized people of a definite territory and possessing an authority to govern</p>

- them, maintain law and order, protect their natural rights and safeguard their means of sustenance.
- (c) A number of persons who have been living in a definite territory for a very long time with their own culture, tradition and government.
- (d) A society permanently living in a definite with a central authority, an executive responsible to the central authority and an independent judiciary.

5. With reference to India, consider the following statements:

1. There is only one citizenship and one domicile.
2. A citizen by birth only can become the Head of State.
3. A foreigner once granted citizenship cannot be deprived of it under any circumstances.

Which of the statements given above is/are correct?(2021)

- (a) 1 only
(b) 2 only
(c) 1 and 3
(d) 2 and 3

6.Which of the following factors constitutes the best safeguard of liberty in a liberal democracy?(2021)

- (a) A committed judiciary
(b) Centralization of powers
(c) Elected government
(d) Separation of powers

7. Other than the Fundamental Rights, which of the following parts of the Constitution of India reflect/reflects the principles and provisions of the Universal Declaration of Human Rights (1948)?

1. Preamble
2. Directive Principles of State Policy
3. Fundamental Duties

Select the correct answer using the code given below(2020)

- (a) 1 and 2 only
(b) 2 only
(c) 1 and 3 only
(d) 1, 2 and 3

8. Consider the following statements:

1. The Constitution of India defines its 'basic structure' in terms of federalism, secularism, fundamental rights and democracy.
2. The Constitution of India provides for 'judicial review' to safeguard the citizens' liberties and to preserve the ideals on which the Constitution is based.

Which of the statements given above is/are correct?(2020)

- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2

9. In the context of polity, which one of the following would you accept as the most appropriate definition of liberty?(2019)

- (a) Protection against the tyranny of political rulers
(b) Absence of restraint
(c) Opportunity to do whatever one likes
(d) Opportunity to develop oneself fully

10. Which one of the following reflects the nicest, appropriate relationship between law and liberty?(2018)

- (a) if there are more laws, there is less liberty.
- (b) If there are no laws, there is no liberty.
- (c) If there is liberty, laws have to be made by the people.
- (d) If laws are changed too often, liberty is in danger.

11. One of the implications of equality in society is the absence of (2017)

- (a) Privileges
- (b) Restraints
- (c) Competition
- (d) Ideology

12. Right to vote and to be elected in India is a (2017)

- (a) Fundamental Right
- (b) Natural Right
- (c) Constitutional Right
- (d) Legal Right

13. Democracy's superior virtue lies in the fact that it calls into activity(2017)

- (a) the intelligence and character of ordinary men and women.
- (b) the methods for strengthening executive leadership.
- (c) a superior individual with dynamism and vision.
- (d) a band of dedicated party workers.

14. Consider the following statements: A Constitutional Government is one which

- 1. Places effective restrictions on individual liberty in the interest of State Authority
 - 2. Places effective restrictions on the Authority of the State in the interest of individual liberty
- Which of the statements given above is/are correct?(2014)

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

SUMMARY OF UNION BUDGET

2023-24



INTRODUCTION

- As per article **112 of the Constitution**, Union Budget is basically the **statement of estimated receipts and expenditure** of the Government. Budget word is not mentioned in the Constitution.
 - It is also known as **Annual Financial Statement** of the Government.
 - **Department of Economic Affairs, Ministry of Finance** is the nodal body responsible for preparing of the Budget.
 - Union Budget is classified into **Revenue Budget and Capital Budget**.
- **Part A of the Budget** is the macroeconomic part of the budget where various schemes and priorities of government are announced, and allocations are made to several sectors.
- **Part B of the Budget** deals with Finance Bill, which contains taxation proposals such as income tax revisions and indirect taxes. (**A Finance Bill is a Money Bill as defined in Article 110 of the Constitution.**)
- **Major Budget documents** presented to the Parliament, besides the Finance Minister's Budget Speech are **Annual Financial Statement (under Article 112)**, **Demands for Grants (under Article 113)**, **Finance Bill (under article 110)** and **Fiscal Policy Statements mandated under FRBM Act -**
 - Macro-Economic Framework Statement.
 - Medium-Term Fiscal Policy cum Fiscal Policy Strategy Statement.
- **Other explanatory documents** are also presented like
 - Expenditure Budget
 - Receipt Budget
 - Expenditure Profile
 - Budget at a Glance
 - Memorandum Explaining the Provisions in the Finance Bill
 - Output Outcome Monitoring Framework
 - Key Features of Budget 2023-24
 - Implementation of Budget Announcements 2022-23.

BUDGET PROCESS



Budget is presented



General Discussion on Budget in both the Houses



Standing Committees scrutinise individual ministers' Demand for Grants



Detailed discussion and voting on Demand for Grants in Lok Sabha



Appropriation and Finance Bill passed

I

II

III

IV

V

Budget 2023-24 is **the first budget in Amrit Kaal** which is roadmap of next 25 years – from India @75 to India @100. A **Three-pronged focus driven by four transformative opportunities** constitutes the foundation of Amrit Kaal.

Vision For Amrit Kaal (An Empowered and Inclusive Economy)

- Opportunities for citizens with focus on youth
- Growth in job creation.
- Strong and stable Macro Economic Environment.

4 Transformative Opportunities

- Economic Empowerment of Women
- PM Vishwakarma KAushal Samman (PM VIKAS)
- Tapping the potential of Tourism.
- Green Growth leading to efficient use of energy across sectors and green jobs.

PART A

'SAPTARISHI' - 7 PRIORITIES OF BUDGET 2023-24



PRIORITY 1: INCLUSIVE DEVELOPMENT

AGRICULTURE AND COOPERATION

- **Digital Public Infrastructure for Agriculture:** Will be built as an open source, open standard and inter-operable public good.
 - It aims to promote **farmer-centric solutions related to inputs, marketing, etc.**
- **Agriculture Accelerator Fund:** To encourage **agri-startups in rural areas.**
- **Enhancing productivity of cotton crop:** Aims to adopt a **cluster-based** and value chain approach through Public Private Partnerships (PPP).

- **Atmanirbhar Horticulture Clean Plant Program:** Aim to boost availability of disease-free, quality planting material for high value horticultural crops at an outlay of ₹2,200 crore.
- **Global Hub for Millets (referred to as 'Shree Anna')**: For this Indian Institute of Millet Research, Hyderabad will be supported as the Centre of Excellence.
- **Agriculture Credit:**
 - Rs.20 Lakh crore credit for Animal Husbandry, Dairy and Fishing sector.
 - New sub-scheme of PM Matsya Sampada Yojana will be launched with targeted investment of ₹6,000 crore.
- **Cooperation:** Government is promoting cooperative-based economic development model especially for small and marginal farmers, and other marginalised sections.
 - Government has initiated computerisation of 63,000 Primary Agricultural Credit Societies (PACS) and enabling them to become multipurpose PACS.
 - Also aim is to facilitate setting up cooperative societies in uncovered panchayats and villages in the next 5 years.

PRIORITY 1 : INCLUSIVE DEVELOPMENT

THE GOVERNMENT'S PHILOSOPHY OF SABKA SATH SABKA VIKAS HAS FACILITATED INCLUSIVE DEVELOPMENT AND GIVEN OVERALL PRIORITY TO THE UNDERPRIVILEGED (VANCHITON KO VARIYATA)



AFFORDABLE HEALTH FOR ALL

- Nursing Colleges
- Sickle Cell Anaemia Elimination Mission
- Multidisciplinary courses for medical devices



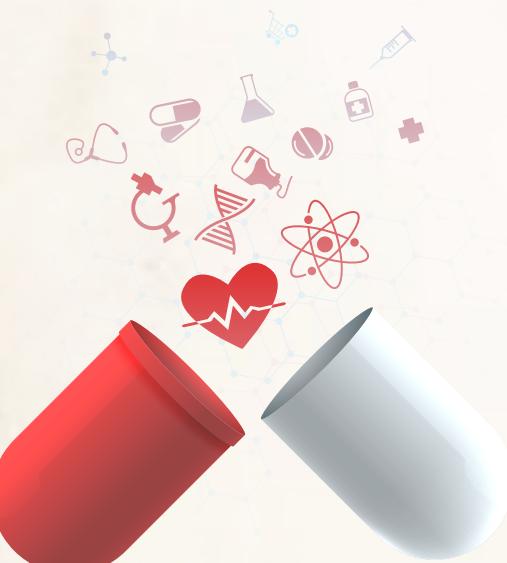
ACCESSING EDUCATION AND SKILLING

- District Institutes of Education and Training
- National Digital Library for Children and Adolescents

AGRICULTURE AND COOPERATION

- Digital Public Infrastructure for Agriculture
- Agriculture Accelerator Fund
- Enhancing productivity of cotton crop
- Atmanirbhar Horticulture Clean Plant Program
- Global Hub for Millets: "Shree Anna"
- New sub-scheme of PM Matsya Sampada Yojana
- Cooperative based economic development

AFFORDABLE HEALTH FOR ALL



- **Nursing Colleges:** 157 new nursing colleges co-location with the existing 157 medical colleges established since 2014.
- **Sickle Cell Anaemia Elimination Mission:** Mission to eliminate Sickle Cell Anaemia by 2047 will be launched.
 - Focuses on awareness creation, universal screening of 7 crore people in the age group of 0-40 years in affected tribal areas.
- **Multidisciplinary courses for medical devices:** To ensure availability of skilled manpower for futuristic medical technologies, high-end manufacturing and research.
- **Pharma Innovation:** A new programme to promote research and innovation in pharmaceuticals will be taken up through centres of excellence.

ACCESSING EDUCATION AND SKILLING

- **Teachers' Training:** The District Institutes of Education and Training will be developed as vibrant institutes of excellence for this purpose.
- **National Digital Library for Children and Adolescents**



PRIORITY 2: REACHING THE LAST MILE

AFFORDABLE HEALTH FOR ALL

- **Aspirational Districts and Blocks Programme:** It covers 500 blocks for saturation of essential government services.
- **Pradhan Mantri PVTG (Particularly Vulnerable Tribal Group) Development Mission:**
 - An amount of ₹15,000 crore will be made available to implement the Mission in the **next three years** under the **Development Action Plan for the Scheduled Tribes**.
- **Eklavya Model Residential Schools:** In the next three years, centre **will recruit 38,800 teachers** and support staff for the **740 Eklavya Model Residential Schools**, serving **3.5 lakh tribal students**.
- **Water for Drought Prone Region:** For Upper Bhadra Project, central assistance of ₹5,300 crore will be given.
- **PM Awas Yojana:** The outlay for PM Awas Yojana is being enhanced by 66%.
- **Bharat Shared Repository of Inscriptions (Bharat SHRI):** It will be set up in a **digital epigraphy museum**, with digitization of **one lakh ancient inscriptions in the first stage**.
- **Support for poor prisoners:** For poor persons who are in prisons and unable to afford the penalty or the bail amount, required financial support will be provided.



PRIORITY 3: INFRASTRUCTURE & INVESTMENT

INVESTMENT

- **Capital Investment as driver of growth and jobs:** Capital investment outlay is being increased to ₹10 lakh crore which would be 3.3% of GDP.
- **Effective Capital Expenditure:** It has been budgeted at **4.5% of GDP**.
- **Support to State Governments for Capital Investment:** Continue the 50-year interest free loan to state governments for one more year, with a significantly enhanced outlay of ₹1.3 lakh crore.
- **Enhancing opportunities for private investment in Infrastructure:** Establishing new **Infrastructure Finance Secretariat**.
 - More private investment in infrastructure, including railways, roads, urban infrastructure and power.

ENSURING LAST MILE CONNECTIVITY



- **Harmonized Master List of Infrastructure:** It will be reviewed by an expert committee to become suitable for **Amrit Kaal**.
- **Railways:** A capital outlay of ₹2.40 lakh crore is the **highest ever outlay**.
- **Logistics:** 100 **critical transport infrastructure projects**, for last and first mile connectivity for ports, coal, steel, fertilizer, and food grains sectors have been identified.
- **Regional Connectivity:** 50 additional airports, heliports, water aerodromes and advance landing grounds will be revived for improving regional air connectivity.
- **Coastal Shipping:** To be promoted through PPP model.

PRIORITY 3 : INFRASTRUCTURE & INVESTMENT

IT HAS A LARGE MULTIPLIER IMPACT ON GROWTH AND EMPLOYMENT.
AFTER THE SUBDUED PERIOD OF THE PANDEMIC, PRIVATE
INVESTMENTS ARE GROWING AGAIN



ENSURING LAST MILE CONNECTIVITY

- Harmonized Master List of Infrastructure.
- Highest ever outlay for Railways
- 100 critical transport infrastructure projects
- Regional Connectivity
- Coastal Shipping



URBAN DEVELOPMENT

- Sustainable Cities of Tomorrow
- Making Cities ready for Municipal Bonds
- Urban Infrastructure Development Fund
- Urban Sanitation

URBAN DEVELOPMENT

- **Sustainable Cities of Tomorrow:** States and cities will be encouraged to undertake urban planning reforms and actions.
- **Making Cities ready for Municipal Bonds** through property tax governance reforms and ring-fencing user charges on urban infrastructure.
- **Urban Infrastructure Development Fund:** Will be established through use of priority sector lending shortfall.
 - This will be managed by the **National Housing Bank**.
 - For creation of urban infrastructure in **Tier 2** and **Tier 3** cities.
- **Urban Sanitation:** 100% mechanical desludging of septic tanks and sewers to transition from man-hole to machine-hole mode.
 - Enhanced focus will be provided for **scientific management of dry and wet waste**.



PRIORITY 4: UNLEASHING THE POTENTIAL

GOOD GOVERNANCE

- **Jan Vishwas Bill:** Introduced for furthering the trust based governance and amend 42 Central Acts.
- **National Data Governance Policy:** To unleash innovation and research by start-ups and academia.
- **Centres of Excellence for Artificial Intelligence:** For realizing the vision of “**Make AI in India and Make AI work for India**”, three centres of excellence for AI will be set-up.
- **Simplification of Know Your Customer (KYC) process:** Adopting a ‘risk-based’ instead of ‘one size fits all’ approach.
- **One stop solution for identity and address updating:** By using DigiLocker service and Aadhaar as foundational identity.
- **Common Business Identifier:** The PAN (Permanent Account Number) will be used as the common identifier for all digital systems of specified government agencies.
- **Unified Filing Process:** For obviating the need for separate submission of same information to different government agencies.

PRIORITY 4 : UNLEASHING THE POTENTIAL

GOOD GOVERNANCE IS THE KEY TO A NATION'S PROGRESS



TOWARDS TRANSPARENT AND ACCOUNTABLE ADMINISTRATION

GOOD GOVERNANCE

- Jan Vishwas Bill
- Centres of Excellence for Artificial Intelligence
- National Data Governance Policy
- Simplification of Know Your Customer (KYC) process
- One stop solution for identity and address updating
- Common Business Identifier
- Unified Filing Process

- Vivad se Vishwas I - Relief for MSMEs.
- Vivad se Vishwas II - Settling Contractual Disputes
- Result Based Financing
- Phase-3 of the E-Courts project
- Fintech Services
- Entity DigiLocker
- 5G Services
- Lab Grown Diamonds

TOWARDS TRANSPARENT AND ACCOUNTABLE ADMINISTRATION

- **Vivad se Vishwas I – Relief for MSMEs:** In cases of failure by MSMEs to execute contracts during the Covid period, 95% of the forfeited amount relating to bid or performance security, will be returned to them by government and government undertakings.
- **Vivad se Vishwas II – Settling Contractual Disputes:** Voluntary settlement scheme with standardized terms will be introduced.
 - This will be done by offering **graded settlement terms** depending on pendency level of the dispute.
- **Result Based Financing:** ‘input-based’ to ‘result-based’ financing for better allocation of scarce resources.
- **E-Courts:** Phase-3 of the E-Courts project will be launched.
- **Fintech Services:** To enable more Fintech innovative services, the scope of documents available in DigiLocker for individuals will be expanded.
- **Entity DigiLocker:** An Entity DigiLocker will be set up for use by MSMEs, large business and charitable trusts.
- **5G Services:** 100 labs for developing applications using 5G services will be set up in engineering institutions.
- **Lab Grown Diamonds:** It is a technology-and innovation-driven emerging sector with high employment potential.
 - A research and development grant will be provided to one of the IITs for five years.

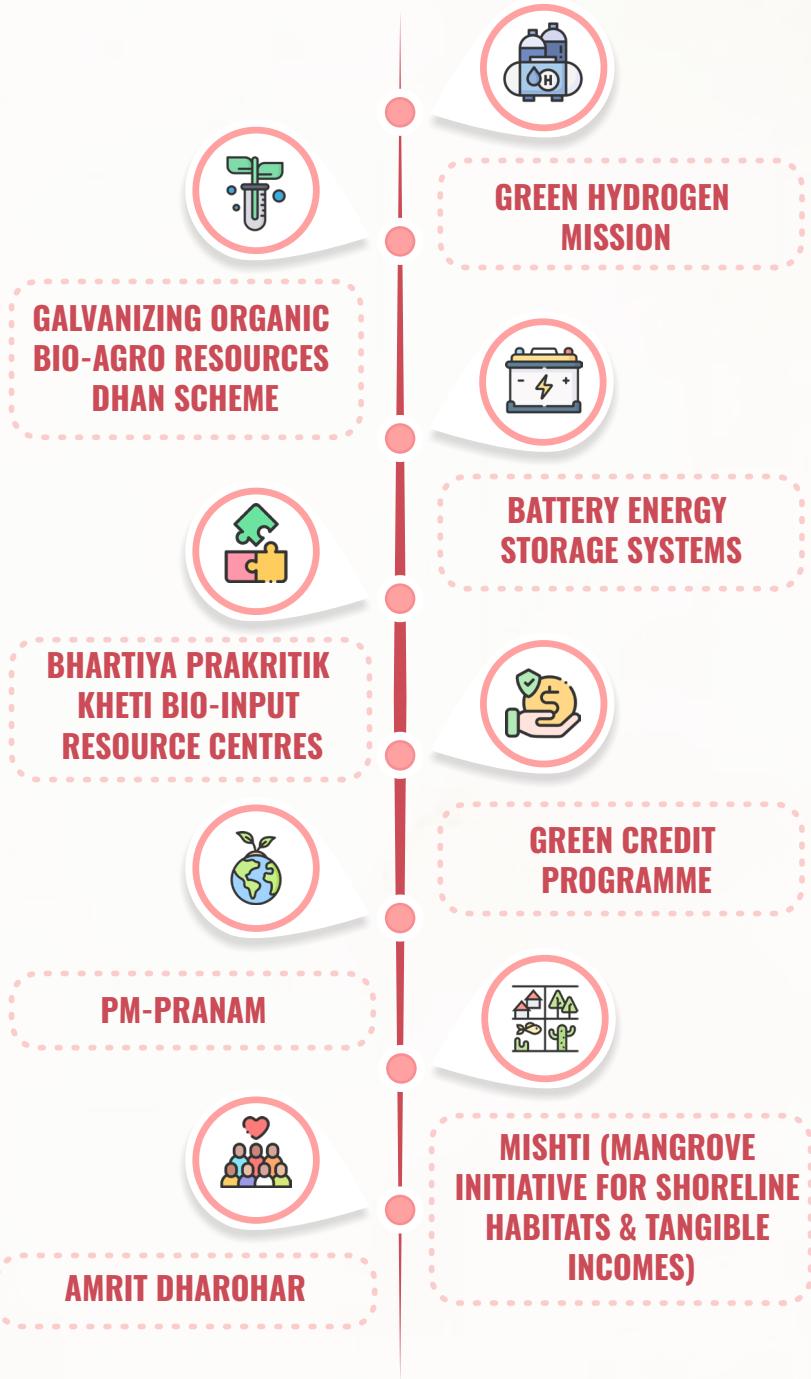
PRIORITY 5: GREEN GROWTH

MOVING FORWARDS TO ACHIEVE THE CLIMATE GOALS

- **Green Hydrogen Mission:** Facilitate transition of the economy to low-carbon intensity.
 - Target is to reach an annual production of 5 MMT by 2030.
- **Battery Energy Storage Systems:** Developing capacity of 4,000 MWH will be supported with Viability Gap Funding.
- **Renewable Energy Evacuation:** Inter-state transmission system for evacuation and grid integration of 13 GW renewable energy from Ladakh.
- **Amrit Dharohar:** Promote local communities unique conservation style for wetland.
 - Implementing in next three years to encourage optimal use of wetlands.
- **Green Credit Programme:** Will be notified under the Environment (Protection) Act.
 - Inducing behavioural change and incentivize environmentally sustainable and responsive actions by companies, individuals and local bodies.
- **PM-PRANAM (PM Programme for Restoration, Awareness, Nourishment and Amelioration of Mother Earth):** Aim to incentivize States and Union Territories to promote alternative fertilizers and balanced use of chemical fertilizers.
- **GOBARdhan (Galvanizing Organic Bio-Agro Resources Dhan) scheme:** 500 new 'waste to wealth' plants under GOBARdhan for promoting circular economy.
 - It includes Compressed Biogas (CBG) plants, Urban Plants, community or cluster-based plants.
- **Bhartiya Prakritik Kheti Bio-Input Resource Centres:** 10,000 Bio-Input Resource Centres will be set-up
 - Creating a national-level distributed micro-fertilizer and pesticide manufacturing network
 - Aim is that over the next 3 years, government will facilitate 1 crore farmers to adopt natural farming.
- **MISHTI(Mangrove Initiative for Shoreline Habitats & Tangible Incomes):** Mangrove plantation along the coastline and on salt pan lands.
 - Through convergence between MGNREGS, CAMPA Fund and other sources.

PRIORITY 5: GREEN GROWTH

INDIA IS MOVING FORWARD FIRMLY FOR THE PANCHAMRIT AND NET-ZERO CARBON EMISSION BY 2070 TO USHER IN GREEN INDUSTRIAL AND ECONOMIC TRANSITION

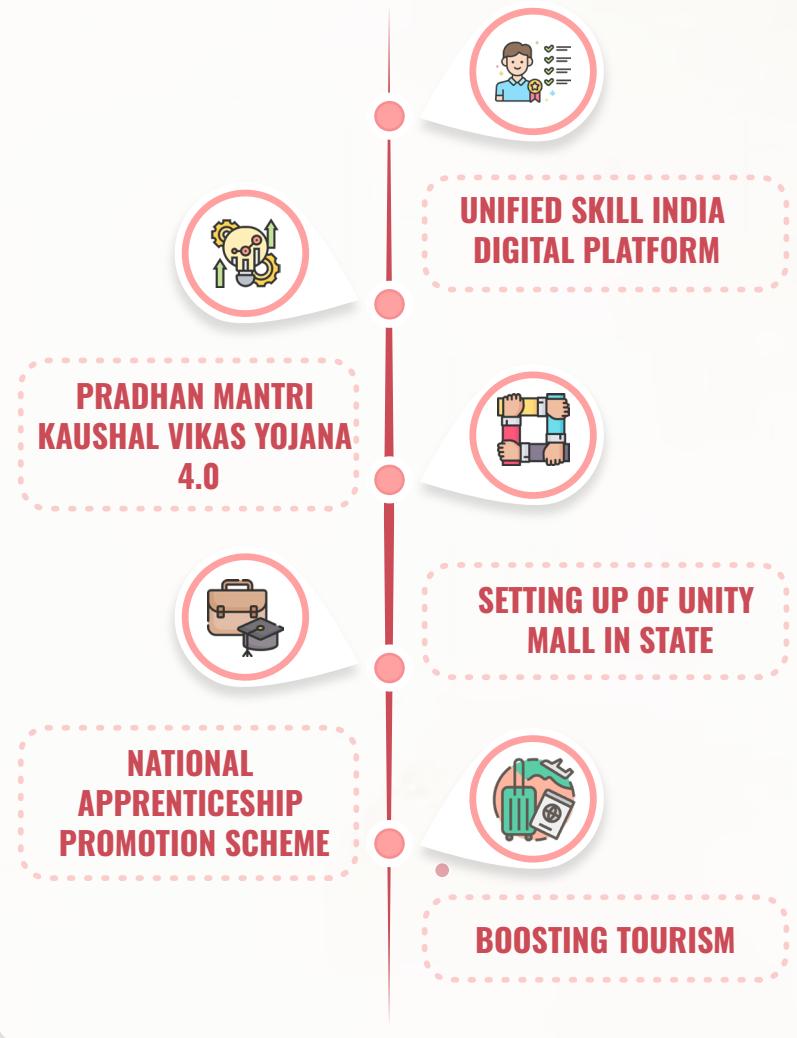


PRIORITY 6: YOUTH POWER

- **Pradhan Mantri Kaushal Vikas Yojana 4.0:** To skill youth for international opportunities, **30 Skill India International Centres** will be set up across different States.
- **Unified Skill India Digital Platform:** For enabling demand-based formal skilling,
 - Linking with employers including MSMEs,
 - Facilitating access to entrepreneurship schemes
- **National Apprenticeship Promotion Scheme:** To provide **stipend support to 47 lakh youth** in three years, **Direct Benefit Transfer** under a pan-India National Apprenticeship Promotion Scheme will be rolled out.
- **Boosting Tourism:** At least 50 destinations will be selected through challenge mode and developed as complete package for domestic and foreign tourists.
 - **Sector specific skilling and entrepreneurship development** will be dovetailed to achieve the **objectives of the 'Dekho Apna Desh' initiative.**
 - Under the **Vibrant Villages Programme, tourism infrastructure and amenities** will also be facilitated in border villages.
- **Setting up of Unity Mall in state:** In state capital or most prominent tourism centre or the financial capital.
 - For promotion and sale of their own **ODOPs (one district, one product), GI products and other handicraft products.**

PRIORITY 6: YOUTH POWER

TO EMPOWER YOUTH AND HELP THE "AMRIT PEEDHI REALIZE THEIR DREAMS, FORMULATED THE NATIONAL EDUCATION POLICY, FOCUSED ON SKILLING, ADOPTED ECONOMIC POLICIES THAT FACILITATE JOB CREATION AT SCALE, AND HAVE SUPPORTED BUSINESS OPPORTUNITIES.



PRIORITY 7: FINANCIAL SECTOR

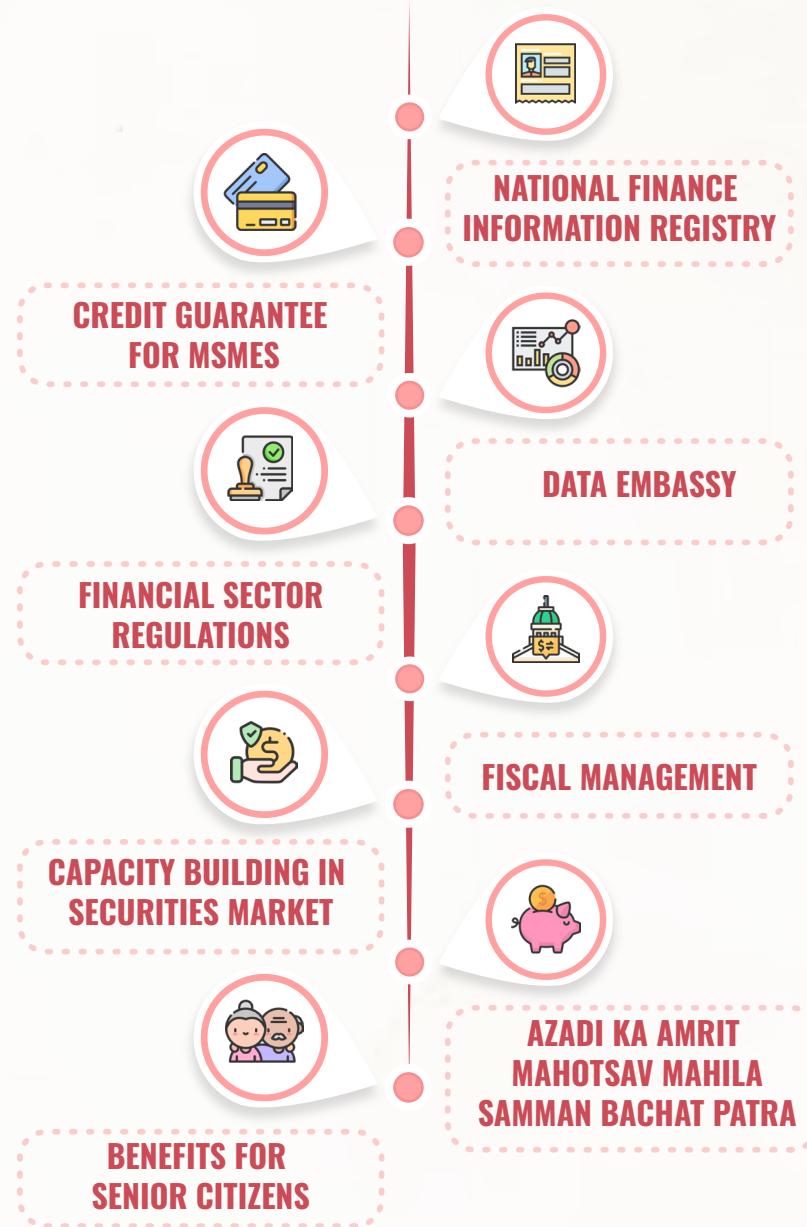
- **Credit Guarantee for MSMEs:** This will enable additional collateral-free guaranteed credit of ₹2 lakh crore.
 - Cost of the credit will be reduced by about 1%.
- **National Financial Information Registry:** It will be set up to serve as the central repository of financial and ancillary information. This will facilitate efficient flow of credit, promote financial inclusion, and foster financial stability.
 - A new legislative framework will govern this credit public infrastructure, and **it will be designed in consultation with the RBI.**



- **Financial Sector Regulations:** To simplify, ease and reduce cost of compliance, financial sector regulators will be requested to carry out a **comprehensive review of existing regulations**.
- **Data Embassy:** For countries looking for digital continuity solutions, **GIFT IFSC** will facilitate setting up of their Data Embassies.
- **Capacity Building in Securities Market:** SEBI will be empowered to develop, regulate, maintain and enforce norms and standards for education in the **National Institute of Securities Markets**.
- **Digital Payments:** Fiscal support for digital public infrastructure will continue in 2023-24.
 - This will offer deposit facility **upto ₹2 lakh** in the name of women or girls for a tenor of **2 years** at fixed interest rate of **7.5%** with **partial withdrawal option**.
- **Benefits for Senior Citizens:** The maximum deposit limit for **Senior Citizen Savings Scheme** will be enhanced from ₹15 lakh to ₹30 lakh.
 - The maximum deposit limit for **Monthly Income Account Scheme** will be enhanced from ₹4.5 lakh to ₹9 lakh for single account and from ₹9 lakh to ₹15 lakh for joint account.
- **Fiscal Management:**
 - **50 year interest free loan to States:** It has to be spent on **capital expenditure within 2023-24**. The loan will be partly conditional.
 - **Fiscal Deficit of States:** States will be allowed a fiscal deficit of **3.5%** of GSDP of which **0.5% will be tied to power sector reforms**.

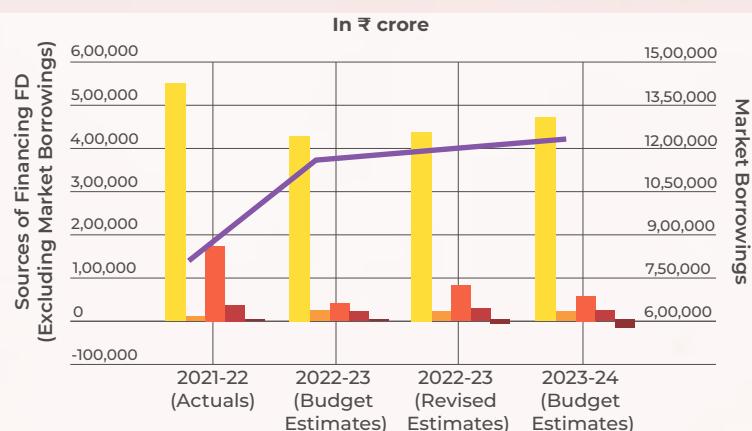
PRIORITY 7: FINANCIAL SECTOR

REFORMS IN THE FINANCIAL SECTOR AND INNOVATIVE USE OF TECHNOLOGY HAVE LED TO FINANCIAL INCLUSION AT SCALE, BETTER AND FASTER SERVICE DELIVERY, EASE OF ACCESS TO CREDIT AND PARTICIPATION IN FINANCIAL MARKETS.



Sources of Deficit Financing

Market Borrowings	External Debt	Other Receipts (Internal Debt and Public Account)
State Provident Funds	Securities Against Small Savings	Draw Down of Cash Balance



PART B

DIRECT TAXES

● Simplifying Personal Income Tax Regime -

■ No income tax for persons with income up to ₹7 lakh in the new tax regime.

► The tax structure in the **new personal tax regime has been changed by reducing number of slabs to five and increasing the tax exemption limit to ₹3 lakh.**

■ Reduction of the highest surcharge rate from 37% to 25% under new tax regime for income above ₹2 crore.

■ **New income tax regime has been made the default tax regime.**

► However, the citizens will continue to have the option to avail the benefit of the old tax regime.

● Roll Out Of Common IT Return Form

■ For tax payer convenience and strengthening of grievance redressal mechanism to further improve Tax Payers Services.

● MSMEs and Professionals

■ Currently micro enterprises with turnover up to Rs 2 crore and certain professionals with turnover of up to Rs 50 lakh can avail the **benefit of presumptive taxation.**

■ Budget proposed to **enhance limits of presumptive taxation to ₹3 crores for Micro Enterprises and ₹75 lakh for professionals** with cash payment less than 5%.

■ Any payment made to MSME shall be **allowed as expenditure only when payment is actually made.**

● Co-operatives Sector

■ Benefit of concessional tax rate of **15% to new co-operatives** that commence manufacturing by 31st March, 2024.

■ **Sugar co-operatives** can claim payments made to sugarcane farmers for the period prior to assessment year 2016-17 as expenditure.

■ **TDS limit on cash withdrawals is increased** to ₹3 crores for co-operatives societies.

■ **Higher limit** of ₹2 lakh per member for **cash deposits and loans by Primary Agricultural Co-operative Societies (PACS) and Primary Co-operative Agriculture and Rural Development Banks (PCARDBs)**

● Start-ups

■ Date of incorporation for **income tax benefits to start-ups** to be **extended** to 31st March 2024.

■ Time limit for carry forward of losses on change of shareholding of start-ups **increased** from 7 years of incorporation to 10 years.

● Reducing pendency of appeals

■ 100 Joint Commissioners for disposal of small appeals to be deployed.

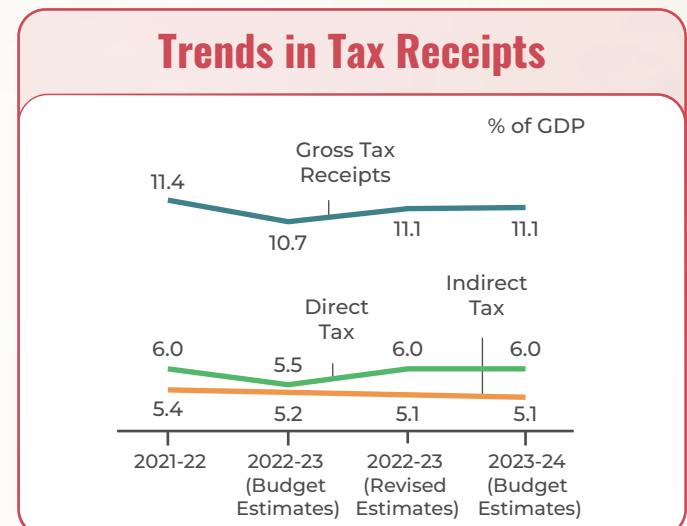
● Better Targeting Of Tax Concessions

■ To cap deduction from capital gains on investment in residential house to ₹10 Cr.

● Improving Compliance And Tax Administration

■ **Reduction in the minimum time period required** to be provided by the transfer pricing officer to assessee for production of documents and information **from 30 days to 10 days.**

Trends in Tax Receipts



● Rationalization

- Removing the minimum threshold of ₹10,000/- for TDS and clarifying taxability relating to online gaming.
- Conversion of gold into electronic gold receipt and vice versa will **not be treated as capital gain**.
- TDS rate to be reduced from 30% to 20% on taxable portion of EPF withdrawal in non-PAN cases.
- Taxation on income from Market Linked Debentures.

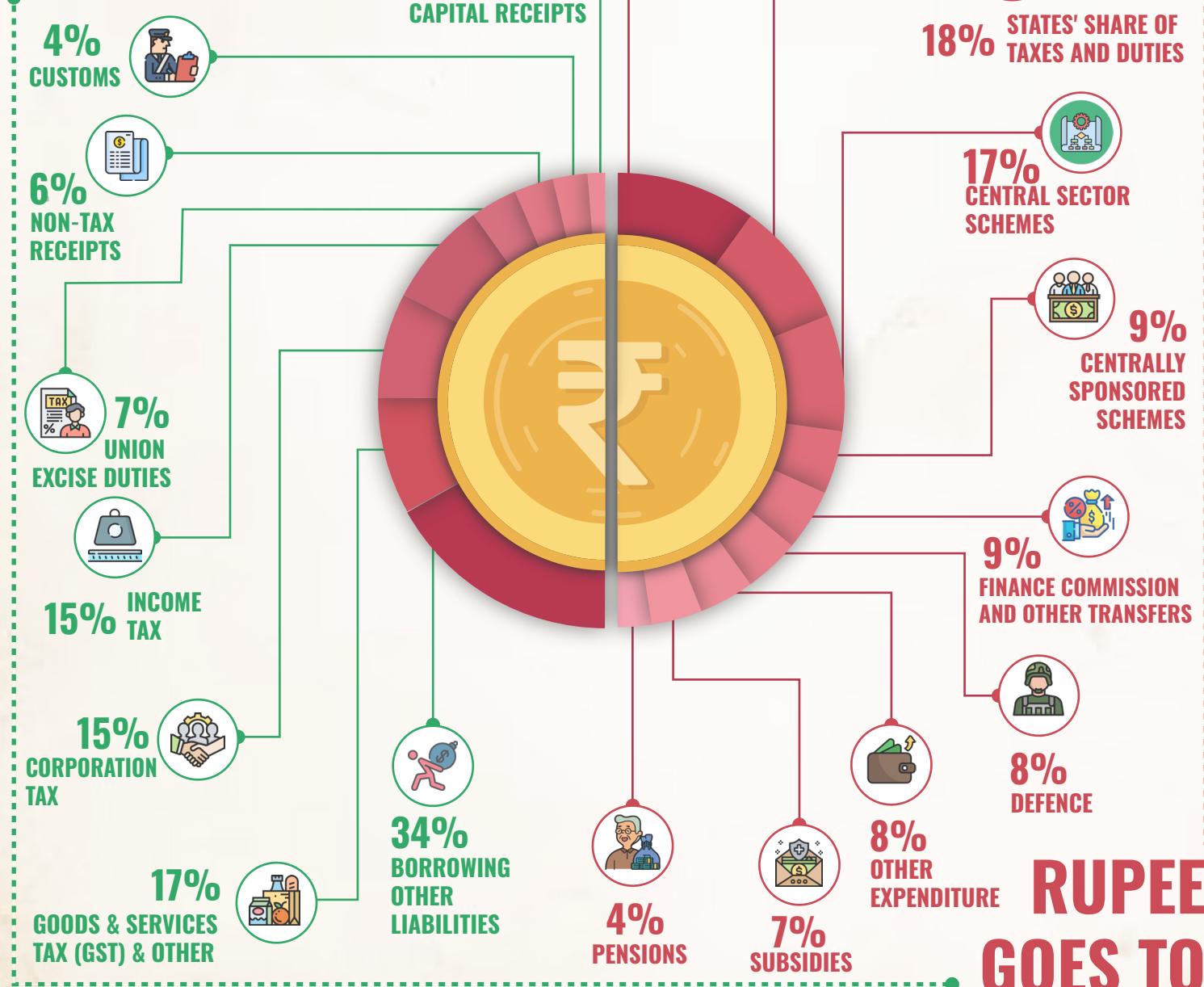
● EEE status to Agniveer Fund

- Payment received from the Agniveer Corpus Fund by the Agniveers enrolled in **Agnipath Scheme, 2022** proposed to be exempt from taxes.

● Others

- Extension of period of tax benefits to funds relocating to IFSC, GIFT City till 31st March 2025.
- Allowing carry forward of losses on strategic disinvestment including that of IDBI Bank.

RUPEE COMES FROM



INDIRECT TAXES

● Changes in GST Laws

■ Decriminalization of certain offences

under section 132 of CGST Act, 2017 –

- Obstruction or preventing any officer in discharge of his duties.
- Deliberate tampering of material evidence.
- Failure to supply the information.

■ Reducing the compounding of offences

from the present range of 50% to 150% of tax amount to the range of 25% to 100%.

■ Raising the minimum threshold

of tax amount for launching prosecution under GST from ₹ 1 crore to ₹2 crore.

■ Sections 37, 39, 44 and 52 of CGST Act, 2017 are amended to restrict filing of returns to a maximum period of 3 years from due date.

■ Proposed to enable unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs).

● Changes in Customs Laws

■ Customs Act, 1962 to be amended to specify a time limit of nine months from date of filing application for passing final order by Settlement Commission.

■ Number of basic customs duty rates on goods, other than textiles and agriculture, reduced to 13 from 21.



SECTOR SPECIFIC PROPOSALS

SECTORS

PROPOSALS



GREEN MOBILITY

- To avoid cascading of taxes, budget proposed to exempt excise duty on GST-paid compressed bio gas.
- Customs duty exemption to be extended to import of capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles.



IT & ELECTRONICS

- To deepen domestic value addition in manufacture of mobile phones relief in customs duty on import of certain parts and inputs like camera lens.
- Basic Custom Duty(BCD) to be reduced on parts of open cells of TV panels to 2.5%.
- The concessional duty on lithium-ion cells for batteries will continue for another year.



ELECTRICAL

- **To rectify inversion of duty structure** and encourage manufacturing of electric kitchen chimneys -
 - Increase in the BCD on electric kitchen chimney from 7.5% to 15% and a reduction on heat coils from 20% to 15%.



CHEMICALS AND PETROCHEMICALS

- **To support Ethanol Blending Programme**, exempting BCD on denatured ethyl alcohol.
 - Reducing BCD on acid grade fluorspar and on crude glycerine to 2.5 %.



MARINE PRODUCTS

- Reduction in BCD on key inputs for domestic manufacture **of shrimp feed to boost export.**



LAB GROWN DIAMONDS

- BCD on seeds used in the manufacturing of Lab Grown Diamonds to be **nullified from the current 5%** to support diamond industry.



PRECIOUS METALS

- **To enhance the duty differential**, Custom duties to be increased on articles made from gold and platinum.
- **To increase the import duty on silver dore, bars and articles to** align them with that on gold and platinum.



COMPOUNDED RUBBER

- **To curb circumvention of duty**, BCD rate on compounded rubber to be increased from 10% to 25 % or ₹ 30/kg whichever is lower .



CIGARETTES

- **National Calamity Contingent Duty (NCCD)** , on specified cigarettes to be revised upwards by about 16%.

GLOSSARY

TERM	DESCRIPTION
AMRIT KAAL	<ul style="list-style-type: none"> Amrit Kaal is a roadmap of next 25 years – from India @75 to India @100.
EFFECTIVE CAPITAL EXPENDITURE	<ul style="list-style-type: none"> Capital expenditure taken together with the provision made for creation of capital assets through Grants-in-Aid to States.
LAB-GROWN DIAMONDS	<ul style="list-style-type: none"> They are produced using specific technology which mimics the geological processes that grow natural diamonds. They are not the same as “diamond simulants” – LGDs are chemically, physically and optically diamond and thus are difficult to identify as “lab-grown.”
CUSTOM DUTY	<ul style="list-style-type: none"> It refers to the tax imposed on goods when they are transported across international borders. The government uses this duty to raise its revenues, safeguard domestic industries, and regulate movement of goods. Types of custom duty includes: Basic Customs Duty, Countervailing Duty, Additional Customs Duty, Protective Duty and Anti-dumping Duty.
CAPITAL GAINS	<ul style="list-style-type: none"> It is increase in the value of wealth of a bondholder due to an appreciation or reduction in the price of her bonds in the bond mark.
GIFT-IFSC	<ul style="list-style-type: none"> Gujarat International Finance Tec-City Co. Ltd (GIFT) is being developed as the country's first International Financial Services Centres (IFSC). IFSC provides services to customers outside jurisdiction of domestic economy, dealing with flows of finance, financial products and services across borders.
PRESUMPTIVE TAXATION	<ul style="list-style-type: none"> Section 44D of Indian Income Tax Act defines the rules of presumptive taxation. It allows one to pay tax based on presumptive income. One doesn't need to estimate income by deducting expenses from revenue. One can simply take a percentage of total revenue and pay tax on that.
NATIONAL CALAMITY CONTINGENT DUTY (NCCD)	<ul style="list-style-type: none"> It is levied under Finance Act 2001, as a duty of excise on specified duties at rates specified under seventh schedule of Finance Act 2001. It is used to finance National Disaster Relief Fund (NDRF) and additional budgetary support provided as and when necessary.
INVERTED DUTY STRUCTURE	<ul style="list-style-type: none"> Situation where import duties on input goods are higher than on finished goods. An inverted duty structure discourages domestic value addition.
EEE TAX CATEGORY	<ul style="list-style-type: none"> EEE stands for exempt-exempt-exempt. The individuals putting their money in 'EEE' categorised investment options will be eligible for a tax break upon investment at the time of filing the income tax returns.
TRANSFER PRICING	<ul style="list-style-type: none"> It is an accounting and taxation practice that allows for pricing transactions internally within businesses and between subsidiaries that operate under common control or ownership. The transfer pricing practice extends to cross-border transactions as well as domestic ones.



HIGHLIGHTS OF ECONOMIC SURVEY

2022-23

INTRODUCTION

The Economic Survey presents a comprehensive analysis of India's growth trajectory including the global optimism towards nation, focus on infra, growth in agriculture, industries and emphasis on futuristic sectors. It is presented a day before the presentation of the Union Budget.

The Economic Survey 2022-23 highlights that the transformative reforms undertaken by the government had lagged growth returns due to temporary shocks in the economy. However, in the present decade, the presence of strong medium-term growth magnets provides optimism and hope that once these global shocks of the pandemic and the spike in commodity prices in 2022 fade away, the Indian economy is well placed to grow faster in the coming decade.



Chapter 1: State of the Economy: Recovery Complete

► **GDP Growth:** GDP forecast for FY24 to be in the **range of 6-6.8 %**, depending on the trajectory of economic and political developments globally.

► India is the **3rd largest economy in the world in Purchasing Power Parity (PPP) terms and the 5th largest in market exchange rates.**

► Growth drivers:

► **Private consumption:** Private consumption in first half of FY23 is highest since FY15 and this has led to a **boost to production activity resulting in enhanced capacity utilisation across sectors.**

► Capital expenditure (Capex):

- **Capex of central government increased by 63.4%** during first 8 months of FY23.
- **Increase in private capex** due to strengthening of corporate balance sheets and increase in credit financing.
- **Capex multiplier effect** will result in at least **4 times increase in economic output** of the country.

► Capex thrust in last two budgets: It is supported by:

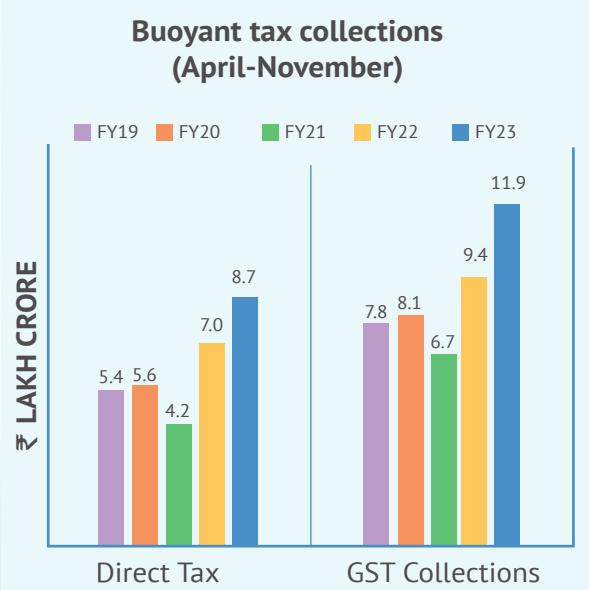
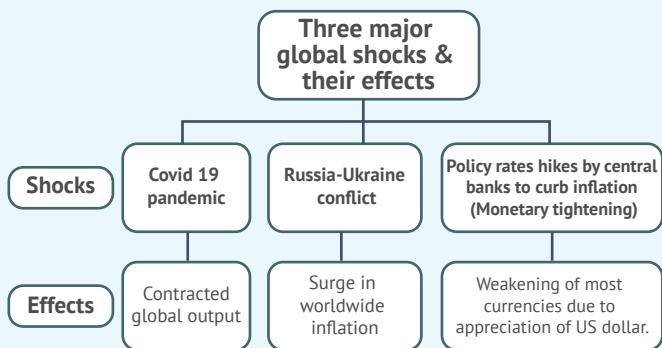
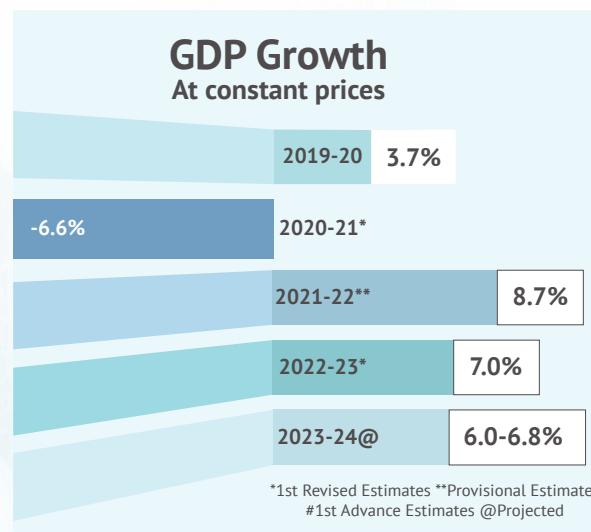
- **Increase in capex budget** and its high rate of spending
- **Buoyant direct tax collections and GST collections** (proportionate increase in tax revenues in response to rise in national income or output)
- **Pickup in private investment.**

► **Rise in employment levels and improvement in Labour Force Participation Rate (LFPR):** Enhanced Employment generation seen in the declining urban unemployment rate and in the faster net registration in Employee Provident Fund.

► Urban Unemployment Rate was at **four-year low at 7.2% in September 2022.**

► **LFPR was around 41.6% in 2020-21** (Rural + urban) compared to 40.1% in preceding year.

► **Credit growth to MSMEs:** Over 30.6% on average during Jan-Nov 2022.



Source: CGA

- **Retail inflation:** Back within RBI's target range (2-6% under Flexible Inflation Targeting Framework) in November 2022 after ten months.
- **Performance of Indian Rupee:** Performed well compared to other Emerging Market Economies in Apr-Dec 2022.
- **Outlook 2023-24:** Economic growth to be boosted from the expansion of public digital platforms and measures to boost manufacturing output.

Know the Term

- **Purchasing power parities (PPPs):** They are the rates of currency conversion that try to equalise the purchasing power of different currencies, by eliminating the differences in price levels between countries.
- **Capital expenditure (Capex):** There are expenditures of the government which result in creation of physical or financial assets or reduction in financial liabilities.
 - This includes expenditure on **the acquisition of land, building, machinery, equipment, investment in shares, and loans and advances by the central government to state and UT governments, PSUs and other parties.**
- **Labour Force Participation Rate (LFPR):** It is defined as the percentage of persons in labour force (i.e. working or seeking or available for work) in the population.

Chapter 2: India's Medium Term Growth Outlook: with Optimism and Hope

- India's growth outlook seems **better than in the pre-pandemic years**, and the Indian economy is prepared to **grow at its potential in the medium term**.

► Reforms:

- **Structural and Governance Reforms** strengthened the economy's fundamentals by enhancing its overall efficiency during 2014-2022.
 - These were based on approach of '**Sabka Saath, Sabka Vikaas**' and emphasized on building partnerships among various stakeholders.
- **Reforms after 2014 were based on the broad principles** of creating public goods, adopting trust-based governance, co-partnering with the private sector for development, and improving agricultural productivity.

► Limited impact of reforms on economic growth:

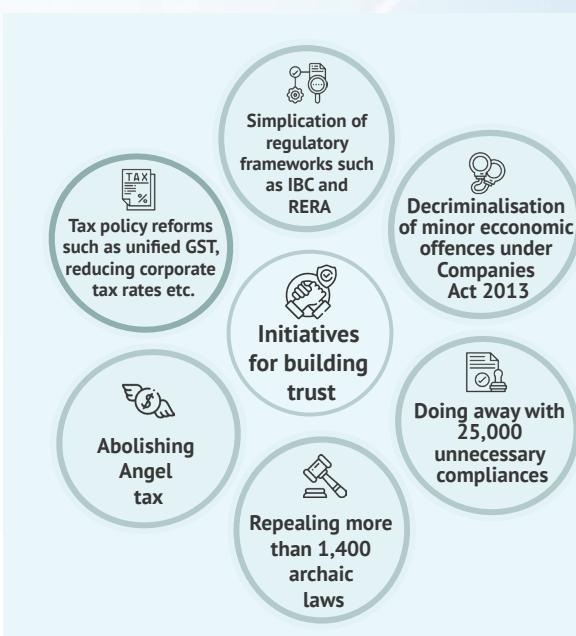
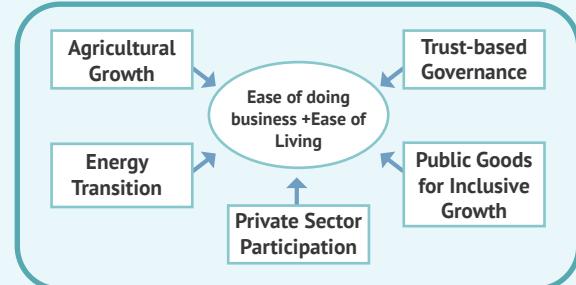
- **Adverse impact on key macroeconomic variables** such as credit growth and capital formation due to
 - **balance sheet stress** caused by credit boom in previous years and
 - **one-off global shocks** (pandemic and high commodity prices).
- **Lagged effects** as outcomes of some reforms take time.
- This situation of limited impact of reforms is **analogous to the period 1998-2002** when transformative reforms had **lagged growth returns due to temporary shocks** in the economy.

- Once these shocks faded, the structural reforms paid growth dividends from 2003.

Reforms for New India - Sabka Saath Sabka Vikaas

Enhancing productive potential of economy and its people

Efficient resource allocation



► **Positive signs & hope:**

- Indian economy is **well placed to grow faster in the coming decade once the global shocks of the pandemic and the spike in commodity prices in 2022 fade away.**
- **A fresh credit cycle has begun** with improved and healthier balance sheets of the banking, non-banking and corporate sectors.
- **Efficiency gains resulting from greater formalisation, higher financial inclusion, and economic opportunities created by digital technology-based economic reforms.**

Growth Magnets For The Coming Decade:

- Healthy & Re-capitalised Banking & Corporate Sector
- Digital Technology Based Economic Reforms
- Dissipation in One-off Shocks of the Economy

Know the Term

- **Public Good:** Public goods are those that are available to all ("nonexcludable") and that can be enjoyed over and over again by anyone without diminishing the benefits they deliver to others ("nonrival").
- **Credit cycle:** It describes the phases of access to credit by borrowers based on economic expansion and contraction.

Chapter 3: Fiscal Developments: Revenue Relish

► **Fiscal Deficit:** Government on **track to achieve fiscal deficit target** for FY23 (6.4% of GDP).

- **Resilient performance** of Union Government finances during FY23 facilitated by the:
 - recovery in economic activity,
 - buoyancy in revenues from direct taxes and GST, and
 - realistic assumptions in the Budget.

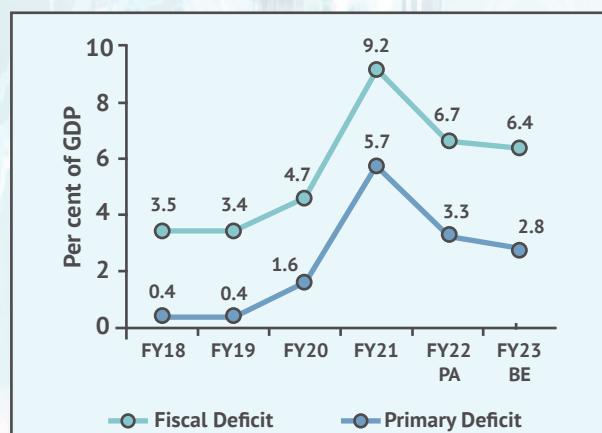
► **Gross Tax Revenue:** Growth of 15.5% from April to November 2022 driven by:

- **Expansion of tax net** due to structural reforms like GST, digitization of economic transactions.
- **Robust growth in the direct taxes** (grew at 26% YoY) due to corporate and personal income tax growth.

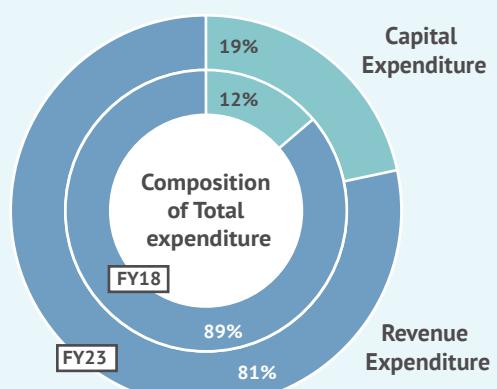
► **Increasing GST collections:** GST has stabilised as a vital revenue source for central and state governments, with the gross GST collections increasing at 24.8% on YoY basis from April to December 2022.

- **GST Tax payers doubled to 1.4 crore** in 2022.
- **Improvement in GST collections** has been due to:
 - the nationwide drive against GST evaders and fake bills and
 - systemic changes such as rate rationalisation correcting inverted duty structure.

Trends in Union government deficits over the years
On the way to fiscal consolidation



Rising share of Capital Expenditure in Centre's Total Expenditure



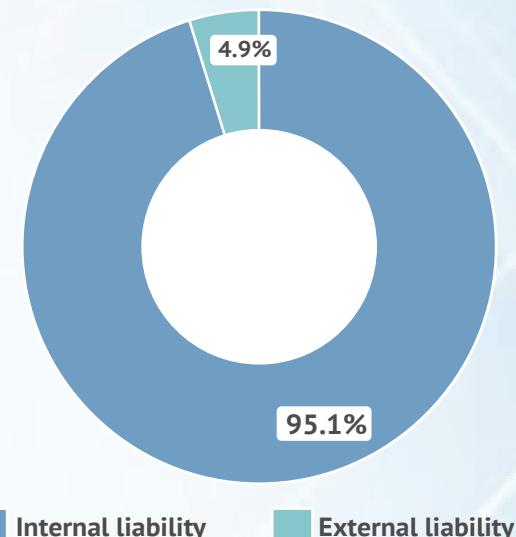
- ▶ **Capital Expenditure (Capex):** The Centre's Capex has steadily **increased to 2.5% of GDP in FY22 PA (Provisional Actual)** from 1.7% of GDP (FY09 to FY20). It is further budgeted to **increase to 2.9% of GDP in FY23.**
- ▶ Centre announced several incentives to boost states' capex in the form of **long-term interest-free loans and capex-linked additional borrowing provision.**
- ▶ Emphasis of capex on **infrastructure-intensive sectors** like roads and highways, railways, and housing and urban affairs, **has large-scale positive implications for medium-term growth.**
- ▶ The Government's Capex-led growth strategy will enable India to keep the **growth-interest rate differential positive, leading to a sustainable debt to GDP** in the medium run.
- ▶ **Revenue Expenditure:** Brought down from 15.6% of GDP in FY21 to **13.5% of GDP in FY22 PA, led by reduction in subsidy expenditure.**
- ▶ **State Government Finances:** Combined Gross Fiscal Deficits of States brought down to 2.8% of GDP in FY22 PA, from 4.1% in FY21.
- ▶ **Debt profile:** The total liabilities of the Union Government moderated from 59.2% of GDP in FY21 to 56.7% in FY22 (P).
- ▶ The **General Government Debt to GDP ratio increased** from 75.7% of end-March 2020 to 89.6% at end of pandemic year FY21.

Know the Term



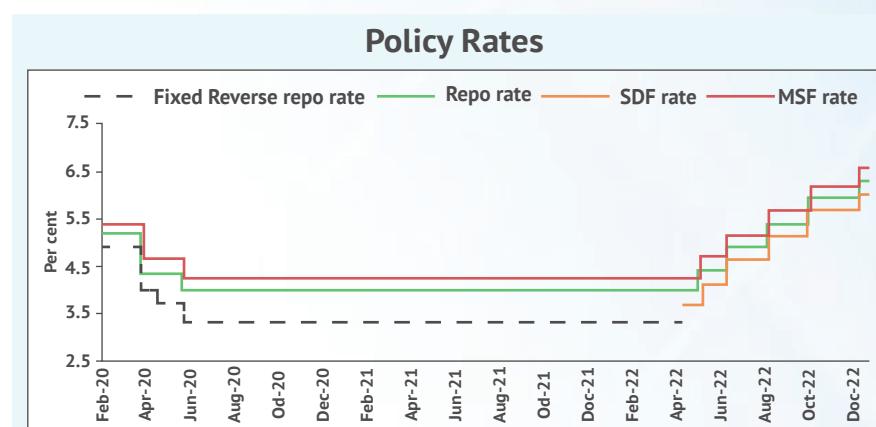
- ▶ **Fiscal Deficit:** It is the difference between the government's total expenditure and its total receipts excluding borrowing.
- ▶ Gross fiscal deficit = Total expenditure – (Revenue receipts + Non-debt creating capital receipts)
- ▶ **Gross tax revenue:** It includes revenue collected from different items like corporation tax, income tax, wealth tax, customs, union excise, service, taxes on Union Territories like land revenue, stamp registration etc.
- ▶ **Revenue Expenditure:** It is expenditure incurred for purposes other than the creation of physical or financial assets of the central government.

Proportion of external liability in public debt (FY22)



Chapter 4: Monetary Management And Financial Intermediation A Good Year

- ▶ **Monetary developments and Liquidity Conditions**
- ▶ The **repo rate was raised by 225 bps** since April 2022 (increased from 4% to 6.25%).
- ▶ Tightened Monetary Policy **reduced the liquidity in the market.**
- ▶ There is an increase in Reserve money (**M0**) and broad money (**M3**) by 10.3% and 8.7% year-on-year (YoY) respectively, whereas the **Money Multiplier** has remained stable at an average of **5.1%**.



Measures of Money Supply

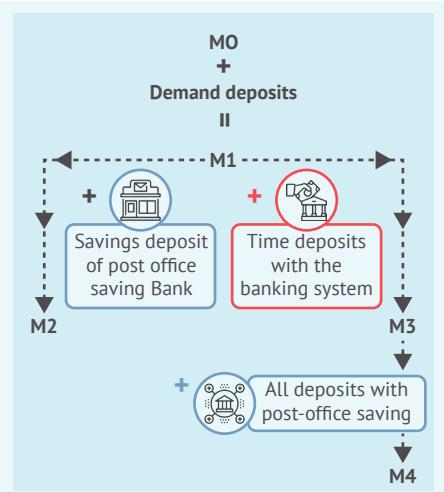
Reserve Money (M0): also called High Powered money, monetary base, base money etc. Mo= Currency in Circulation+ Bankers' Deposits with RBI + Other Deposits with RBI.

Narrow Money (M1) = Currency with public + Demand deposits with the Banking system (current account, saving account) + other deposits with RBI.

M2 = M1+ Savings deposits of post office savings banks.

Broad Money (M3) = M1+ Time deposits with the banking system.

M4 = M3+ All deposits with post office savings banks.



► **Monetary Policy Transmission: The Lending and deposit rates of banks increased during FY23 in line with the Repo rate changes.**

► **Developments in the G-sec Market: The trading volume in G-Secs (including T-Bills and SDLs) reached a two-year high, registering a YoY growth of 6.3%.**

► **Banking Sector:** 4R's approach of Recognition, Resolution, Recapitalisation and Reforms to clean and strengthen the balance sheet of the banking system resulted in;

► **Improvement in the asset quality of the Scheduled Commercial Banks (SCB).**

► **The Gross Non-Performing Assets (GNPA) ratio decreased from 8.2% in 2020 to 5.0% in 2022, which is a seven year low.**

► **Credit Growth and Recovery**

► **Non-food credit by the Banks has been growing in double digits since April 2022.**

► **There is a consistent rise of NBFCs' credit as a proportion to GDP**

► **The recovery rate for the Banks through Insolvency and Bankruptcy (IBC) was highest in FY22 compared to other channels.**

► **Development in Capital Markets**

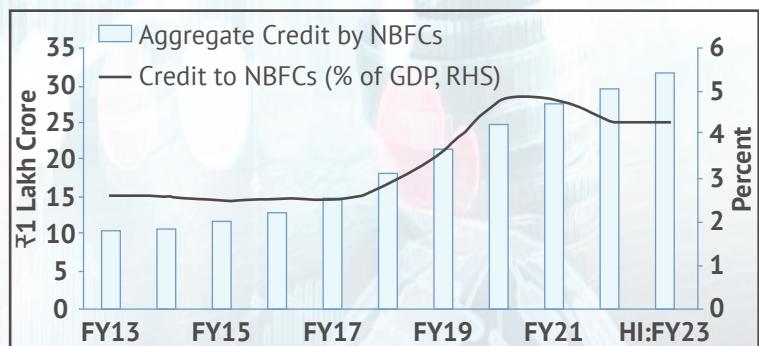
► **Primary Market:** The number IPOs almost doubled and the total funds rose by the companies increased by almost three times (Compared to FY22). The year also witnessed the largest IPO ever in the history of India.

Know the Term



- **Monetary Tightening policy:** A policy which aims at **decreasing the money supply** by increasing reserve rates and interest rates, and conducting Open Market Operations.
- **Money Multiplier:** The money-multiplier explains how an increase in the monetary base causes the money supply to increase by a multiplied amount. It is defined as the **ratio of Broad money (M3) over the Reserve Money (M0)** i.e. $M3/M0$.
- **Repo rate:** Repo is a money market instrument, which enables **collateralised short term borrowing and lending through sale/purchase operations in debt instruments**.
 - Under a repo transaction, a holder of securities sells them to an investor with an agreement to repurchase at a predetermined date and rate.
- **Government Securities (G-Secs):** G-Sec is a tradeable instrument issued by the Central Government or the State Governments. It acknowledges the Government's debt obligation.
- **Treasury Bills (T-bills):** They are short term G-Secs issued by the Government of India and are presently issued in three tenors, namely, 91 day, 182 day and 364 day.
- **State Development Loans (SDLs):** Dated Government securities issued by the State Government.

Increasing credit disbursed to and by NBFCs



► **Secondary Market:** In spite of the global volatility, the Indian stock markets outperformed their global peers by huge margin.

► **Developments in the Insurance Market:** India is one of the fastest-growing insurance markets in the world and its life insurance premium has registered YoY growth of 10.2%.

► **Insurance penetration and insurance density** has been steadily increasing between FY13 to FY 22.

► **Pension Sector:** The number of pension subscribers has multiplied over three-fold between FY18 to FY22.

Know the Term

► **Insurance penetration:** It refers to the ratio of total insurance premiums to Gross Domestic Product (GDP) in a year.

► **Insurance density:** It refers to the ratio of insurance premium to population, i.e.; insurance premium per capita and is measured in US Dollar, as they reflect the level of development of the insurance sector in a country.

Chapter 5: Prices and Inflation: Successful Tight-Rope Walking

► **Consumer Price Inflation (CPI):** The CPI in India went through 3 phases in 2022, which

- peaked at 7.8%
- holding phase at 7.0% and
- declined to around 5.7% by year end.

► **Wholesale Price Inflation (WPI):** WPI started to increase in 2022 with a **peak value of 16.6%** in May 2022 (as economic activities resumed post pandemic and the Russia-Ukraine conflict alleviated it more) and it slipped to 5.0% by year end.

► **WPI and CPI trends:** Since 2021, there had been a divergence between the WPI and the CPI indexes, followed by a trend of convergence.

► **Reasons for divergence:** The difference in relative weights of the two indexes and the lagged effect of imported input costs on retail prices.

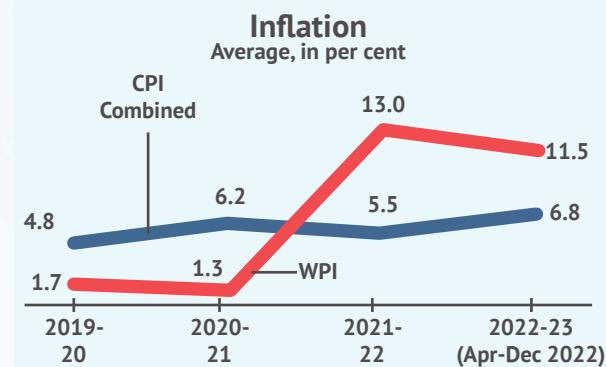
► **Reasons for convergence:** A cooling in WPI inflation of commodities such as crude oil, iron, aluminium etc. along with the rise in CPI inflation (fuelled by the rise in services cost).

► **Domestic Retail Inflation:** Retail inflation was mainly **driven by higher food inflation.**

► Most States witnessed **higher rural inflation than urban inflation** due to marginally higher food inflation in rural areas.

► **Housing Price Indices (HPI):** There is an overall increase in composite HPI assessment and HPI market prices, which indicates a **revival in the housing finance sector.**

► **Policy intervention by the government in housing sector and low home loan interest rates** propped up demand and attracted buyers in the affordable segment in FY23.



Know the Term

► **Consumer Price Inflation (CPI):** The index numbers used to calculate the retail inflation of a nation constitute the CPI, which is also known as the "market basket", and is responsible for tracking the shift in prices at the level of the household.

► **Wholesale Price Inflation (WPI):** The index numbers used to measure the change in the overall price of goods before they are sold at retail prices constitute the WPI.

► **Housing Price Index (HPI):** It represents the price changes in residential housing properties in 50 cities across 18 States which is compiled and published by National Housing Bank.

Prices And Inflation: Successful Tight-Rope Walking



Inflation has come off its peak, moderation in Global Commodity prices

Govt measures to ensure domestic supply and contain inflation:

 Import duty on major inputs-ferronickel, coking coal, PCI coal cut were brought to zero

 Phase wise reduction in excise duty of petrol and diesel

 Waived customs duty on cotton

 Prohibition on export of wheat

Chapter 6: Social Infrastructure and Employment: Big tent

► The share of expenditure on social services in the total expenditure of the Government increased to 26.6% in FY23.

► The share of expenditure on health in social services has increased from 21% in FY19 to 26% in FY23.

► Improving Human Development Parameters

► India ranked 132 out of 191 countries in the 2021/2022 HDI report.

► 16.4% of the population in India are multi-dimensionally poor (UNDP's Multi-dimensional Poverty report).

► **Aspirational Districts Programme:** It was observed that many Aspirational Districts have performed better than non-aspirational districts in the context of financial inclusion.

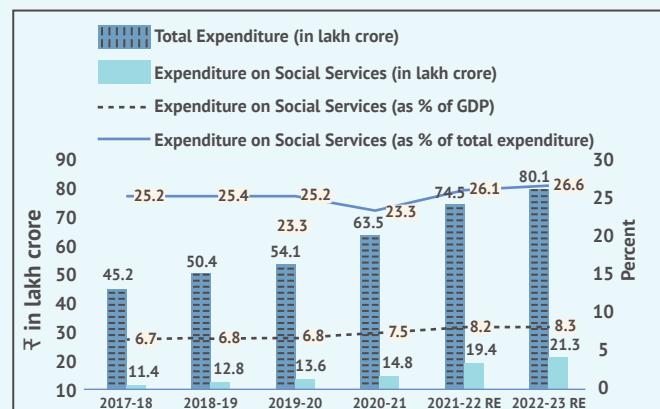
► **Labour Reform Measures:** Majority of the states have adopted all the four labour codes.

► Over 28.5 crore unorganised workers have been registered on eShram portal (a National database of unorganised workers) with major enrolments from Agriculture, domestic workers and construction workers.

► **Aadhaar:** 318 Central schemes and over 720 state DBT schemes are notified under section 7 of the Aadhaar Act, 2016.

► Employment Trends

Trends in social service sector expenditure by General Government (Combined Centre and States)



Source: Reserve Bank of India, Budget Documents of Union and State Governments.

Key usages of Aadhaar

- Aadhaar – Usage in DBT.
- Aadhaar Enabled Payment Systems.
- JAM (Jan-Dhan, Aadhaar, and Mobile) trinity
- One Nation One Ration Card Scheme.
- PM Kisan Samman Nidhi
- Co-WIN
- Face Authentication

Parameters	Trends
	Labour Markets Recovered beyond pre-Covid levels, in both urban and rural areas.
	Worker population ratio Improved for both males and females in both rural and urban areas. (Periodic Labour Force Survey (2020-21))
	Female Labour Force Participation Rate (LFPR) The Survey highlights measurement issues in calculating Female Labour Force Participation Rate.
	Employment in the organised manufacturing sector Steady upward trend with food products industry (11.1%) employing the most as per the Annual Survey of Industries .
	Pension subscriptions There is a net increase in the subscriptions of EPF and the National Pension Scheme, as compared to the FY21.
	MGNREGS The number of persons demanding work under MGNREGS was seen to be around pre-pandemic levels and around 70.6 lakh works were completed so far in FY23.

► Ensuring School Education

- The enrolments increased across all levels of schooling i.e., Primary, Upper-Primary, Secondary, and Higher Secondary except for the Pre-Primary level (reduced from 1.1 crore to 1 crore in FY22).
- School dropout rates at all levels have witnessed a steady decline for both boys and girls.
- Pupil-teacher ratio improved from 34 in FY13 to 26.2 in FY22 at primary level and substantially in other levels too.

► Higher Education

- The total enrolment in higher education has increased to nearly 4.1 crore in FY21 from 3.9 crore in FY20.
 - Female enrolment has increased to 2.0 crore in FY21 from 1.9 crore in FY20.
- The total number of faculties in Higher Education is around 15.5 Lakhs of which about 57.1% are male and 42.9% are female.

► Skill Development

- Periodic Labour Force Survey, highlights that the formal vocational/technical training among youth (age 15-29 years) and the working population (age 15-59 years) have improved in FY21 over FY19 and FY20.
- About 1.1 crore persons have been trained under PMKVY (Pradhan Mantri Kaushal Vikas Yojana)
- 21.4 lakh apprentices have been engaged by Industries, since the launch of the National Apprenticeship Promotion Scheme.
- 724 District Skill Committees have been constituted under Skill Acquisition and Knowledge Awareness for Livelihood Promotion (SANKALP) initiative.

► Health

- Central and State Government's budgeted expenditure on health sector touched 2.1% of GDP in FY23 (BE) and 2.2% in FY22 (RE) against 1.6% in FY21.
- Out-of-Pocket Expenditure as a percentage of Total Health Expenditure has declined substantially from 64.2% in FY14 to 48.2% in FY19.
- Infant Mortality Rate (IMR), Under Five mortality rate (U5MR) and neonatal Mortality Rate (NMR) have shown a steady decline.
- Ayushman Bharat beneficiaries have reached nearly 22 crore with over 1.54 lakh Health and Wellness Centres operationalized across the country.

► Social Protection

- Pradhan Mantri Jeevan Jyoti Bima Yojana: Around 14.96 crore persons have been enrolled and about 6.4 Lakh claims have been paid under the scheme.
- Pradhan Mantri Suraksha Bima Yojana: Around 32.1 crore persons have been enrolled cumulatively and about 1.1 Lakh claims have been paid under.
- PM Street Vendor's Atmanirbhar Nidhi Scheme: Around 45 Lakh loan applications have been sanctioned in all, out of which around 39 lakh loans have been disbursed.
- Pradhan Mantri Mudra Yojana: More than 38.4 crore loans have been sanctioned through this scheme.

► Rural Economy

- Around 65% of the entire population of the country live in rural areas, of which nearly 47% of them are dependent on agriculture.
- The quality of rural lives, including, inter alia, access to electricity, presence of improved drinking water sources, coverage under health insurance schemes, have improved significantly (National Family Health Survey 2019-21)
- Deendayal Antyodaya Yojana-National Rural Livelihood Mission: The Mission has mobilised a total of 8.7 crore women from poor and vulnerable communities into 81 lakh SHGs.

► Rural Housing

- **Pradhan Mantri Awaas Yojana –Gramin:** A total of 2.7 crore houses have been sanctioned and 2.1 crore houses have been completed so far under the scheme.

► Drinking Water and Sanitation

- **Jal Jeevan Mission:** As a result of the mission, of the 19.4 crore rural households, 11.0 crore households are getting tap water supply in their homes.
- **JALDOOT App:** A total of around 3.7 Lakh wells have been measured and their water level is updated in Central records.
- **Swachh Bharat Mission (Grameen):** About 1.2 Lakh villages have been declared ODF plus.
 - Andaman & Nicobar Islands has declared all its villages as ODF plus model, thus becoming the first Swachh, Sujal Pradesh.

► LPG connections

- **Pradhan Mantri Ujjwala Yojana 2.0, Swachh Indhan Behtar Jeevan:** the LPG coverage improved from 62% in 2016 to 99.8% in 2021.

► Rural connectivity

- **Pradhan Mantri Gram Sadak Yojana:** Since inception it has led to creation of roads measuring 7.2 Lakh kms and 7,789 Long Span Bridges.

► Electricity

- **SAUBHAGYA- Pradhan Mantri Sahaj Bijli Har Ghar Yojana and Deendayal Upadhyaya Gram Jyoti Yojana** scheme has successfully completed its objective of universal household electrification.



Chapter 7: Climate change and environment: Preparing to face the future

► India is one of the most vulnerable regions to climate change. Although it contributes only about 4% of cumulative global emissions (for 1850-2019).

► India declared the Net Zero Pledge to achieve a net zero emissions goal by 2070.

► Progress on India's Climate Action

- India achieved its target of 40% installed electric capacity from non-fossil fuels ahead of 2030.

- Estimated installed capacity from non-fossil fuels to be more than 500 GW by 2030. This could result in a decline of the average emission rate by around 29% by 2029-30, compared to 2014-15.

- India to reduce the emissions intensity of its GDP by 45% by 2030 from 2005 levels.

- About 50% of cumulative electric power installed capacity to come from non-fossil fuel-based energy resources by 2030

► Difficulties in implementation of Climate change policies-

- Citizens in developed countries are reluctant to change their lifestyles.

- Lack of availability of rare earth elements (REE) and critical minerals (CM).

► Developments related to other Environmental Issues

- India achieved the goal of doubling the tiger numbers in 2018, four years before the targeted year 2022.

- A ban was imposed on the manufacture, import, stocking, distribution, sale, and use of identified single-use plastic items.

- The Government published the Battery Waste Management Rules, 2022 and notified the E-Waste (Management) Rules, 2022.

- National Green Hydrogen mission: Green hydrogen production capacity of at least 5 MMT (Million Metric Tonne) per annum to be developed by 2030.

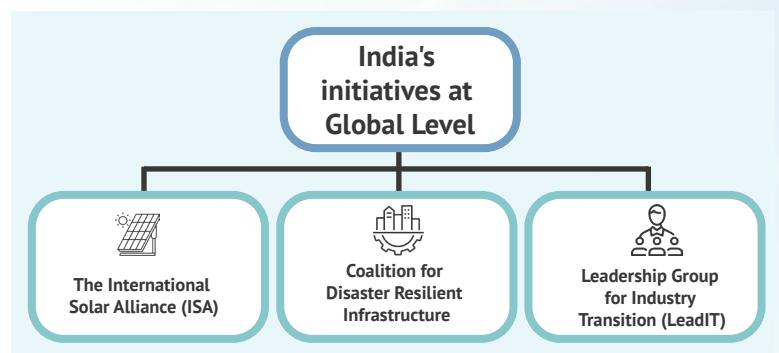
- Cumulative reduction in fossil fuel imports over ₹1 lakh crore and creation of over 6 lakh jobs by 2030.

Energy Transition for a Cleaner Tomorrow



National Action Plan for Climate Change

National Solar Mission	• Solar power capacity of 61.62 GW installed by October 2022
National Mission for Enhanced Energy Efficiency	• PAT Cycle-VII notified in October 2021 for energy saving target of 6.63 Million Tonnes of Oil Equivalent (MTOE)
National Mission on Sustainable Habitat	• 721 km of metro rail network made operational by August 2022. • 62.79 lakh individual household toilets and 6.21 lakh community and public toilets constructed by April 2022
National Mission for a Green India	• 626.96 crore for afforestation targets over an area of 2.1 lakh ha
National Water Mission	• Jal Shakti Abhiyan: Catch The Rain 2022
National Mission on Strategic Knowledge for Climate Change	• Created and strengthened 12 Centres of Excellence for climate change (June 2021)
National Mission for Sustaining Himalayan Ecosystems	• Inter-University Consortium • 8 Major R&D Programmes initiated
National Mission for Sustainable Agriculture	• Key targets for FY 2022-2023 covering 0.15 lakh ha under organic farming and 10 lakh ha under micro irrigation



Chapter 8: Agriculture and Food management: From Food Security to Nutritional Security

The performance of the agriculture and allied sector **has been buoyant** over the past several years.

► Enhanced access to credit

- **Kisan Credit Card (KCC) facility extended to fisheries and animal husbandry farmers in 2018-19.**
- **Agriculture credit was about 13% more than the target in 2021-22.**
- **Private investment in agriculture increases to 9.3% in 2020-21.**

► Allied Sectors

- **The livestock sector** grew at a CAGR of 7.9% during 2014-15 to 2020-21, and its **contribution to total agriculture GVA is about 30.1% in 2020-21.**
- **The fisheries sector** annual growth rate has been about 7% since 2016-17 and has a **share of about 6.7% in total agriculture GVA.**
- **The dairy sector** is the most critical component of the livestock sector, **employing more than eight crore farmers directly.**

► Cooperatives hold the key to rural economic transformation.

- There are **8.5 lakh registered cooperatives** in the country, and **98% of villages are covered by Primary Agriculture Credit Societies (PACS).**
- **Around 19% of agriculture finance is through cooperative societies.**

► Food Processing Sector:

The food processing industries sector has been growing at an average **annual growth rate of around 8.3%**.

- The value of agri-food exports, including processed food exports, was about **10.9% of India's total exports during 2021-22.**

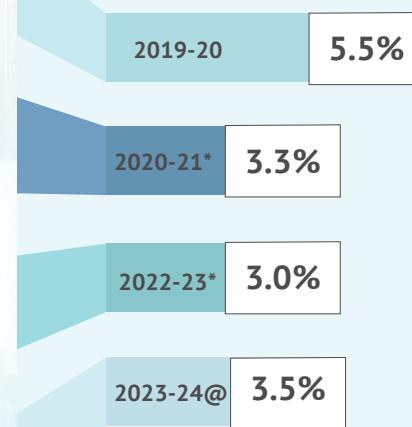
► Food Security:

Free foodgrains to about 81.4 crore beneficiaries under the National Food Security Act for one year from January 1, 2023.

- India stands at the forefront to **promote millets through the International Year of Millet's initiative.**

Agriculture and Allied Activities

Growth Rate of GVA at Basic Prices



*1st Revised Estimates **Provisional Estimates
#1st Advance Estimates

Agriculture And Food Management: From Food Security To Nutritional Security

- MSP for all mandated crops fixed at **1.5 times** of all India weighted average cost of production since 2018
- Continued growth in **institutional credit to agricultural sector**
- 315.7 million tonnes** of foodgrains produced in India in 2021-22
- 11.3 Cr Farmers covered** under PM-KISAN for financial support
- Post-Harvest Support and Community Farms via sanction of **13,681 crores under AIF**
- National Agriculture Market Scheme (e-NAM) covering **1.74 crore farmers** and **2.39 lakh traders**

Chapter 9: Industry: Steady Recovery

► The industry sector contributed about **30% of the total gross value added** in the country during FY12 and FY21 and **employed over 12.1 crore people**.

► **Overall Gross Value Added (GVA)** by the Industrial Sector (for the first half of FY 22-23) rose 3.7%, which is higher than the average growth of 2.8% achieved in the first half of the last decade.

Demand Stimulus to Industrial Growth:

► Robust growth in **Private Final Consumption Expenditure**.

► **Export stimulus** during the first half of the year.

► Increase in investment demand triggered by enhanced public capital expenditure.

► Strengthened bank and corporate balance sheets.

► The supply response of the industry to the demand stimulus has been robust.

► **PMI manufacturing** has remained in the expansion zone for 18 months since July 2021, and the **Index of Industrial Production (IIP)** grows at a healthy pace.

► The eight core industries' growth was steady, reflecting a broad momentum in industrial activity.

► Credit to Micro, Small, and Medium Enterprises (MSMEs) has grown by an average of around 30% since January 2022.

► Credit to the large industry has been showing double-digit growth since October 2022.

► **FDI inflow in Manufacturing Sector:** Annual FDI equity inflows in the manufacturing sector have been **steadily increasing over the last few years**.

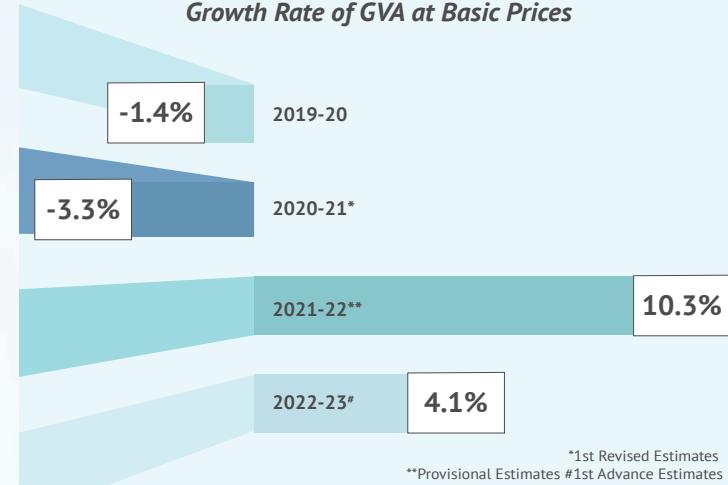
► India became the 3rd largest automobile market (in Dec 2022), surpassing Japan and Germany in terms of sales.

► Foreign Direct Investment (FDI) flows into the Pharma Industry have risen four times, from US \$180 million in FY19 to US \$699 million in FY22.

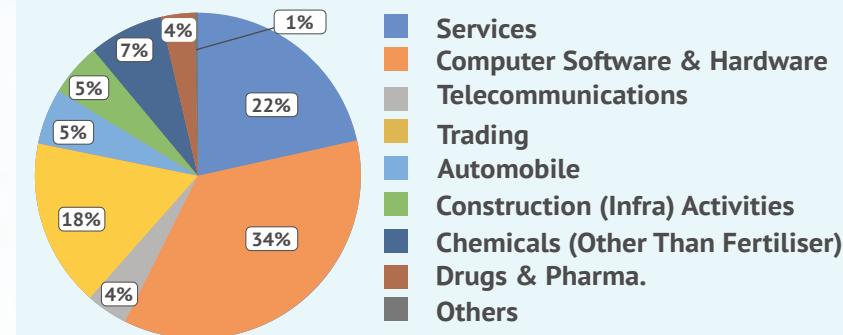
► To enhance integration in the global value chain, 'make in India 2.0' is focusing on 27 sectors.

Industrial Growth

Growth Rate of GVA at Basic Prices



Sector-wise FDI Equity Inflows in 2022-23 during April-September 2022



Know the Term



► **Flipping:** The process of transferring the entire ownership of an Indian company to an overseas entity, accompanied by a transfer of all IP and all data hitherto owned by the Indian company.

Chapter 10: Services: Source of Strength

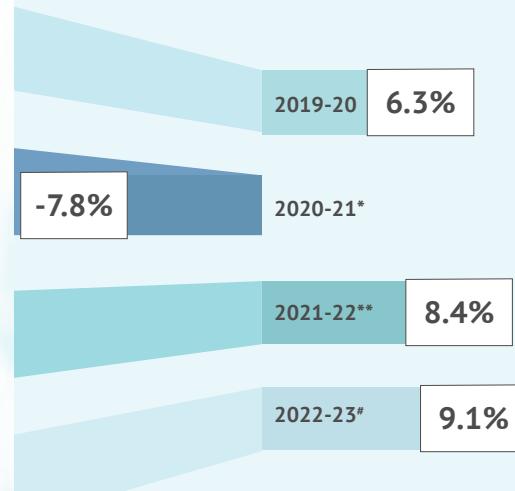
► Performance of Services Sector

- ▶ India's services exports remained resilient due to **higher demand for digital support, cloud services, and infrastructure modernization.**
- ▶ **India was among the top 10 services exporting countries in 2021.**
 - Its share in world commercial services exports increasing **from 3% in 2015 to 4% in 2021.**
- ▶ Credit to services sector has grown by over **16%** since July 2022.
- ▶ **Robust expansion in PMI services**, indicative of service sector activity, observed since July 2022.

► Performance of Services Sector

Service Sector Growth

Growth Rate of GVA at Basic Prices



*1st Revised Estimates

**Provisional Estimates

#1st Advance Estimates

Sectors	Trends	Other Details
Real Estate	↑ (50% growth between 2021 and 2022)	According to JLL's 2022 Global Real Estate Transparency Index, India's real estate market transparency is among the top ten most improved markets globally.
Tourism and Hotel Industry	↑ (Has shown growth)	India is ranked 10th in the Medical Tourism Index FY21.
Information Technology and Business Process Management (IT-BPM)	↑ (15.5% growth between 2021 and 2022)	IT services constitute the majority share in revenue (greater than 51%).
E-Commerce	↑ (Has shown growth)	E-commerce market is projected to grow at 18% annually through 2025.
Digital Financial	↑ (Has shown growth)	India took the lead with the fintech adoption rate of 87% , substantially higher than the world average of 64% as per the latest Global FinTech Adoption Index.

► Foreign Direct Investment (FDI) in Services

- ▶ The World Investment Report 2022 of UNCTAD places India as the **7th largest recipient of FDI in the top 20 countries in 2021.**
- ▶ In FY22 India received the highest-ever **FDI inflows of US\$ 84.8 billion including US\$ 7.1 billion FDI equity inflows** in the services sector.

Know the Term



- **Fintech (Financial Technology):** It refers to software and other modern technologies used by businesses that provide automated and improved financial services.

Chapter 11: External Sector: Watchful and Hopeful

► **Trends in Merchandise Trade:** All-time high annual merchandise export of US\$ 422.0 billion in FY22.

► Petroleum products, gems & jewellery, organic & inorganic chemicals, drugs & pharmaceuticals were among the leading export items.

► **Trends in Services export:** India's services exports stood at US\$ 254.5 billion in FY22 recording a growth of 23.5% over FY21.

► Software and business services together constitute more than 60% of India's total services exports.

► Foreign Exchange Reserves

► As of December 2022, Forex Reserves stood at US\$ 563 bn covering 9.3 months of imports.

► As of end-November 2022, India is the 6th largest foreign exchange reserves holder in the world.

► Remittances are the second largest major source of external financing after service export.

► Balance of Payments

► The Current Account Deficit (CAD) has widened due rise in oil prices.

► The surplus of the capital account was lower than the CAD leading to a depletion of forex reserves.

► **External Debt:** External debt as a ratio to GDP fell to 19.2% as of end-September 2022 from 20.3% a year ago.

► India has relatively low levels of:

- total debt as a percentage of Gross National Income and
- short-term debt as a percentage of total debt.

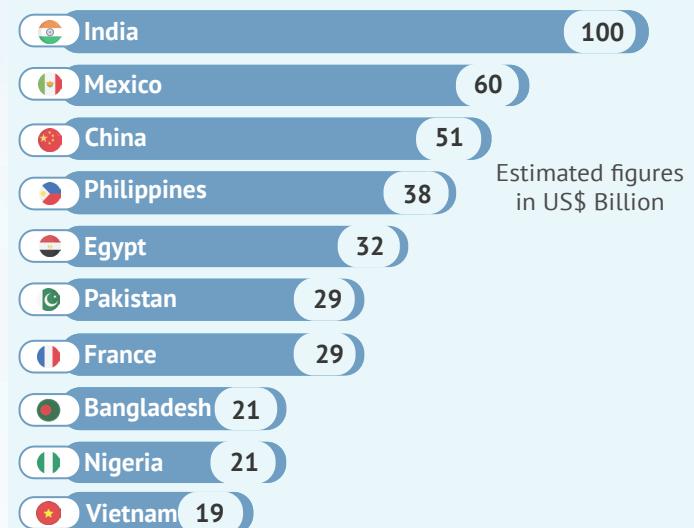
► Growing and Diversifying Trade

► In the year 2022, India signed Economic Cooperation and Trade Agreement (ECTA) and Comprehensive Economic Cooperation Agreement (CECA) with Australia and UAE, respectively.

► India diversified its markets and increased its exports to Brazil, South Africa and Saudi Arabia.

Top Remittance Recipients

During 2022



Estimated figures
in US\$ Billion

Know the Term



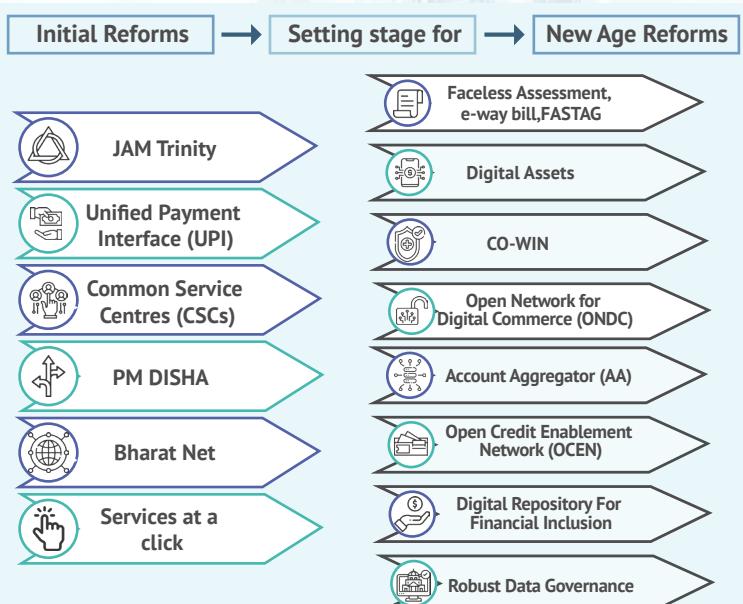
- **Free Trade Agreements (FTA):** It is an agreement between two or more countries where the countries agree on certain obligations that affect trade in goods and services, and protections for investors and intellectual property rights, among other topics.
- **Remittance:** It refers to money that is sent or transferred to another party, usually overseas. Remittances can be sent via a wire transfer,
- **Current Account Deficit (CAD):** It is the shortfall between the money received by selling products to other countries and the money spent to buy goods and services from other nations.
- **General government debt-to-GDP ratio:** It measures the gross debt of the general government as a percentage of GDP. It is a key indicator for the sustainability of government finance.

Chapter 12: Physical and Digital Infrastructure

Government's Vision for Infrastructure Development: Physical Public Infrastructure

- **Public Private Partnerships:** India Infrastructure Project Development Fund Scheme (IIPDF) Scheme with ₹150 crore outlay from FY 23-25, launched in 2022
- **National Infrastructure Pipeline:** NIP and Project Monitoring Group (PMG) portal linked to fast-track approvals/ clearances for projects
- **National Monetisation Pipeline:** FY23 target is envisaged to be ₹1.6 lakh crore (27% of overall NMP ₹ 9.0 lakh crore Target).
- **GatiShakti:** PM GatiShakti National Master Plan creates comprehensive database for integrated planning and synchronised implementation across Ministries/ Departments.
- **Electricity Sector and Renewables:** As of September 2022, the government has sanctioned 59 Solar Parks (40 GW) in 16 states.
 - The total installed power capacity (industries having demand of 1 Mega Watt (MW) and above) increased from **460.7 GW on 31 March 2021** to **482.2 GW on 31 March 2022**.
- **Making Indian Logistics Globally Competitive**
 - National Logistics Policy accelerated inclusive growth.
 - Rapid increase in National Highways (NHs) /Roads Construction with **10457 km NHs/roads constructed in FY22 compared to 6061 km in FY16**.
 - Capacity of major ports nearly doubled in 8 years.

Digital Public Infrastructure: Formalisation & Financial Inclusion



India's Digital Public Infrastructure

- UPI-based transactions grew in value (121%) and volume (115%) terms, between 2019-22.
- Overall tele-density in India stood at 84.8% in March 22.
- 200% increase in rural internet subscriptions between 2015 and 2021.
- Under Account Aggregator, the consent-based data sharing framework is currently live across over 110 crore bank accounts.

Know the Term



- **Digital Public Infrastructure:** It refers to digital solutions that enable basic functions essential for public and private service delivery, i.e., identification (ID), payment and data exchange systems, and governance systems (e-governance).
- **Digital Public Goods:** They are types of open-source software, models and standards that countries can use to operationalise their digital public infrastructure. (e.g. payment and data exchange systems).
- **Account Aggregator (AA):** The Account Aggregator (AA) is a global techno-legal framework that enables individuals to share their financial data quickly and securely, with their consent, with any regulated third-party financial institution of their choice.

Chapter 1 – Evolution of Indian Administration

Syllabus: Kautilya's Arthashastra; Mughal administration; Legacy of British rule in politics and administration - Indianization of public services, revenue administration, district administration, local self-government.

Evolution of Indian Administration:

The study of public administration is as old as the civilization itself. Moreover, the Indian administration is one of the oldest administrative systems in the world. The history of ancient Indian administration spans from the Vedic times and up to the beginning of the first millennium till the establishment of the Mughal administration.

In the earlier times village administration was accorded more importance than the administration of the state. The Gandhian concept of village administration is rooted in the Vedic times. Various administrative officers and their relevant departments are mentioned in the epics Ramayana and Mahabharata.

A detailed mention of the administration of the State can be found in Kautilya's Arthashastra. In ancient India, the empires were divided into provinces, provinces into districts and districts into villages and urban and rural centres.

Kautilya

- He was foremost of all political thinkers.
- He has written a book called **Arthashastra**. It covered topics like politics, economics, ethics and wealth.

In 2400 BC, the Nanda dynasty ruled from Afghanistan to Myanmar. Alexander tried occupying Afghanistan but faced fierce tribes until he entered India. Kautilya - also known as Vishnu Gupta - was a teacher of Political Science at the Taxila University. He approached Nanda rulers with news of Alexander and asked forces to fight Alexander. But he was made fun of then.

He took a vow to overthrow Nandas and took Chandra Gupta Maurya under his wings. Alexander's forces refused to fight against Nandas due to their huge might. On the basis of his experience of managing the vast country as Prime Minister of Chandragupta Maurya, he came up with Arthashastra which is known as **Magnum opus on polity and governance**.

Political System:

Monarchy was prevalent during the Kautilya's period. Single person had all powers related to governance. King (or) emperor had absolute power related to the Legislative, Executive, and Judiciary. There was no rule of law. King was sovereign and Hereditary in nature. People were subjects.

Administrative system:

Spoils system was prevalent. Administrators were appointed by King himself. Only qualification required was closeness to the King (proximity). They generally performed only regulatory functions like Maintenance of Law & Order and Generation of revenue.

Arthashastra

It has 15 chapters, of which four are important from politics and administration point of view. It also deals with politics, International Relations, Economy, and Governance, welfare, growth and development.

Religion played a dominant role in the lives of people. King was a protector of religions. And thus, the King derived power from religion.

Four chapters delve on the following 3 things:

1. Machinery of government
2. Principles of organization
3. Personnel administration

- The Emperor/King as a single person couldn't perform all the tasks; therefore, the machinery of government was established for smooth governance.
- The Emperor/King was aided by the Prime Minister, who in turn controlled 30 Departments. Each department was headed by a Minister, who reported to the Prime Minister.
- The Prime Minister and Council of Ministers would aid and advise the King in governance.

The departments were based on the principle of division of work and specialists were appointed by the emperor through spoils system.

- At lower levels of organization, people were appointed on the basis of merit and qualifications.
- It was the responsibility of the PM to ensure coordination between all ministers and departments.

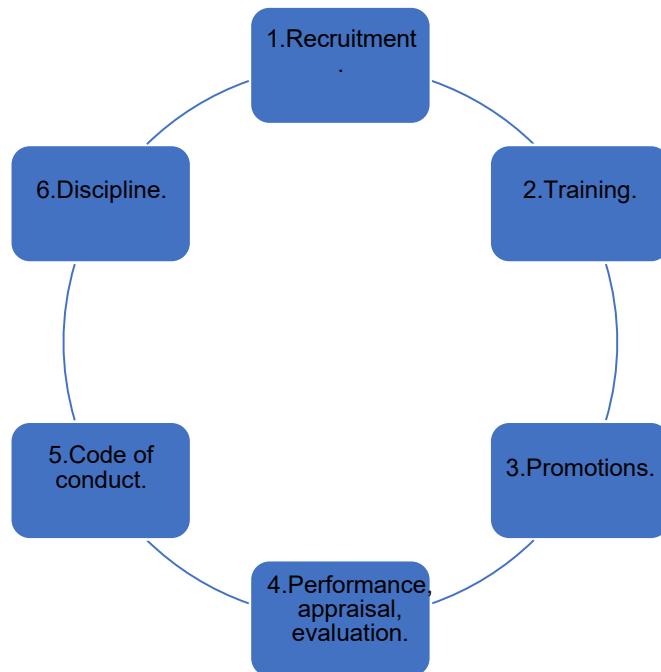
The chief functions of the Council of Ministers that is Mantri Parishad were as follows:

1. Commencement of the work which has not begun.
2. Completion of the work that has begun.
3. Improvement of the accomplished work.
4. Proper execution of the order passed.
5. General supervision over public administration of the country.

Principles of Administration Mentioned in the Kautilya's Arthashastra:

1. Division of work.
2. Coordination between Departments.
3. Discipline to regulate behaviour like corruption etc.
4. Hierarchy, which explains superior (gives order) and subordinate (implement orders) relationship. It ensures discipline and co-ordination within the organisation.
5. Written communication for codification of rules and regulations
 - To eliminate corruption.
 - To reduce discretionary powers of officials.
 - To fix accountability on the part of people working in the organization.
 - To reduce the scope of nepotism and favouritism within administration.
 - To ensure continuity of the administrative process.

Personnel administration:



Kautilya was the first administrative thinker to discuss the concept of good governance. He defined good governance through his famous dictum or saying as “The king shall consider anything as good that benefits his subject. He shall not consider anything as good that benefits himself.”

Que. “Ethics in public services has been the central concern of Kautilya’s Arthashastra.” Critically examine the statement. (2014) (10M)

Good Governance in Arthashastra

The king is authorised to create conditions for a good life not only by digging wells, canals, and construction of dams, planting of trees, preservation of forest etc. but also by providing the infrastructure for trade, commerce and industry through construction of roads and providing an impetus to navigation. Kautilya was the first thinker who consciously thought of an all-India state or even empire.

Economics:

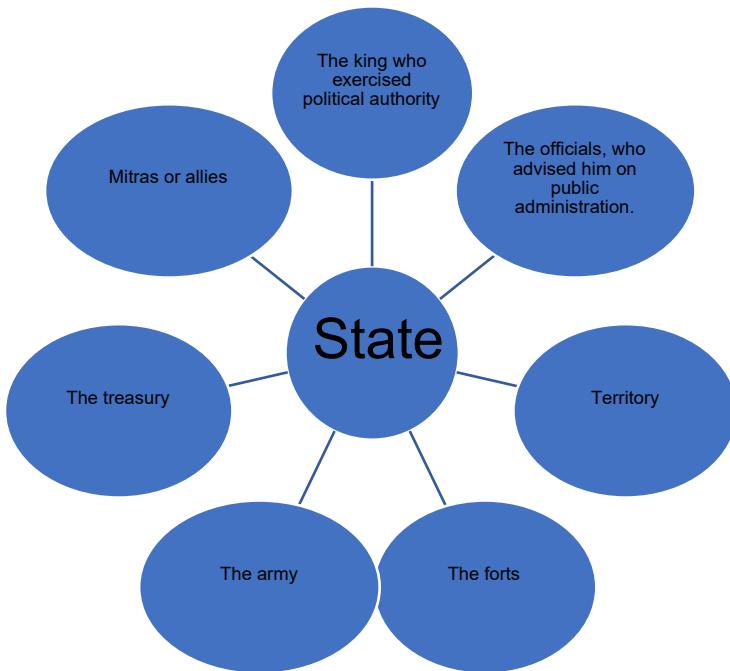
- The expenditure of the government on the salaries and other administrative expenditure should not be more than 25% of overall revenues.
- King should spend on
 - Construction of roads.
 - Irrigation of farmland.
 - Construction of forts.
- King should always have a surplus budget. That is, Revenue should always be greater than expenditure. He should always ensure fiscal discipline.
- Kings should always opt for progressive taxation. Possible only when Direct tax is greater than Indirect Tax.
- Kings should always be accessible.

Que. In the text of Arthashastra, ‘the state is neither a police State nor merely a tax gathering State’. Comment (2019)(10M)

Political and Administration:

- The State officials should always be accessible to the public.
- He came up with the dictum “*Yatha Raja, Tatha Praja* - As is the king, so shall be the people.” Actions and behavior of the king will influence values and attitudes of citizens.
- Kings should always take care of weaker sections of the society. Women, children, old people and other weaker sections should benefit from welfare administration.
- The king should receive a regular salary like ministers and other people working within the government.
- King should not own the assets of the government or people.
- Kautilya also prescribed a strict enforceable code of conduct for kings as well as ministers.

According to him, the constituent elements of the state are as follows:



- Kautilya not only emphasized on Good Governance, but he was also known for his pragmatic political philosophy.
- Kautilya did not give any importance to values in so far as pragmatic aspects of governance are concerned.
- Kautilya believed that the **stability of the empire depends on the size of the kingdom**. If the empire is large, it becomes difficult for other kings and enemies to attack the kingdom.
- The king should always focus on expanding the size of the kingdom.
- He said that there are neither permanent friends nor permanent enemies in politics and international relations. There are only permanent interests.
- The king can use all types of means - legal, illegal, moral, immoral - to strengthen his kingdom.
- He prescribed political assassinations as one of the means to strengthen the hands of kings.

Que. "In contemporary times, Kautilya's Arthashastra is relevant more in the field of international relations than in economic affairs." Analyse the statement. (2016)(20M)

- He gave a lot of importance to the intelligence mechanism. The king should send his spies to neighboring kingdoms. They should closely observe political activities. They should deliberately create political instability in those kingdoms and once they get an opportunity, they

should kill the rulers so that the king can occupy those kingdoms, popularly known as ‘KUTIL NITI’.

- Kautilya advocated that the king should always ensure that he **keeps his enemies very close** to him. His friends can be anywhere but enemies should always be near to him. It will help the king to closely monitor their activities and as and when he gets an opportunity, he should kill them.
- Kautilya also talked about corruption. He was pragmatic. He never discussed if corruption is morally right or wrong, while describing corruption he said that “Like we cannot stop a fish from drinking water when it is in water, we cannot stop a honeybee from sucking nectar from a flower, we also cannot stop a public official from taking bribes.”

Kautilya listed 40 different ways of corruption within the government. Then he spoke about ways to eliminate them.

Four different means listed to reduce corruption are as follows:

1. **Saam** is detailed in Saam Niti which dictates Code of ethics for all, to promote positive values.
2. **Daam** is detailed in Daam Niti focuses on increasing remuneration and other incentives, ensuring a better standard of living.
3. **Bhedh** is detailed in Bhedh Niti which revolves around an intelligence agency. Every officer of government’s activity should be closely monitored and corrupt activity should be informed to the king. The officer concerned should then be punished severely.
4. **Dand** is detailed in Dand Niti means there is punishment for various crimes.

Kautilya’s Arthashastra is unabashedly practical in its approach. It is the loudest proof of the practical turn of the Indian mind in political philosophy. It is a manual of the practical statecraft for the day to day guidance of the prince that is the ruler.

‘Arthashastra’ here means the science of politics and public administration. What Kautilya calls ‘Arthashastra’, most other Indian writers on this shastra call by other names namely ‘nitishastra’ or ‘rajanitishastra’.

In the end, good governance is the happiness and welfare of the people but unlike Bentham’s utilitarianism, in India we do not approve of Charvak very much. It is better to be a Gandhi or Socrates dissatisfied than a pig satisfied.

The means for good governance is the promotion of rational will and the moral power of people. For Kautilyan King, in the happiness of his subjects lies his own happiness, in their welfare his own welfare. Whatever pleases himself, he

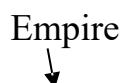
shall not consider as good but whatever pleases his subject, he shall consider as good.

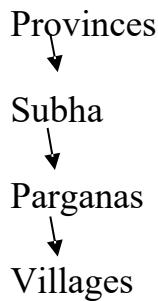
Que. "Indian administration is said to be characterized by its three features viz. Weberian structures, Kautilyan practice and Gandhian rhetoric." Examine the statement. (2014) (20M)

Mughal Administration

The Mughal period, according to some historians, is the best period in the Medieval Age. The Mughal administration succeeded the Delhi Sultanate and provided the much-needed stability to the administration in the country for about three centuries.

- It came into existence in 1526 with the First Battle of Panipat.
- The emperor was the most important person in the empire. As long as the emperor was strong, the empire was stable and mighty. But post 1707, weak rulers came to the throne, resulting in the disintegration of the Mughal Empire.
- There was no rule of law. All the powers relating to the Legislature, Executive and Judiciary were with the emperor.
- Mughal empire was not secular and their administration was run according to the Shariatic law [Muslim personal law and Judiciary]. Nobles from Iran were appointed as interpreters of law.
- Empire was divided into various provinces, like present day states.
- Provinces were headed by governors, who were appointed through spoils systems.
- Provinces were further divided into districts called military districts [Subha], headed by Subedar/Mansabdar.
- Subedar/Mansabdar had local powers of Legislature, Executive and Judiciary.
 - They maintained their own army, collected taxes.
 - They implemented laws, Rules & Regulation and delivered judgments too.
 - A portion of collected tax was kept with them and the rest sent to the governor (Treasury of the Emperor) ultimately.
 - Districts further divided into Paragnas and further into villages.





- Revenue collection started from the village itself. Major source of revenue was land revenue. It was $1/4^{\text{th}}$ to $1/3^{\text{rd}}$ [25% to 33%] of total produce. Scientifically evaluated, output and revenue/tax were fixed.

Que. "A significant legacy of the Mughal rule in India is a well-organized revenue administration at the State and District levels." Comment. (2016)(10M)

- Mughal administration was completely military in nature. There was no difference between army and civilian officers.
- It has rank classification in the personnel administration.
- Mansabdars were officers in Mughal administration.
- Those nobles who joined Mughal service were enrolled as mansabdars.
- The term mansabdar refers to an individual who holds a mansab (rank).
- The Mansabdars were appointed to all civil and military posts.
- They were liable to be transferred from one branch of the administration (civil) to another (military).

Sub-divisions of each Mansab (Rank)

The 'Zat' fixed the rank in the army. The salary of a Mansabdar was based on his Zat.

The 'Sawar' referred to cavalry men Mansabdar had to maintain. Mansabdar also had to keep horses ready.

Zat vs Sawar

- Zat — Denote the rank in the administration
- Zat — Denote the Salary of the Mansabdar
- Sawar — Denote the number of cavalry men Mansabdar had to maintain.

Note: Even if the Sawar rank was higher, the mansabdar's position in the official hierarchy would not be affected. It will be decided only by the Zat rank.

For example, a mansabdar with 5000 Zat and 2000 Sawar was higher in rank than a Mansabdar of 4000 Zat and 3000 Sawar.

However, there were exceptions to this rule particularly when the mansabdar was serving in a difficult terrain.

Military responsibilities of Mansabdars

- The Mansabdar was required to maintain a specified number of cavalrymen.
- The Mansabdar was required to maintain a specified number of horses.
- The mansabdar had to bring his cavalrymen for review and get them registered.
- The mansabdar had also get their horses branded.

Hierarchy within the Mansabdars

- Amir: Those mansabdars whose rank was 1000 or below were called Amir.
- Great Amir: Those mansabdars above 1,000 were called Amir-al Kabir (Great Amir).
- Amir of Amirs: Some great Amirs whose ranks were above 5,000 were also given the title of Amir-al Umara (Amir of Amirs).

Salary of Mansabdars: In cash and land

The Mansabdars were paid according to their ranks. They were paid a good amount of money.

Those Mansabdars, who were paid in cash, were called Naqdi.

The Mansabdar appears to be a Central Asian institution. There is a view that this institution came to India with Babur. However, during Babur's time, instead of the term of Mansabdar, the term Wajahdar was used.

It was under the regime of Akbar when Mansabdari system became the basis of military and civil administration.

- Mughal administration followed centralized despotism (dictatorship). Therefore, there was no rule of law.
- Law and order were maintained through thanas (police stations).
- Particular areas were identified and Thanedars were appointed to maintain law & order.
- Mughal administration is also called Kagaz Raj (Paper Raj) because of its emphasis on written communication. The Judgments and Land records were all in written format.
- Its strength was centralized despotism. As long as the emperor was strong, the empire was stable. The Mughal Empire was dependent on personalities rather than institutions. It collapsed because its major strength turned out to be its most important weakness.

Prominent Officers in Mughal Administration:

Subedar: He was given the title of the nazim or regulator of the province. His duties included the maintenance of law and order, execution of royal decrees and regulations, to help in the smooth and successful collection of revenue etc.

Provincial Diwan: He was the jealous rival of the Subedar & the second officer in the locality. The provincial Diwan was selected by the Imperial Diwan. He acted directly under Imperial Diwan's orders and in constant correspondence with him.

The Faujdar: The Subadhars' assistants in the maintenance of peace and the discharge of executive functions in general were the chief functions of the Faujdars. The Faujdars were placed in charge of suitable subdivisions of the province officers.

The Kotwal: The ideal kotwal was expected to follow the regulations in his outward actions and to fear god inwardly. He was to attend the hearing when the sovereign or provincial viceroy holds a court of justice or grants public audience.

Wazir or Chancellor: Wazir in the Mughal Empire meant the Prime Minister. He was always to head the revenue department in his capacity as Diwan. However, all Diwans were not Wazirs.

The Bamshi or Paymaster: As a convenient means of calculating his salary and status every officer of the Mughal government was enrolled as a commander of so many horsemen. And the Bashi was to handle all the matters relating to the salary of officers.

The Mughal dynasty's long rule of over two centuries is attributed to its strong administrative system. It mixed both Indian and extra-Indian elements to produce a "perso-arabic system in Indian setting", as said by Jadunath Sarkar.

Indian Elements	Extra Indian Elements
Features of administrative system	
Continuation of Local self-government in the form of Panchayat Raj, as separate administrative machinery for local level wasn't created.	<ul style="list-style-type: none">● Introduction of Mansabdari system and all officers having military rank (which was a modification of existing administrative system followed by Mughals in central Asia)● Division of power between Subedar and Diwan (based on Arab system around Egypt)● State as entrepreneur state – setting up of karkhanas, which

	<p>differed from Indian system of patronage</p> <ul style="list-style-type: none"> State as Kagazi Raj - due to extensive use of correspondence and record-keeping
Law and Order Administration	
<ul style="list-style-type: none"> Continuation of Chowkidari system (Community policing) at village level 	<ul style="list-style-type: none"> Introduction of Kotwal in urban areas, faujdar, etc
Features in revenue Administration	
<ul style="list-style-type: none"> Introduction of Indian innovations such as <i>Zabti</i> system introduced by Raja Todar mal 	<ul style="list-style-type: none"> Creation of new posts such as <i>qanungo</i>- responsible for surveying the land, Krori responsible for collecting revenues and amin-acted as dispute settler/umpire between revenue paying peasants and revenue collector.
Other features	
<ul style="list-style-type: none"> Continuation of feudal system, as was prevalent in the post Gupta days. 	<ul style="list-style-type: none"> Concept of King as <i>Zil-I-ilahi</i> (divine shadow)

The attempt at merging the two systems is best exemplified in Akbar's attempt at introducing *Din-i-ilahi* by merging elements of Hindu and Islamic religion. The influence of this administrative system is seen to this day in the continuation of the system of revenue administration in varying degrees.

Que. Mughal administration incorporated a combination of Indian and extra-Indian elements. (10 marks) (2020)

British administration

The fall of the Mughal Empire and the transfer of power in the hands of foreigners led to dramatic changes in the administrative structure in the country. The present administrative structure of India is, by and large, a legacy of the British rule in India.

During the 17th Century, India and China were the most powerful countries. It was called the Century of Asia, since 33% of global trade was coming from India. India's contribution to trade and GDP now is less than 3%.

- The most outstanding work of Cornwallis was the consolidation of the Indian districts into definite administrative units.
- Each district was placed under a magistrate and a collector.
- The magistrate, working as the district judge as well as the head of the police, combined in his person both judiciary and executive powers.
- The collector, on the other hand, remained in charge of the revenue administration of the district.
- The judicial powers of the collectors were taken away.
- For effective police administration, each district was divided into a number of police circles, or thanas.
- Each such circle was placed under an Indian daroga, who was responsible for peace and for the prevention and detection of crime in his area.

Significant Parliamentary reforms introduced by British in India are as follows:

1853 – Parliamentary form of democracy started

1860 – Rule of law became part of Indian laws

1919 – India's participation in execution of the legislation

Impact of British administration in present day India:

1. Federal form of government is a colonial legacy.
2. Parliamentary form of government is based on the Westminster pattern of the British.
3. Local government was in fact a gift of Lord Rippon.
4. Concept of Rule of law.
5. Concept of Separation of power.
6. Independent judiciary.
7. District Administration.
8. Civil Services.
9. Secretariat Administration (Central Secretary, State Secretary, PMO).
10. Revenue administration (Budgets).

As mentioned in the 2nd Administrative Reform Commission (ARC), the rule of white men was replaced by the rule of Brown men; all other practices almost the same. 21st Century India is ruled by 19th Century rules and regulations like the IPC, GPC, Revenues Act, Official Secrets Act 1872, Telegraph Act etc.

Indianization of Public Services:

- **The Indian civil service** is the most important legacy of the British rule in India.

- The idea of a merit – based service originated in India for the first time with the submission of the Lord Macaulay report in 1854.
- The idea of setting a specific age limit to compete in the civil services examination also evolved in 1854.
- The practice of the competitive examinations being conducted by an independent agency was also started by the British.
- Accordingly, the Federal Public Service Commission was created in 1926 and entrusted with the task of recruiting civil servants.

Macaulay Committee:

- Recommended for open competitive exam for aspirants between 18-23 years of age to be held in London.
- Suggested probationary period.
- Both Indians and Englishmen could compete.

Aitchison Commission (1886-1887):

- Till 1892 Civil Service in India was called Indian Covenant Civil Service.
- The Report renamed it as Indian Civil Service
- It created
 - i. Imperial Civil Service
 - ii. Provincial Civil Service
 - iii. Subordinate Civil Services

Islington Commission:

Also known as the Royal Commission on Public Services in India, it was chaired by Lord Islington.

It made following recommendations in its report submitted in 1915:

- It suggested that 25% of the higher posts be filled by Indians partly by direct recruitment and partly by promotion.
- It also recommended that recruitment to higher posts should be done partly in India and partly in England.
- The services under the GOI to be categorized into Class I and Class II.
- While fixing the salaries of civil servants, the principle of maintenance of efficiency was to be adopted.
- There should be a probationary period of 2 years for direct recruits. For the ICS, the probationary period was to be of 3 years.

The Montagu-Chelmsford Report (1918):

The Montagu Chelmsford report, with a more liberal and sympathetic view towards Indians missing the civil service, proposed that -

1. No racial discrimination should be made in the matter of appointment.

2. There must be a system of appointment in India, open to Europeans and Indians alike, for all those public services for which there was recruitment in England.
3. The examination for 33 per cent of the superior posts should be conducted in India and this percentage should increase by 1.5 per cent annually.

These proposals were accepted and became the basis of appointment for about ten years.

The Lee Commission (1923):

A Royal Commission under Lord Lee was appointed in 1923 & submitted its report in 1924.

Its major recommendations were as follows:

1. A Public Service Commission with five full-time members should be appointed immediately. (Such a Commission was appointed in 1925)
2. Of the total strength of the Higher Civil Service 20 percent of the officers should be promoted from provincial civil services and of the remaining 80 per cent, half should be British and half Indian.

The government accepted most of the recommendations of the Lee Commission.

Que. The public services in India are an evolution of the British Raj. Trace the Indianization of the services. (2020)(15M)

Que. "Indianisation of Public Services is a slow but steady process." Explain (2017)(20M)

Secretariat staffing

The British devised a practical idea of drawing a central pool for manpower. On the basis of the recommendations of the Secretariat Procedure Committee (1919), the Government of India made upper division clerks of the Secretariat part of an Imperial Secretariat Service in 1920. It also appointed a Central Staff Selection Board to supervise the recruitment process. The board consisted of three persons, an independent chairman and two members to be nominated one each by the home and education departments.

Revenue Administration

- The Accountant General of Fort William in Bengal initially controlled the finances of the Government of India.
- Subsequently, the Indian accounts were separated from the local accounts of Bengal. Accordingly, in 1846, the Secretary to the Government of India in the finance department was nominated as the ex-officio

Accountant General of India with powers to supervise and examine Indian accounts.

- For each Presidency, a general department of accounts in lieu of separate accounts was also created to bring about integration in the system.
- The budget system was introduced via the financial resolution of April 7, 1860.
- Under this system, the financial estimates for each year were to be arranged, considered and sanctioned by the Government of India before the commencement of the year.
- A central revenue department was also created in Calcutta to integrate and coordinate the activities of all the revenue authorities. An imperial audit department was also set up for the scrutiny.

Financial Accountability

When the C&AG was made responsible to the central legislature in 1919, a full-fledged and systematic mechanism of control was evolved. In 1922, a Central Public Accounts Committee was created, consisting of both elected and official members, with the finance member as its ex-officio Chairman. It considered the Auditor General's reports on the reappropriations amounts.

The Indian legislature, through these two bodies, exercised control over the administration of public finance.

Law and order

The Police Act of 1861, which created an organized system of constabulary, laid the foundations of the contemporary police administration of India. Even today, the Indian police system is governed by the British era Indian Police Act 1861.

Yet another phase of reform in police administration began with the implementation of the report of the Police Commission (1902-03).

The Commission maintained the supremacy of the District Magistrate over the Superintendent of Police. However, the DM was not supposed to interfere in the day-to-day management of the police force or in the mode of conducting investigation. The Police Commission recommended that the police force should consist of the following:

- (a) A European service to be recruited entirely in England.
- (b) A provincial service to be recruited entirely in India.
- (c) An upper subordinate service consisting of inspectors and sub-inspectors.
- (d) A lower subordinate service comprising head constables and constables.
- (e) A Province should be divided into ranges, each under a deputy inspector general of Police.

Administration of justice

The administrative spirit of the British rule was also evident in the field of judicial administration. Warren Hastings had combined in the office of the Collector both revenue and judicial functions. Previously, the Amalguzar under the Mughals had the powers of collecting revenue and of trying certain cases too.

Through the Cornwallis code, the judiciary was separated from the executive in 1793. It took away the judicial powers of the collector. This led to the foundation of an independent judiciary.

A three-tier system of European judges was laid down by the Cornwallis code with the Zillah and city courts at the bottom, the provincial court of appeal in the middle and the sadar diwani and nizamat adalat at the top.

District Administration

- The district is an administrative unit within a province that the British created when ruling India.
- India was divided into 'Presidencies' each of which was ruled by a Governor.
- Over them was the Governor General, later the Viceroy.
- But, the Presidencies were very large & the British had a very small set of skilled people to rule the country.
- In the situation, they created administrative districts, where the most important official was the officer responsible for collecting taxes, largely revenue from land.
- He was designated as the Collector. All officials reported to him, and he further reported to the Governor. As the needs grew, more powers were delegated to the Collector.
- Over the period of time, he also became the District Magistrate, responsible for settling disputes, largely revenue disputes.
- Occasionally, an Additional District Magistrate was posted to look after the legal matters and reporting to the Collector.
- At the time of Independence, the institution of Collector was well settled and well accepted. It became part and parcel of Indian administration.

Que. "District Collector is a legacy of the British Raj and has largely remained insulated from the demands of contemporary professionalism." Discuss. (2014) (10M)

Local self-government

The British introduced quite a few changes in local administration even while retaining some of the aspects of the ancient village system.

The government of India resolution 1864 had stated that, “the people of this country are perfectly capable of administering their own local affairs...” In pursuance of this policy, statutory recognition was granted to panchayats as petty courts in Bombay and Madras provinces. In 1870, Lord Mayo’s government also included the panchayats in the management of funds devoted to education, public works etc.

Lord Ripon, the father of local self-government in India, in 1882 introduced a new policy through a new act. It recommended the introduction of the elective element in rural bodies, reduction in the size of the official element, an elected non-official as the chairman of rural bodies and financial decentralization.

Chapter 2- Philosophical and Constitutional framework of Government

Syllabus: Salient features and value premises; Constitutionalism; Political culture; Bureaucracy and democracy; Bureaucracy and development.

Introduction:

The study of the environment plays a vital role in understanding the administration of any country. The administration is affected by socio, political, cultural and economic factors and as such study of administration in the context of the above gives the reader a clear-cut idea about the administration in the country. In the Indian context, it is very important to understand the reasons

behind the adoption of the parliamentary form of Democracy, Supremacy of the Constitution, Socialism and Federalism by the founders of the Constitution in the context of the independence movement.

Constitutional Developments:

- East India Company occupied Bengal province after the Battle of Plassey. Initially, it was a trading company but suddenly, they found themselves ruling a vast territory of Bengal. As they did not have any experience of ruling a territory previously, they had come out with changes and innovations over a period of time to improve governance.
- From 1858 onwards, the entire administration of the country went into the hands of the British parliament.
- Between 1773 and 1947, many changes were introduced in the governing systems which later had become the basis of our constitution.
- From 1773 onwards, British parliament passed in regularly after a period of 20 years till 1853. The objectives of all these regulating Acts were to control activities of East India Company (EIC).
- The Regulating Act of 1853 is very significant from the point of view of constitutional governance in India. It has for the first time introduced separation of powers.
- It has laid foundations for what is popularly known as parliamentary form of government. It separated the functions of Executives from Legislatures. Executives were made responsible for policy implementation whereas, Legislatures were given responsibility of law making.
- After the 1857 Revolt, East India Company's rule had come to an end and was replaced with British parliament.

The Regulating Act of 1773 marked the first attempt by the British Parliament to control the administrative and other activities of the East India Company.

Introduction of values by the act:

- The Act prohibited company servants from indulging in private trade and accepting gifts or bribes from natives. This promoted the values of probity and professionalism in the Company's civil servants.
- It provided for establishing a supreme court at Calcutta – to institute “Rule of Law”.

Foundation of centralized administration in India:

- The Governor of Bengal was designated “Governor General of Bengal”, and the governors of the other 2 provinces were made subordinate to him. This introduced unity of command in the administration. This was

followed by further enhancement of the post by transformation into the post of “Viceroy”.

- Though an executive council of 4 members was made to assist the Governor-general, power remained centralized in the Governor General. The “portfolio System” was not introduced till 1861.
- The British Government’s control over the Company was strengthened by requiring the court of directors to report on its revenue and other affairs in India. This reduced the discretion held by company and centralized power upwards.

The Regulating act of 1773 marked the first step towards administrative reform in British India. These would be expanded upon by subsequent efforts such as Cornwallis code and the various regulating acts.

Que. "The Regulating Act of 1773 not only introduced the values in administration but also laid the foundation of centralized administration in India." Explain. (2016)(10M)

- From 1858 onwards, the British parliament passed many laws which ultimately culminated in the 1947 India Independence Act.
- Modern concept of Rule of Law for the 1st time was introduced in Indian administration during the 1860s. IPC 1860, CrPC 1861, Indian Councils Act 1861, Indian Evidence Act 1872 are some of the laws which introduced the concept of Rule of Law in Indian governance.
- Later, due to demands from Indian nationalists, slowly constitutional reforms were introduced.
- Indian Councils Act of 1892 introduced representation to Indians in legislation. Indians were mostly nominated for these positions and princely states rulers were nominated as members of the council of legislatures. They had the freedom to discuss and debate the laws introduced by Executives, but they could not vote.
- Minto-Morley reforms (1909) introduced for the 1st time elections to the Central legislature. It also introduced a communal electorate. Indians were given the opportunity to contest elections and become members of the Legislative Assembly.
- Government of India Act 1919 had for the 1st time given opportunities for Indians to become part of Executives also. It introduced dyarchy in provinces. The entire business of the government was divided into reserved subjects and transferred subjects. In case of transferred subjects, Indian ministers were appointed wherein they had the opportunity to take decisions related to the functioning of their ministers but the final decisions will be in the hands of ICS officers.

- Government of India Act 1935 was a landmark law as far as constitutional history is concerned. It laid the foundation for the present day constitution. It abolished dyarchy in provinces and introduced the same at the central level. It was not implemented due to the second WW. It also introduced federation in our polity. Union Legislature and State Legislature were introduced where the powers were divided vertically between the Federal Government and the provinces.
- A notable feature of the 1935 Act was it introduced a very loose federation. Maximum powers were given to the provinces with the Central Government taking responsibility for functions like defence affairs, communication, money and banking. This Act also recommended a central bank for the country on the lines of the Bank of England. The majority of the provisions of this Act were not implemented due to strong opposition from princely states and congress, but it had become the basis of our constitution.

The Constitution of India, enforced in 1950, is often labelled as “a bag of borrowings”. This “borrowing” is from various sources, including the Government of India Act, 1935 and “ransacking all known constitutions of the world”.

The “Structural” part refers to the operational provisions relating to the government. The structural part of the Constitution of India is largely inherited from the Government of India Act, 1935. In fact, more than half of the provisions of the Constitution are identical or bear a close resemblance to this act leading to the constitution being criticized as a “carbon copy of the 1935 Act”.

The shared structural provisions include:

- 1. Federal setup** –the division of powers between 2 tiers of Union and States (prior to 73rd and 74th amendments) mirrors the federal setup envisioned in the 1935 Act, between British provinces, princely states and British India. The use of 3 lists in the VII schedule is similar to the 3 fold distribution envisioned in the 1935 Act.
- 2. Bicameral legislature at Centre and states.**
- 3. Instituting an “All-India” court:** The Supreme Court of India setup by the Government of India is the successor to the federal court setup Government of India Act, 1935.
- 4. Public Service Commissions (PSCs):** Government of India Act 1935, created a Federal Public service Commission, provincial PSCs, as well as Joint PSCs. This is mirrored in an updated version in the UPSC, State PSCs and Joint PSCs.

Philosophical Part of the Constitution of India

The “Philosophical” parts of the constitution refer to those guiding principles and ideals which inform the provisions of the Constitution. These are mainly contained in 3 parts-

1. The Preamble
2. Fundamental Rights
3. Directive Principles of State Policy

The sources of the philosophical part include:

1. American Constitution: as the first written constitution of a democratic republic, it finds strong influence on the philosophical parts of COI. The following can be traced to it:

* Inclusion of a Preamble,

* The inclusion of Fundamental Rights (Part III), especially right to equality, right to liberty and right to life.

2. Irish Constitution: The concept of Directive Principles of State Policy (DPSP) is borrowed from the Irish Constitution.

3. French Constitution: influenced the inclusion of the ideals of

“Liberty”

“Equality”

“Fraternity” and “Republic”

4. Russian Constitution: focus on “socialist” ideal in preamble as well as various DPSPs such as those concerned with welfare state(Articles 38 and 39), right to work (Article 41), conditions of work and maternity relief (Article 42), securing a living wage (Article 43)

5. Gandhian Ideals: Influence the “Gandhian” DPSPs such as those dealing with Panchayati Raj (Article 40), Promotion of cottage industries (Article 43), and prohibition of slaughter of cows (Article 48).

6. Ideals of the freedom movement: which are reflected in the idea of Universal adult franchise, equality (Abolition of titles under Article 18). The various sources from which the Constitution’s philosophy was inspired have contributed to its continuing as a living document and has contributed to India’s success as a democracy.

Que. The structural part of the Constitution of India is to a large extent derived from the Government of India Act, 1935, whereas its philosophical part has many other sources. Discuss the sources of the philosophical part. (2020) (20M)

The Indian Constitution is not merely a document concerned with the machinery of the State, but also contains sizable value premises. These value premises are exhibited in the Preamble, The Fundamental Rights and the

Directive Principles of State Policy, as well as in the various judicial pronouncements of the Basic Structure.

The Constituent Assembly was influenced by the ideology of nations all over the world. They also liberally borrowed the philosophies and provisions of these nations, which shaped the value premises of the Indian Constitution.

The liberal-democratic ideology of the west, in particular, has played a large part in shaping the value premises. It contains all such value premises that promote liberty of individuals as well as promote representative governance, their influence can be seen in-

- Idea of “limited State” and Constitutionalism, which is embodied by the Constitution.
- The adoption of Parliamentary form of governance with Universal adult franchise, adopted from the UK and USA.
- Adoption of federalism to accommodate the pluralistic society.
- Adoption of liberal-democratic concepts such as ‘Separation of Powers’ (propounded by Montesquieu), ‘Rule of Law’ (AV Dicey), with suitable modifications.
- Focus on Liberty, Equality and Fraternity in the Preamble. This is further strengthened in the Fundamental Right to Equality (Article 14-18)- both Equality before law and equal protection of law and Right to liberty and life (Article 19-24), Right to Constitutional Remedies. These mirror the values of the American and French Constitutions.
- The ideals of Secularism (Articles 14-18 and 25-28) enshrined in the constitution
- Liberal-democratic content of Directive Principles of State Policy, which include-
 - A uniform Civil Code (Article 44)
 - Universal early childhood care and education (Article 45)
 - Protection of Environment and wildlife (Article 48A)
 - Separation of Judiciary from executive (Article 50)
 - Respect for international Law and harmonious relations among nations (Article 51)

The presence of this influence led many in the constituent assembly to lament that the constitution was a “slavish surrender to the west”.

While the influence of the liberal-democratic principles is visible, it was not overwhelming, as the principles were modified to suit Indian Context shaped by the presence of Gandhian and Socialistic ideals. For instance, secularism in India is completely different from the western connotation of “separation of church from state”. Similarly, the Indian Constitution balances Parliamentary sovereignty with judicial supremacy. The idea of Separation of powers is also

supplemented by the concept of “checks and balances”. The Fundamental rights have several limitations and are counterbalanced by the Fundamental Duties.

The value premises of the Constitution arose in the backdrop of the freedom movement and the realities of the 1940s. They adopted the best of the liberal-democratic principles and others to create something that is.

Que. “The liberal - democratic ideology of the West influenced the shaping of value premises of the India Constitution.” Discuss. (2013)(20M)

POST INDEPENDENCE:

Indian Independence Act of 1947, apart from giving complete independence to India it also created Pakistan. On a communalisation basis, elections were held at the central legislature in 1946.

After independence, the central legislature was converted into a constitutional assembly that was given the responsibility of framing the constitution for the country. It took almost for almost 3 years to complete the task. It performed dual functions, framing the constitution and performing functions of legislature. It has taken almost 3 years for our constitutional forefathers to formulate the constitution. It was to ensure strict implementation of rule of law in India. Britishers denied basic human rights to Indians like right to life, right against exploitation, right to freedom of speech & expression, right to equality. It was decided that the main functions of the organs of the state was to protect Fundamental Rights and freedoms of citizens.

Preamble of Constitution of India:

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

JUSTICE, social, economic & political ;

LIBERTY of thought, expression, belief, faith & worship ;

EQUALITY of status and opportunity, and to promote among them all ;

FRATERNITY assuring the dignity of individual and unity & integrity of the Nation ;

IN OUR CONSTITUENT ASSEMBLY this twenty sixth (26th) day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Important values and features of our Constitution

- Fundamental Rights
- Separation of powers is the essence of rule of law
- Federal form of democracy

- Independence of judiciary and judicial review.
- Secularism
- Parliamentary democracy.
- Socialism.
- Directive Principles of State Policy
- Local Self Governments
- Civilian control over army.
- Civilian control over law enforcement agencies.

Constitutionalism:

According to Thomas Hobbes, the natural tendency is to move towards anarchy with the passage of time. In order to protect the people's lives & freedoms, they have created a state. They have transferred power to the state. There is an upward delegation of power from people to a state.

The state has been given the responsibility to protect freedoms and rights and maximize welfare of citizens. The constitution of a country defines the powers, responsibility and functions of the state. It also defines the relationship between the citizens and the state.

In simple terms, the constitution is a written legal document that defines the relationship between the citizens and the state. According to Jawaharlal Nehru, the constitution is not a static rule book it refers to the soul of the country, it reflects the various demands, desires and aspirations of citizens, and it is a dynamic living organism.

Constitutionalism means implementation of ideals of the constitution in both letter and spirit. As Ambedkar rightly pointed out when the constitution of a country fails, the blame should not be on the shoulders of constitutional makers. It is the people of the country along with political parties that are ultimately responsible for realizing ideals of the constitution.

Que. As Dr. B. R. Ambedkar observed, "the text of the Constitution can provide the organs of the State, but the final outcome of the governance process depends on how it has been operationalized by the political parties and people". Elucidate the statement. (2015) (10M)

Constitutionalism can be defined from different dimensions

- It implies strict implementation of rule of law in both letter and spirit.
- Protection of Fundamental Rights of citizens from exploitation by organs of state and private citizens.

- It also emphasizes limited government. Power corrupts and absolute power corrupts absolutely. Constitutionalism focuses on limiting powers of organs of state so that they do not become dictatorial in their functioning.
- It also emphasizes ensuring internal checks and balances within the different organs of the government.

Que. “Constitutionalism is the foundation of the administrative edifice in India.” Discuss (2017) (10M)

In India, the constitution is present in letter but not in spirit. In fact, what we have is constitutional formalism. It means there is a difference between the ideals of the constitution and reality in our society. We are very far from realizing the ideals of our constitution.

For example, 43% of our members of Lok Sabha have criminal records against them. Law breakers have become law makers. When law breakers become law makers, rule of law is the ultimate causality.

According to the Global Transparency Index, India is more corrupt than its neighbours. Also corrupt people are never punished and honest people are not protected.

People are not able to enjoy Fundamental Rights which are guaranteed under the constitution. More than 45 million cases are pending with our judiciary and it is said that it would take our judiciary at least 300 years to come out with judgement in these cases. Justice delayed is justice denied.

Que. Do you think that some of the ideals enshrined in the Preamble of the Constitution remain only on paper even today? Critically evaluate. (2016)(10M)

Political Culture

India has opted for a Westminster model of parliament with a multiparty system. We were also one of the few nations, which had opted for universal adult franchise. Every citizen is given the right to vote, irrespective of their religion and region, language, gender and ethnicity.

However, these structures are far from effective due to the political culture prevailing in the country. This political culture influences the voting pattern and behaviour. It also influences electoral outcomes. It also becomes the basis for inner party democracy and ultimately decides the relationship between state and its citizens.

Political culture can be defined as the set of traditions, customs, values, beliefs which influence the functioning of political systems. They define the relationship between the citizens and state.

Que. The philosophy of the Westminster model is at odds with the political culture of India." Critically analyse. (2018)(10M)

According to Almond and Verba, political culture of a country is influenced by three factors:

Emotions:

When a political culture is influenced by emotions and sentiments, it is considered least developed political culture. Emotional factors like religion, caste region, language, dynasty, influence voting behaviour. They are not concerned about development as they are not aware about it.

Political parties can easily win elections just by appealing to the emotions of people. They don't have to worry about performance. Charismatic leadership can help them. This type of leadership would automatically become a dictator. There is no scope for inner party democracy.

Values or Ideologies:

It is better than a political culture dominated by emotions and sentiments. Here, voting patterns are influenced by the values and ideologies professed by political parties.

On the basis of ideologies, we can divide political parties into 3 major groups:

- **Rightist philosophy:** Political parties believe in majoritarian rule. They advocate the interest of the majority. It can be either religion or race. In terms of their economic philosophy, they believe in giving more freedom to markets. The role of the State is restricted to performing regulatory functions.
For example, Conservative party of the UK, Republican party of the USA, and BJP, Shiv Sena, Akali Dal etc. of India.
- **Leftist philosophy:** These political parties believe in Leninist and Marxist ideology in terms of political philosophy. They belong to secular schools. They are also interested in protecting the rights of minority communities whether it is religious minorities, linguistic minorities or other socially-economically backward sections. Political thought is dominated by state control and state regulation. They believe that the market should be controlled and regulated by the state. State should be

given a predominant role in realizing the objective of welfare maximization.

For example, the Labour party of the UK, Democratic party of USA, Communist parties in India.

- **Centrist philosophy:** Here, political parties are ideologically flexible. They are not rigid like rightist or leftist parties. They believe in both markets as well as state. They emphasize on protecting rights of both minority as well as majority communities. In India, most of the political parties including INC and other regional parties fall under this philosophy.

For example, Congress strongly advocated state led development between 1950s-1990s, and when it failed, the same political party brought in economic reforms in 1991.

In a political culture dominated by values and ideologies people vote on the basis of ideology, professed by a political party. They keep on voting for that party irrespective of its performance in terms of promises made to people. In this way, every party has a core vote bank based on its ideologies.

The economic reforms since 1991's New Economic Policy reflect the processes of Liberalization, Privatization and Globalization (LPG) in the Indian economy and marked a break from the extant centralized system.

There is an opinion that these reforms have significantly infringed on the basic values and spirits of the Indian Constitution in the following ways-

- “Socialist” ideology of constitution being made irrelevant due to Liberalization and Privatization. This is supported by the increasing inequality as measured under Gini index (45.18 in 1990 v/s 51.36 in 2013) and by Oxfam figures.
- “Sovereign” nature of India being constrained by Globalization. For example, Pressure on India to conform to WTO’s amber box subsidy criteria, pressure to change India’s IPR regime to be TRIPS+.
- Fear of Corporate State undermining Democratic republic as multinational companies gain increasing clout (as indicated by Ali Farazmand)

However, these fears have largely been unfounded as these reforms have largely helped India, move towards achieving the vision of the constitution, as evident in the following:

- Rate of poverty reduction increased dramatically post reforms. (to the extent that poverty was halved between 1990 and 2010)

- The ideals of “liberty” & “equality” have received a boost as License Raj was dismantled and every citizen can participate in managing the wealth of the nation.
- The increase in wealth creation due to unlocking private participation has resulted in increased tax collection, which has subsequently fuelled the expansion of State’s schemes for welfare and empowerment. Some of them include MGNREGA, Start-up India scheme, Piped water for all (Har Ghar Jal). Socialistic values, under Articles 38, 39, 39A have not been discarded.
- Participation of Private sector in providing goods and services has helped the state to achieve the goals of providing education and decent livelihood. (Articles 41)
- The changing technology has made the world a global village. Thus unconstrained “sovereignty” in the Westphalian sense is no longer viable. The economic reforms have allowed India to respond to a changed world order in accordance with Article 51, which directs Indian State to foster respect for international law and promote honourable relations between nations.

Based on the above examination we can conclude that the economic reforms have served as a means to achieving the ends envisioned by the ideals of the Indian Constitution, rather than infringing upon them. While the locus may have changed, focus remains the same.

Que. The economic reforms have significantly infringed the basic values & spirits of the Indian Constitution. Examine (2019) (10M)

Que. “The market reforms have not infringed the basic structure of the Constitution of India, but have largely comprised the realization of the ideals of social & economic justice.” Comment (2017) (20M)

Cognition:

It is the most developed political culture. Here, voting pattern and behaviour is determined on the basis of actual performance of parties. Promises made by parties are scrutinised thoroughly by the electorate. Being aware of their rights, people/citizens ensure that their governments remain accountable. This kind of voting behaviour is largely seen in advanced, developed countries.

On the basis of the 3 components of political culture, Almond and Verba divided countries into four major categories:

Parochial Political Culture: Here, the central government is so far away from the citizens that they are not at all impacted by the politics of the government. They are also not aware of the existence of the central government. They are not

even knowledgeable about the policies formulated by the Central Government. There is a huge amount of disconnect between the government and its citizens. For example: Tribes and Governments in India.

Subject Oriented Political Culture: Here, people are aware about the Central Government. They also have knowledge about policies of the government. However, they fail to connect or participate either in policy formulation or in its implementation. They are perceived as subjects to be governed by the government.

India has experienced this kind of political culture during the period of Emergency. For example, the forced sterilization program in the 1970's remains an apt example.

Participative Political Culture: Citizens are aware of the central government. And they also know about policy outcomes. More importantly, they are given the opportunity to participate in policy formulation as well as implementation. Evolution can be seen in western developed countries' people. They ask for the performance of political parties based on cognition. These Participative Political Cultures are based on Cognition. Participative political culture is necessary to ensure the success of political and administrative systems.

Que. To what extent has political culture influenced the administrative culture of India? Explain (2015)(20M)

Civic Political Culture: It is a combination of the best aspects of all other political cultures.

Analysis of Political Party System in India:

At the time of Independence, the Congress party was the major political party. It was an umbrella organization that accommodated diverse political interests including Capitalist, Communist, Socialist, Conservatives, Liberals, Gandhians and other ideologies. Gradually, under the leadership of Nehru and Indira Gandhi, it has begun moving to the left of the spectrum. Many leaders had to come out of the party, as they did not agree with this ideology.

Swatantra party had come into existence, advocating rightist philosophy under leadership of Rajagopalachari. At the same time, Congress sociologists also covered a separate ideology for them under the leadership of Jayaprakash Narayan and Ram Mohan Lahiya.

In 1967, first major split in Congress with Indira Gandhi opting for radical left philosophy. Left political parties had seen split in the form of CPI and CPM during the China war.

In 1977, Janata party had come into existence with the merger of 4 different political parties. The Janata experiment failed and the 1980's has seen emergence of new political parties. Congress again emerged as a major political force in the Indian polity.

Bhartiya Jan Sangh renamed as BJP, followed Gandhian Socialism under the leadership of Chandrashekhar.

This period also saw the emergence of many regional political parties. In fact, the movement started in the 1960s itself due to the failure of the Congress party. In South India, DMK and AIADMK had come into existence in Tamil Nadu. Left parties dominated Kerala and West Bengal. TDP had become a major political force in Andhra Pradesh. Assam Gana Parishad in Assam, Akali Dal in Punjab, Shiva Sena in Maharashtra had become major political parties in the state during this period.

The 1990s further witnessed fragmentation of our political system with the emergence of caste based political parties in North India, which were fuelled by the implementation of Mandal Commission's recommendations.

RJD in Bihar, Samatha Party in Bihar led by Nitish Kumar, Samajwadi Party in UP, BJD in Odisha, JD-U and other regional political parties dominated the political system in this time.

The 2000s also witnessed the emergence of more political parties at regional levels like TRS in Telangana, AAP in Delhi and Punjab and a greater number of parties in the North-East.

But the second decade of 2000s witnessed dominance of a single political party both at Centre as well as at states. For the 1st time in the political history of the country, BJP, a central party, came to power in 21 out of 29 states.

If we evaluate the evolution of the political party system in India, it can be said that it is full of contradictions & paradoxes. What political parties profess is different from what they practice in reality. Failure of Congress to satisfy the demands of people in different regions of the country led to the emergence of regional political parties. These regional parties had come to existence by criticising dictatorial functioning of congress and also its dynastic leadership.

But these regional parties are themselves dictatorial and dynastic in their functioning.

For example, DMK had come into existence professing Egalitarianism and Empowerment of Backward Castes but the same DMK had become completely dynastic and dictatorial.

BJP always criticized the leftist orientation of congress after they had come to power. It is more socialistic than even congress could ever imagine.

Most of the regional political parties had become a replica of Congress in functioning. Charismatic leaders of these regional political parties had become dictators and promoted their kin and kith.

Bureaucracy, Democracy and Development

Bureaucracy and Democracy are often considered as antithetical properties of political systems. There is a large scholarly & popular literature arguing that bureaucracies reduce the potential of Democratic Political systems capacity in responding actively to their citizen's needs and demands.

However, Democratic institutions by themselves are also facing several conventional weaknesses.

E.g., Participation in elections has been falling rapidly in most democratic systems, and membership in political parties is also declining. This displays weakening interest of the citizen in political processes and institutions.

Parliament has for some time been argued to be losing powers to the executive, and within the executive the collegiality of cabinet is also eroding in favour of greater powers for the Prime minister. Thus, the standard instrumentalities of political democracy are, if not failing, certainly weakening.

Que. There is a constant & continuous collision between bureaucratic values and democratic values which adversely affects development. Do you agree? Elaborate. (2020) (10M)

Good public administration is reflected, not only in the ability of appointed officials to work efficiently but also in the capacity of a country's political institutions to maintain the effective control over its bureaucracy. No matter how democratic the institutions of representative governance may be, they may not survive for a longer period if they are not also able to exercise enough control over their appointed officials and make them deliver honest & effective implementation of public policies, at least to some degree! With no such

control, bureaucrats left to them will easily indulge in abuse of power, corruption, laziness and inefficiency.

Conscientious and public spirited officials are many, but they easily succumb to counter-productive practices tolerated or even encouraged by ambitious & aggressive colleagues who typically dominate bureaucracies and are not effectively controlled by extra-bureaucratic political institutions. Mal-administration is much more than *Bureaupathology*. While administrative systems suffer from difficulties that upset and worry citizens, administrative reforms are able to correct many of them. By contrast, mal-administration involves the fundamental inability of appointed officials to perform the functions normally expected of them.

It is one thing to promise the development, it is quite another to achieve it. Viewed in this context, the role of public bureaucracy in the process of economic, social, & political development looms large indeed. The role of a bureaucracy is critical to all areas of the developmental process in developing nations.

Public bureaucracy is an important element of the development process. Bureaucratic ability determines what will get done, how well it will get done and when it will get done. The higher the capacity of the bureaucracy to implement the complex economic & social development plans, the higher the development potential of the society. This is not to recommend that bureaucracy is the only force in the development process. It is not the case. Bureaucratic capacity is not an adequate condition for the development, but it is surely a necessary condition.

Development is a multi-faceted concept indicating qualitative improvement in the well-being of individuals, society or a nation. It is an aspect of change that is desirable and administered or at least influenced by the Government of a nation.

The rise of Development Administration perspective in the 50s has mainstreamed development as the goal of governments.

The Human Development Index (HDI) by UNDP is the most widely used indicator to decide developmental imperatives. It consists of:-

- Health (measured by lifespan),
- Education (years of schooling) and
- Quality of life (measured by Gross national income)

Other developmental imperatives include –reduction of inequality, Social Capital enhancement, Promoting stability and peace etc. However, the term “development” is largely used to refer to the “economic” aspects.

Developmental imperatives and impact on Environmental sustainability

<ul style="list-style-type: none"> • Industrialization • Modern agriculture • Construction of roads, buildings, dams. • Increasing usage of vehicles, air connectivity • Medical research and manufacturing • Nuclear research 	<ul style="list-style-type: none"> • Burning of fossil fuels, mining, pollution • Soil salinization, exhaustion of aquifers • Erosion, submergence, habitat loss • Ever increasing emission of Carbon and greenhouse gases • Water Pollution, zoonoses, etc
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Development

- Development and economic growth is the only way to ensure poverty eradication
- Development is the only way for developing nations to seek parity in the world order with the hegemonic powers

Thus, developmental initiatives are pursued by developing countries, in the form of Promotion of Industrialization, Infrastructure Creation for connectivity, Human resource development, Use of chemical inputs to enhance productivity. This means that the developmental imperatives result in mining, burning of fossil fuels, and other activities that negatively impact the environment.

Que. “Beneath the soft outer shell of democratic administrative framework lies unscathed the steel frame of Indian administration which has survived through the ages.” In the light of this statement, examine the relationship between bureaucracy & development in the last one decade. (2014) (10M)

Bureaucracy Role in Development Versus Environment Debate

- Since the rise of the Development Administration perspective, bureaucracy has emerged as the instrument of development, especially in developing nations such as India.
- Environmental degradation directly impacts productivity in a nation. For example, Soil salinization in Northwest India due to excess irrigation is reducing agricultural productivity in the region.
- Absence of environmental sustainability can undo the developmental efforts. For example, Recent Uttarakhand Glacial burst.
- In absence of environmental sustainability, economic development can lead to increasing inequality and trigger conflict. For example, the emerging issue of climate refugees due to global warming and sea level rise.

- Environmental sustainability can be the catalyst for innovation and promote the knowledge economy. For example, Creation of smoke free Chulhas.
- Addressing environmental imperatives can help make development truly inclusive. For example, including marginalized sections such as the tribals in the developmental process is better done through schemes like Joint forest management, rather than large dams which lead to displacement and feed negative forces like Left wing extremism.

Balancing Development and Environment

- “Development” should be approached holistically instead of focusing excessively on economic aspects. This would mean that environmental concerns are mainstreamed into every stage of decision making, via process like Environmental Impact Assessment (EIA)
- Adoption of global best practices and standards by administration. Eg: Adoption of BS- VI standards, BEE star ratings, promotion of RoHS standards, use of carbon trading, carbon taxes, etc.
- Promoting innovation and change. Eg: Schemes like FAME for promoting Electric vehicles.

The COVID crisis has exposed the risks that activities such as deforestation associated with development can massively impact lives and livelihoods throughout the world.

While bureaucracy has successfully transformed itself from traditional administration to development administration, the meaning of development itself has to be further modified to include environmental concerns, so that development remains rooted, empathetic and fruitful.

Que. “Bureaucracy has to balance the need for environmental sustainability and developmental imperatives.” Discuss. (2017) (20M)

Model Answers

Que 1. The economic reforms have significantly infringed the basic values & spirits of the Indian Constitution. Examine (2019) (10M)

The economic reforms since 1991’s New Economic Policy reflect the processes of Liberalization, Privatization and Globalization (LPG) in the Indian economy and marked a break from the extant centralized system.

Reforms and values at loggerheads

There is an opinion that these reforms have significantly infringed on the basic values and spirits of Indian Constitution in the following ways:

- “Socialist” ideology of constitution being made irrelevant due to Liberalization and Privatization. This is supported by the increasing inequality as measured under Gini index (45.18 in 1990 v/s 51.36 in 2013) and by Oxfam figures.
- “Sovereign” nature of India being constrained by Globalization. For example, Pressure on India to conform to WTO’s amber box subsidy criteria, pressure to change India’s IPR regime to be TRIPS+.
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However, these fears have largely been unfounded as the these reforms have largely helped India to move towards achieving the vision of the constitution, as evident in the following:

- Rate of poverty reduction increased dramatically post reforms (to the extent that poverty was halved between 1990 and 2010)
- The ideals of “liberty” & “equality” have received a boost as License Raj was dismantled and every citizen can participate in managing the wealth of the nation.
- The increase in wealth creation due to unlocking private participation has resulted in increased tax collection, which has subsequently fuelled the expansion of State’s schemes for welfare and empowerment, such as MGNREGA, Start-up India scheme, Piped water for all (Har Ghar Jal), Socialistic values under Articles 38, 39, 39A have not been discarded.
- Participation of Private sector in providing goods and services has helped the state to achieve the goals of providing education, decent livelihood (Articles 41)
- The changing technology has made the world a global village. Thus unconstrained “sovereignty” in the Westphalian sense is no longer viable. The economic reforms have allowed India to respond to a changing world order in accordance with Article 51, which directs Indian State to foster respect for international law and promote honorable relations between nations.

Based on the above examination we can conclude that the economic reforms have served as a means to achieving the ends envisioned by the ideals of the Indian Constitution, rather than infringing upon them. While the locus may have changed, focus remains the same.

Que 2. “The liberal-democratic ideology of the West influenced the shaping of value premises of the Indian Constitution.” Discuss. (2013)(20M)

The Indian Constitution is not merely a document concerned with the machinery of the State, but also contains sizable value premises. These value premises are exhibited in, the Preamble, The Fundamental Rights and the

Directive Principles of State Policy, as well as in the various judicial pronouncements of the Basic Structure.

The Constituent Assembly was influenced by the ideology of nations all over the world. They also liberally borrowed the philosophies and provisions of these nations, which shaped the value premises of the Indian Constitution.

The liberal-democratic ideology of the west, in particular, has played a large part in shaping the value premises. It contains all such value premises that promote Individual Liberty and Representative Governance. Their influence can be seen in:

- Idea of “Limited State” and Constitutionalism, which is embodied by the Constitution.
- The adoption of Parliamentary form of governance with Universal Adult Franchise, adopted from the UK and USA.
- Adoption of Federalism to accommodate the pluralistic society.
- Adoption of liberal-democratic concepts such as ‘Separation of Powers’(propounded by Montesquieu), ‘Rule of Law’ (AV Dicey), with suitable modifications.
- Focus on Liberty, Equality and Fraternity in the Preamble. This is further strengthened in the Fundamental Right to Equality (Article 14-18)- both Equality before law and Equal protection of law and Right to liberty and life (Article 19-24), Right to Constitutional Remedies. These mirror the values of the American and French Constitutions.
- The ideals of Secularism (Articles 14-18 and 25-28) enshrined in the constitution
- Liberal-democratic content of Directive Principles of State Policy, which include-
 - A uniform Civil Code (Article 44)
 - Universal early childhood care and education (Article 45)
 - Protection of Environment and wildlife (Article 48A)
 - Separation of Judiciary from Executive (Article 50)
 - Respect for International Law and promotion of harmonious relations among nations (Article 51)

The presence of this influence led many in the constituent assembly to lament that the constitution was a “slavish surrender to the west”.

While the influence of the liberal-democratic principles is visible, it was not overwhelming, as the principles were modified to suit Indian Context shaped by the presence of Gandhian and Socialistic ideals. For instance, secularism in India is completely different from the western connotation of “separation of church from state”. Similarly, the Indian Constitution balances Parliamentary sovereignty with judicial supremacy. The idea of Separation of powers is also supplemented by the concept of “checks and balances”. The Fundamental Rights have several limitations and are counterbalanced by the Fundamental Duties.

The value premises of the Constitution arose in the backdrop of the freedom movement and the realities of the 1940s.

Chapter 3 - Public Sector Undertakings

Syllabus: Public sector in modern India; Forms of Public Sector Undertakings; Problems of autonomy, accountability and control; Impact of liberalization and privatization

Introduction:

- Since independence, rapid economic development has been one of the major objectives of government policy in India. Before Independence, the role of the State was confined to ensuring law and order and generation of revenue. The position has changed rapidly since then. As a direct consequence of the Directive Principles of State Policy and Industrial Policy Resolutions and avowed declaration of ‘socialistic pattern of society’, the public enterprises in India have become a major instrument of development planning and implementation. Over the years, there has been a phenomenal increase in the activities, volume of investment and employment in the public sector.
- Public enterprises cover a vast and varied range of activities, which dominate the economy of our country. The performance of the Public Sector Units will, therefore, largely determine the speed and effectiveness with which we can achieve our social and economic goals. The public sector in India has been the principal instrument of fulfilling the role of the State as an entrepreneur, as in most other countries of the world.

Public Sector: The Concept

- According to the Oxford Dictionary, the term ‘enterprise’ means to take in hand, to take upon oneself, to attempt or to undertake, to run the risk of or venture upon. Similarly, ‘undertaking’ means action of lifting up, support to undertake an enterprise, task involving some danger. Thus, both ‘enterprise’ and ‘undertaking’ have some inherent risk involved and they venture into some field, again having some sort of danger.
- The concept of the public sector is not new. It has been prevalent through ages all over the world. Even in olden monarchies, this concept was very well applied in some form or the other. There has been various usage of the term in different periods of time. The terms, more or less, synonymously used are ‘public sector undertakings’, ‘nationalised industries’, ‘socialised industries’, ‘government corporations’ and ‘public corporations’
- Here are some of the definitions given by experts on Public Enterprises:
 - “The term ‘public enterprise’ denotes an organisation operating on commercial principles, wholly or partially owned and effectively controlled by a public authority”.
 - “The term usually refers to Government ownership and active operation of agencies engaged in supplying the public, the goods and services which alternatively might be supplied by privately owned profit motivated firms, viz., private enterprises”.

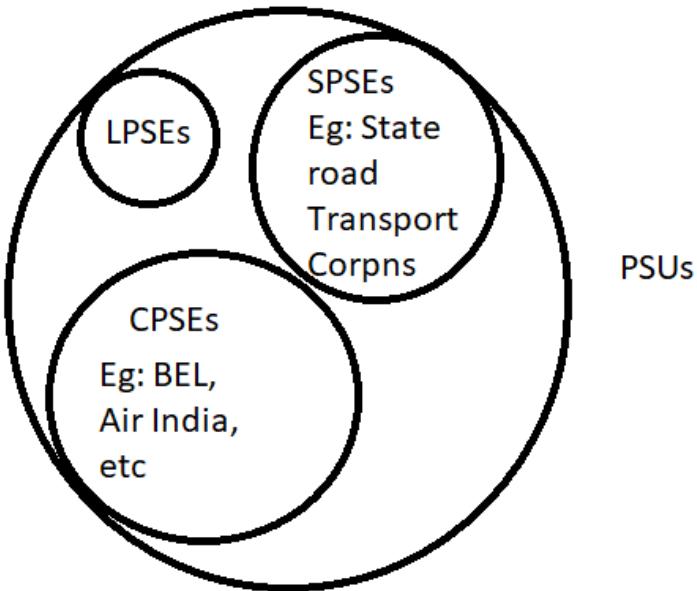
Major characteristics of Public Sector Enterprises:

- **Ownership of State:** The enterprise ownership has to be vested with the State. It could be the nature of Central, State or local government ownership or any instrumentality of the state also can have the ownership of public enterprise.
- **State Control:** Public Enterprise is controlled by the Government both in its management & functioning. The Government has the direct responsibility to handle the affairs of the enterprise through various devices & exercises control over it by means of a number of agencies & techniques.
- **Autonomy:** Public Enterprises functions with utmost autonomy under given situations. They are free from day-to-day interference in their affairs and management.
- **Public Accountability:** Public Enterprises owe their accountability to people as they are funded through public money. This accountability is realised through legislature and its committees, ministers, audit institutions and other specialised agencies.
- **Coverage:** The public enterprise traverses all areas & activities. There is hardly any field of activity, which is not covered by the operations of the public enterprises.

Public sector refers to those entities, which have majority ownership and control by the Government.

Understanding some basic terms:

- Public sector undertakings (PSU): collective term referring to all economic entities by Centre, State and Local governments
- Public sector Enterprise (PSE): Any commercial or industrial undertaking owned and managed by the government to maximise social welfare & uphold the public interest.
- Central Public sector Enterprises (CPSEs): PSEs owned by the Union government. Further classified as Strategic and Non-strategic.



Classification of PSEs:

3 fold classification generally based on nature of Creation and Control:

Type	Creation	Control
1 Departmental Undertakings	Created as a department of related Ministry. Eg: Indian Railways	Highest Control by Minister
2 Statutory Corporations	Created as a corporation by Act of Legislature, i.e. Statute Eg: LIC Act, SBI Act	Moderate control due to Statute
3 Public Companies	Created under Companies Act, where the Government owns 51% or more Shares.	Minimum Control as these are legally distinct from the government. Control is exercised via presence in board of directors

Why did the public sector arise?

- Economic Realities post-independence: Private sector was not fully developed and could not mobilize enough capital needed for socioeconomic transformation at time of independence.
- Ideological Considerations: The political leadership at time of independence believed in Socialistic ideals => Primacy given to the public sector. Moreover even the private sector supported the primacy of the public sector as witnessed under the Bombay Plan.
- Goal of Import Substitution and Regionally balanced development:

Therefore focus on heavy machinery, in various regions of India. Eg: Steel plants in Bhilai, Bokaro, Rourkela, etc

- Enhancing access of the common man to services – led to nationalization of banks in 1969 and 1980. Similar reason for subsidized rates in Indian Railways.

Governance of PSEs in India:

- Most CPSEs are under the jurisdiction of the Ministry of Heavy Industry and Public enterprises. Department of Public Enterprises is the nodal department for all the Central Public Sector Enterprises (CPSEs) and formulates policy pertaining to CPSEs.
- Departmental Undertakings and Certain Public corporations are under respective ministries Eg: Public Sector Banks under the supervision of Department of Financial Services under Ministry of Finance.
- Disinvestment is handled by DIPAM under the Ministry of Finance. Large role of NITI Aayog in suggestions for disinvestment, as well as political leadership under PM.

Role of Public sector:

- Revenue source for Government: According to Annual report of Ministry of Heavy Industries and Public Enterprises, contribution of CPSEs to the Central Exchequer increased by 4.67% to 3,68,803 crore in 2018-19 as against previous year of `3,52,357 crore.
- Acts as a model employer: with employment security, social security benefits and ensuring equal opportunity for all sections of society.
- Social role: providing equitable access to goods and services for all as well as empowerment of marginalized, via affirmative action.
- Strategic and security roles: in the form of Ordnance factory Boards, BEL which play a role in supporting the army; Uranium Corporation of India Ltd's role in nuclear development.
- Role in research and development Eg: DRDO, BEL, HAL, etc
- Development of backward regions

History of PSUs in India:

- The Industrial Policy Resolution 1948: It envisaged the active engagement of the State in development of industries for continuous and equitable growth in economy.
- The Industrial Policy Resolution 1956: It classified industries into 3 categories with respect to the role played by the State:
 - I. Schedule A (it included industries whose future development would be the exclusive responsibility of the State)
 - II. Schedule B(it included the Enterprises whose initiatives of

development would mainly be driven by the State but private participation would also be allowed to complement the efforts of the State)

III. Schedule C (included the remaining industries, which were left to the private sector).

- The Industrial Licensing Policy 1970: It placed certain restrictions on undertakings belonging to large industrial houses, defined on the base of assets exceeding Rs 350 mn, in addition to passage of Monopolistic and restrictive Trade Practices Act, 1969.
- New Industrial Policy 1991: Beginning of LPG reforms – removed license requirements and reduced only 3 areas for the public sector. Beginning of disinvestment.
- 2020: New Disinvestment policy announced –
 - Four sectors — Atomic energy, Space and Defence; Transport and Telecommunications; Power, Petroleum, Coal and other minerals; & Banking, Insurance and financial services — would be strategic sectors.
 - In strategic sectors, there will be bare minimum presence of the public sector enterprises.
 - The remaining CPSEs in the strategic sectors will be privatised or merged or subsidiaries with other CPSEs or closed. In non-strategic sectors, CPSEs will be privatised, otherwise shall be closed.
 - The NITI Aayog has been entrusted with suggesting which public sector firms in strategic sectors should be retained, considered for privatisation or merger or ‘subsidiarisation’ with another public sector firm, or simply closed.

Moribund performance of PSEs in India:

- As per the Ministry of Heavy industries and Public Enterprises, out of 348 CPSEs under its administrative control, 249 are in operation.
- Many PSUs are under heavy losses. Eg: Air India – has had continuous losses in operation, debt of over 55000 Crore rupees.
- PSUs are not operating efficiently Eg: Operating Ratio of Railways is around 96.15 % in 2020-21, which indicates very little profit => not generating enough money for capital investment. The Gross NPA ratio in PSBs stood at around 9.6% expected to rise to 13.5% due to COVID19 situation.
- Reducing Market share of PSUs – Air India accounted for less than 12% of market share in 2020. BSNL has also lost market share. Share of credit creation by PSBs has reduced from about 75% to about 60%in

the past few years.

- Though CPSEs are overall making profits as said by the annual report of Ministry of Heavy Industries and Public enterprises, these profits are smaller compared to Private counterparts. The ‘loss’ of loss making enterprises (70) stood at 31,635 crore during the year.

Private Enterprises

It is essentially a business proposition where public purpose is relegated to a peripheral position and cannot supersede business consideration. In public enterprise, social aspects may precede, supersede and even completely take over the business purpose. There has been a perennial controversy about the efficacy and effectiveness of public enterprise vis-à-vis private enterprise. The distinguishing features of the two sectors are given below:

Parameter of comparison	Public Enterprise	Private Enterprise
1. Motive of the organisation	Providing Service	Maximising Profit
2. Capital Requirement	Capital Intensive	Little requirement of capital
3. Goods and Services	Surplus Generation	Profitability Performance
4. Secrecy Level	No Secrecy except Defence	Strict Secrecy is maintained
5. Nature of Risk	Risk is not personal	Risk is personal
6. As a Market Player	Monopoly in majority cases	Competitive in nature

Forms of Public Sector Enterprises:

The organisation provides the framework, which significantly shapes interrelationships amongst the public enterprises as well as the government. The following are the major organisational forms of the public enterprises.



Departmental Organisation

At one point of time, it was the well-known form of organisation of the public enterprises for 2 reasons. First, it was easy for a government to create an enterprise within the organisational framework of one of its already existing departments. Secondly, in the early stages of developmental planning, the number of such enterprises with commercial functions was small.

The Major characteristics of Departmental enterprises are:

- The enterprise is a financial unit of the Ministry by annual appropriation from the treasury and all or major share of its revenues are paid into the treasury.
- The enterprise is subjected to budget accounting and audit controls applicable to other government activities.
- The permanent staff of the enterprises are civil servants, the method by which they are recruited & the conditions of services under which they are employed are normally the same as for the other civil servants.
- The enterprise is usually organised as a major subdivision of one of the central government departments and it is subjected to direct control of the head of the department (HoD).
- Wherever this applies in the legal system of the country concerned, the enterprises possesses the sovereign immunity of the state & it can't be sued without the consent of the government.

Public Corporation

Public Corporations are an autonomous form of the organisation. According to F. D. Roosevelt, the President of USA while discussing the Tennessee Valley

Authority “Public Corporation is clothed with the power of the government but possessed with the flexibility & initiative of private enterprise.” Public Corporation may be understood in broad terms as an autonomous commercial organisation established at government’s insistence outside the framework of government department and company legislation.

The following are the important characteristics of Public Corporations.

- It is wholly owned by the State.
- It is normally created by, or pursuant to, a special law defining its powers, duties, immunities and prescribing the form of the management of its relationship to established departments & ministries.
- As a corporate body, it is a separate entity for legal purposes and can sue & be sued, enter into contract & acquire property in its own name.
- Except for appropriations to provide capital or to cover losses, the public corporations are generally independently financed.
- It may not be wholly owned by the State.
- It is generally exempted from most regulatory & propitiatory statutes applicable to expenditure of public funds.
- It is ordinarily not subjected to budget accounting and audit laws and procedures applicable to non-corporate agencies.
- In most of the cases employees of public corporations are not civil servants & recruited and remunerated under terms and conditions, which the corporation itself determines.
- Each and Every public corporation need not be the result of any special enactment.
- A few of the employees of public corporations, especially at the top level employee, may be from the civil services.
- Some of the restrictive regulations applicable to government department’s expenditures & the audit system can also be imposed on public corporations.

Government Company

The joint stock company is one more organisational form of public enterprises. The ‘company form’ which can also be called as ‘government company’ is described in several countries as an enterprise registered under the Companies Act of the land in which the government and/or the public enterprises hold at least 51 percent of equity capital.

Advantages of Government Companies are as follows.

- A government company is more easier to constitute than a public corporation, which requires specific legislation, while only seven signatories

of the memoranda & articles of association are required to get a company registered under the Companies Act in India.

- This company form enables the government to diversify its ownership in the company by either selling or buying equity shares. It can easily transfer the company to the private sector by simply reducing its share capital to less than 50 per cent.
- The creation of a company form of public enterprise suggests the government's determination to allow the public enterprises to work under the same set of laws as those applying to private sector enterprises.
- The company form of organisation of public enterprise offers certain conveniences to the government as far as its relationship with the enterprise is concerned.

Joint Enterprise

State participation in economic activity along with the private sector has led to the creation of a specific type of organisational form, which is called a joint enterprise.

Factors responsible for the emergence of Joint Enterprises:

- Government's spirit to set up joint enterprises with private sector may be in either of the following situation:
 - Lack of initiative to participate in the private enterprises which can be secured by government's participation; or
 - Government needs to conserve its limited resources and call on private capital so that the government can expand its coverage to additional fields in the public sector.
- The government's decision to enter in partial ownership of a going private enterprise may be in the following conditions.
 - For conversion of loans of the private sector into equity capital
 - For limiting the cost compensation, in case of nationalisation of foreign private enterprise.
 - For regulating the monopolistic operations or public interest potential of the private enterprises;
 - For continuation of earlier management, in case of nationalisation of private enterprise;
 - To overcome the 'sickness' or 'mismanagement' of a private enterprise; and
 - To govern the profit in case of a private enterprise;

In the wake of the privatisation wave, there has been a progressive increase in the number of joint enterprises the world over.

Development Corporation

It is hard to exactly define 'Development Corporation'. On the basis of pragmatic evidences world over, especially in the developing countries, it may

signify an autonomous agency in the public sector, mainly to promote, rather than to operate, economic activities through a system of subsidizing.

The promotional activities of a Development Corporation is as follows:

- It promotes an activity which otherwise might not come into existence.
- It promotes a desired pattern of economic activity, meaning thereby the expansion of the desired sector of activity, attainment of desired balance of payments, development of certain economic activity in the desired region, promotion of units of desired sizes etc.
- It accelerates an activity which otherwise would materialise at a slow pace in small outputs and in a sectorally unbalanced manner.

Evolution & Growth of Public Sector Enterprises in India

In India, the trend of state intervention operated much before the outbreak of World War I but it became more apparent in 1939 when the country became a participant in World War II and also a military base in 1941 with the entry of Japan in the world war.

After independence, through the various Industrial Policy Resolutions, an attempt has been made to differentiate the role of the public enterprises in the country. The consecutive governments in independent India have made the policy statements, starting with one in 1948.

Rapid Expansion of Public Sector despite Poor Performance

- In India, like in the majority developing countries, the 60s & 70s were characterised by interventions by the State in the marketplace and the public sectors seem to have grown at a rapid pace.
- Even though the Indian public sector enterprises attracted the best human resource in brains, skills and talents, the problem of poor performance, low productivity and lack of competitiveness was entirely due to management control structure characterized by multiple principals and multiple goals, which forced them into a bureaucratic rather than commercial mode of behaviour characteristics of which was lack autonomy and accountability.
- The total investment proposed in the 1st Five Year Plan (1951-56) for the public enterprises rose from 5 crore at the beginning of the plan to 21 crore by the end of the plan period.
- In the 2nd Five Year Plan (FYP), the Planning commission expanded the role of the public sector by increasing the total outlay in the plan a little over 46% to 54% amounting to Rs. 720 crores. As a result the number of public enterprises grew from 21 to 48.

- In the 3rd Five Year Plan (FYP), the Planning Commission made the major outlay for the completion of ongoing projects in the public sector. The total outlay was Rs. 7,815 crore and the number of public enterprises grew up to 74 with an investment of Rs. 2,415 cores.
- In the 4th Five Year Plan (FYP), the total outlay in the public sector was Rs. 13,469 crore, major share having been earmarked for the completion of ongoing projects. The number of enterprises in the public sector went up to 122, and their investment to Rs. 6,237 crores.
- In the 5th Five Year Plan (FYP), the total outlay was Rs. 36,703 crores, but due to early termination of the plan, the total expenditure on the public sector remained only Rs. 31,4000 crore and the number of the enterprises grew up to 176 by March 1978.
- In the 5th Five Year Plan (1978-83) the total outlay was originally Rs. 69,380 crores, which was revised to Rs. 71,000 crores. The new government, which took over office, terminated this plan midway in 1980.
- In the 6th Five Year Plan commanding heights of economy were assigned to the public sector. It envisaged an outlay of Rs. 97,500 crores in the public sector. The number of enterprises went up to 221 during the plan period.
- In the 7th Plan period, an outlay of Rs. 1,80,000 crore was provided for the public sector. The number of enterprises rose to 24 during the plan period.
- In the 8th Five Year Plan (1992-97), an outlay of Rs. 3,61,000 crores has been provided for the public sector and the number of public enterprises stood at 246 as on 31st April, 1992.

Que. Public Sector Undertaking was expected to take the Indian economy to the “commanding heights” instead the successive governments have been pushing for disinvestment. Critically examine how the scenario has changed over the years. (2019) (20M)

Issues before Public Sector Enterprises in India

A number of charges are levelled against the public sector in India. Some are lopsided & some are genuine, to a certain extent.

Objective and Role

- In the history of planning of the country, over the last five decades, there has been a specific shift in the assigned role of public enterprises in the country through various Five-Year Plans from ‘attaining the commanding heights’ in the national economy and ‘easing out private sector’ to the

‘opening up’, ‘liberalisation’ & ‘globalisation’. It has been a constant problem for the policy makers to set the role of the public sector in the Indian economy & it will continue to be so.

- Secondly, the objectives of the public sector have been defined and goals set not very thoroughly in each case. Even the objectives at the macro level have been mixed-up with a number of propositions and sometimes contradictory in nature.

Extent and coverage

- Whether the public sector should extend to a wide variety of economic activities or to be confined to a selected few only, is a very critical decision of great magnitude. Also, whether the economy of the country should be open to the private sector or be confined only to the public sector monopoly or both, should be given a competitive share in the open market becomes another critical political decision. The problem is consistently persists in the Indian polity, more particularly from the recent past.

Organisation and Management

- The organisation & management of the public sector enterprises has been on ‘trial and error’ ever since independence of the country. At the start, the enterprises were organised as departmental undertakings owing to their simplicity of operations & management. Then came a period when the government company form was most prevalent. Following the development of the international field, particularly in England, corporate form was adopted in India too. And a host of corporations were created, both sectoral & multipurpose as well as development corporations. Finally, joint ventures came on the scene again taking a cue from the development in the world.
- The management has all along been an issue to deal with. Initially, there has been a consistent lack of managerial skills in the country, both at the initial stages and in the recent past too.
- The constitution of management boards is the other main problem, which merits attention most. Here, the government burdened the governing board with the civil servants, undermining the principle of autonomy of the enterprises. The management board tilts the balance of decision making on policy matters very much in the government's favour and thus reduces the enterprise to, more or less, a department.

Personnel Administration

- The personnel management of the public sector is beleaguered with a plethora of problems which are mainly responsible for its uneconomic, inefficient & below standards performance. The recruitment to public enterprises is conducted by individual enterprises or by a central personnel agency for a group of enterprises in a given sector following common guidelines of the government in matters of reservations, etc.
- The tendency to second the civil servant to top management is so rampant in the country that it negates the initiative of inbreeding & the insiders are disillusioned, not to talk of their disinterestedness and disappointment.
- Remuneration or compensation to the employees is one more area, which needs quick attention. While compensation to top managers is generally high in most of the enterprises with innumerable perks and other amenities and benefits, it is progressively lower in the middle and lower-level management.
- The performance appraisal in the majority of the public enterprises is done only as the annual recording of character roles. This results in the low standards of performance and the efficiency of the enterprises go down progressively.

Financial Management

- The prime requirement of the majority of the enterprises is sound and scientific financial management as they lack financial discipline, consciousness and professionalism.
- The financial advisor has to play a vitally significant role in the management of finances of the public sector enterprises.
- Budgeting is the most critical of all the segments of financial management. It is not properly practised in most of the public enterprises.
- A number of agencies are involved in the planning & control of financial management of public enterprises in the country, viz., Board of Management, Administrative Ministry, Ministry of Finance, Bureau of Public Enterprises, Planning Commission, Director General of Technical Development and Public Investment Board.

Que. "The market-driven profitability concerns have shaken the foundation of the public sector undertakings." Do you agree? Give reasons (2018)(20M)

Workers' Participation in Management

- With a view to ensure increased productivity for the larger advantages of the enterprise, the employees & the community, to give workers' better understanding of their role in the production process and to satisfy their demands for self-expression leading to better industrial relations, worker's participation in management (WPM) was launched.
- The process of worker's participation in management (WPM) involves 4 main steps, viz., information sharing, joint consultations, joint decision-making & self-management. The workers are involved at all the levels of the decision making in the best interest of the enterprise.
- With regard to workers' participation at different levels including board level, it is beleaguered with a number of problems related to selection of employees to be represented on the Board of Management.

Autonomy and Accountability

- ‘Autonomy’ means “freedom to act” and it is related to “freedom in internal management”. The Autonomy in the case of public enterprises does not imply to ‘full freedom’ to act as required by the individual enterprise management. The Public Sector Enterprises are accountable to Parliament through the concerned ministers and hence cannot act freely.
- At the same time, the public Sector enterprises should be accorded adequate autonomy to run their operations on business lines. It facilitates swift decision-making & encourages initiative.
- Accountability of the public sector enterprises implies rendering of accounts to the public, the ultimate owner of these enterprises. According to S. S. Khera, “accountability involves measurement of top management. It should be remembered that the accountability that we are talking of, is accountability, which has a particular purpose—a demonstrably useful purpose.
- A difference has to be drawn between accountability & control. Control is an active function while accountability is a passive function. Control means restraining, directing, or stimulating an organisation or individual to a certain action. In fact, control facilitates accountability. An accountable individual or organisation has to possess control power to give a true account.

Que. "Autonomy to public sector understanding is a myth." Analysis in the context of the use of government expenditure by politicians who control government at different levels. (2013) (20M)

Que. Explain fully how a balance can be struck between autonomy & accountability of India's public enterprises. (2015)(20M)

Control of Public Sector Enterprises

- There is no need to substantiate the rationale of control over public enterprises as it is embedded in the word 'public'. In India, three types of control are exercises in this regard, namely, parliamentary control, ministerial control & Audit control.
- The parliamentary control over public enterprises is necessary for fulfilling the constitutional responsibility of the parliament in respect of these enterprises like, safeguarding public interests in running of these enterprises, formulating general policy in regard to public enterprise operations, protection of capital invested, maintaining uniformity in such policies, along with monitoring & implementing such policies, effecting control over 'state capitalism' and civil servants, approving statutes regulating to public enterprises & appointing committees like committee on public undertaking and other ad-hoc committees.
- From the practical analysis, it is obvious that the degree of parliamentary control over public enterprises in India has been too much, sometimes shackling the management initiative in individual enterprises.
- The ministerial control over public enterprises is extremely significant & effective. From the very start of a public enterprise, the minister is associated in one way or the other with its operations & management. In India's context, the ministerial control is more real than it is admitted. The ministers have been following a variety of methods to affect the control over public enterprises. It is both formal & informal taking the explicit directional shape and tacit directives like consultations, discussions or other informal contracts respectively.

Que. "Contracting out tasks without effective accountability mechanisms can be counterproductive for effective service delivery." Comment. (2018)(10M)

There are a variety of factors that affect the complex issue of ministerial control over public enterprises in India exerting varying degrees of influence. The dominant factors include:

- The attitude of the government of the day towards the economic planning.
 - Nature of the present policy.
 - Assumption and interpretation of the ministerial responsibility.
 - Competent managerial human resource availability.
 - Assigned role to public enterprises & their mode of financing.
 - Existence of strong pressure groups.
- Effective Audit Control is imperatively necessary in the case of public enterprises, as the investments made in them do not belong to the people who manage these enterprises.
 - Constitutionally, the Comptroller and Auditor General of India (CAG) is empowered to exercise audit control over public sector enterprises. A separate comprehensive Comptroller and Auditor General (Power and Conditions of Service) Act, 1971 was passed by the Parliament of India to regulate the duties & powers of the CAG. Under the Act, the audit of public sector enterprises in India is not restricted to finance & compliance audit only but it extends to economy, efficiency, and effectiveness of enterprise & operations as well. It covers propriety audit which also scrutinizes the management decisions involving expenditure.
 - Besides the CAG, the internal audit is performed by the enterprises itself to scrutinize the financial expenditure and to ensure the financial canons.
 - The problem with external audit is that of delay, as it operates in the country. The audit takes a long time and the legislature is left with no other option but to perform a post-mortem exercise and condemn or censure the government to the maximum.
 - Secondly, audit has become a routine & followed like any other regular exercise, thus losing its importance as a watchdog of public expenditure.
 - The purpose of control over public enterprises is as follows:
 - To ensure policy directives are implemented
 - Operations & policies of public enterprises are consistent with and in continuance of basic objectives established by the government
 - Public enterprises & non-business programmes operating within the same area of subject matter and having the same key purpose are effectively coordinated

- Operations are conducted with maximum efficiency & economy and in accordance with laws
- Adequate information is provided to enable appropriate authorities & the public to appraise the effectiveness of operations.

Efficiency

Indian public enterprises are criticized resentfully for their lower efficiency and poor performance. A large number of them have, of course, been running in losses in terms of financial returns. There are valid reasons for the poor state of affairs of the public enterprises in the country.

- (1) Absence of clear-cut and well laid-out objectives of the public enterprises.
- (2) Financial constraints in terms of overcapitalisation, large overhead expenditure, rigid financial control, unsound capital structure and depreciation policy of the enterprises.
- (3) Managerial problem in terms of lack of competent manpower, secondment of civil servants to the public enterprises who are apprentice commercial operations, frequent transfer of these civil servants from the top management of public enterprises.
- (4) Personnel factors like inappropriate personnel policy, overstaffing, dearth of skilled and expert employees, low performance, lack of sincerity and dedication on the part of the employees to the organisation.
- (5) Weak industrial relations leading to strikes, sit downs, gheraos, lockouts, tools down, work to rule, agitations, demonstrations and disturbances affecting the production and sales substantially.
- (6) Low-capacity utilisation.
- (7) The absence of a sound pricing policy; the government has not come out with a clear-cut pricing policy and there are multiple agencies of price fixation as well.
- (8) Excessive control both formal & informal, which inhibits the initiative of the management affecting efficiency adversely.
- (9) Policy agitations resulting in loss of property & man days affecting the productivity and sales of public enterprises.

Causes for decline of Public Sector and reasons for its restructuring

- At the global level, forceful combination of circumstances leading to restructuring of economics included successful global economic performance of Japan & Asian Tigers in 80s and 90s, based on a global approach to competition and production; and development of technologies, which changed the very concept of productivity & even geography led a serious thinking among the policy makers in India about the viability of the Public Sector in Independent India.

- Under these extraordinary circumstances, the public sector and the policies governing them could hardly afford to remain immune from mainstream developments, as they have invariably been a critical and an integral part of most economies.
- The insular, ‘no change’ status quois and State interventionist public sector policies of 60s, 70s and 80s could no longer be sustained in any meaningful way, except on the premise of efficiency and competitiveness.
- Since the 1980s privatisation has become a buzzword in global industrialisation. Taking a cue from the UK and USA, other countries the world over has attempted privatisation in different forms & extent. In India too, actions to privatize public sectors were initiated by the Indira Gandhi government and later on accentuated by the Rajiv Gandhi government. A great movement has taken place since 1991 with the government’s enunciation of New Economic Policy on the floor of the parliament.

Que. Evaluate the performance & efficacy of the Maharatna, Navratna & Miniratna type of Public Sector Undertakings in the context of Liberalization, Privatization and Globalization (LPG). (2016) (10M)

Various types of Privatisations

- **Privatisation:** It means transfer of management control of a government enterprise to the private company either with sale of apportion of total equity or by lease.
- **Disinvestment:** It means divesting a portion of government equity in a government enterprise to retails investors, mutual funds, FIIs, employees of the unit etc. to raise funds. It does not involve transfer of management.
- Strategic Sale & privatisation are the same.
- The policy of the Government on disinvestments has evolved over a period of 10 year. It started with selling of minority shares in 1991-92 & continues today with emphasis on strategic tail. The implementation of the current policy has shown tremendous benefits of privatisation to the taxpayers, the stock market, the economy and the employees.
- Before the year 2000, the government had primarily sold minority shares in public sector companies. The price raised through the sale of shares, even in blue chip companies like IOC, GAIL, BPCL, HPCL & VSNAL was low. On the other hand, the prices realised through strategic disinvestments have been high.

- Fears expressed by employees of Public Sectors on disinvestments are unfounded. Out of a total workforce of about 350 million in the country, the public sector employs about 2 million. During the last 10 years, without any privatisation or strategic disinvestments, this workforce has reduced from 2.3 million to 1.7 million, on account of economic pressures. Privatised companies have not retrenched a single employee. Some of the companies are now in the process of restructuring & adopting VRS. These companies are offering VRS to the employees, which are normally higher than the Government VRS.

Disinvestment

- The New industrial Policy (NIP) announced in 1991 envisaged disinvestments of part of the government shareholdings in the case of selected public sector enterprises to improve the performance of the public enterprises and to provide financial discipline. In pursuit of this, beginning from 1991-92 disinvestment of government equity has been completed in about 50 central PSUs. In this process an amount of about Rs. 20,000 crores have been realised.

Strategic Sale

Sale of a portion or whole of a Government equity along with the transfer of management control is called Strategic Sale. The equity sold is generally less than 25% if the recent experience starting from Modern Foods to VSNL, IBP and IPCL are the indications. At the same time, everyone has seen management control transferred to the party that bid for and bought the government equity.

- The advantages with strategic sale are that:
- (1) It gets investment.
 - (2) Proceeds are not wasted by the government.
 - (3) The strategic partner with management control will invest further for technological improvement and diversification.
 - (4) Market perception will improve as it is no longer a government company.
 - (5) And shareholder value will increase.
 - (6) Workers' protection will also be guaranteed, with the improvement of the functioning of the company.

Reasons for Privatisation

- Releasing the large number of public resources locked up in non-strategic PSEs, for redeployment in areas that are much higher on the social priority, such as, basic health, family welfare, primary education and social and essential infrastructure;
- Stemming added outflow of these scarce public resources sustaining the unviable non-strategic PSEs;

- To Reduce the public debt that is threatening to assume unmanageable proportions.
- Transfer the commercial risk, to which the taxpayers' money locked up in the public sector is exposed, to the private sector where the private sector is willing and able to step in.
- Releasing other tangible & intangible resources, such as, large manpower currently locked up in managing the PSEs, and their time & energy, for redeployment in high priority social sectors there short of such resources.

The need for privatisation arises from of the situations like:

- Control of budgetary deficit
- Resource mobilisation
- Reduction of extra tax burden
- Flow of funds to public
- Production increase
- Retrieve the civil servants from public enterprises to better utilisation in governance & administration.
- To Increase the competition in both domestic as well as international market.

Based on the recommendations of the Arjun Sengupta Committee on Public Sector Enterprise, the privatisation of public enterprises in India can take one of the following forms:

- Complete privatisation
- Partial privatisation
- Privatisation of the management
- Creating competitive conditions
- Deregulation
- Delicensing and
- Disinvestments and other liberalisation measures

Que. Does the privatization of key public sector bodies augur well for welfarism in India? Discuss with suitable illustrations. (2020) (20M)

As a consequence, they must also track the trend of the overall economic policy, which, in the current context, is heavily tilted towards liberalisation, democratisation, globalisation and marketisation, and a decisive move away from extensive social control.

State intervention in the market arises out of 2 main reasons. Either, the market doesn't exist at all, as was the case with most developing countries who had acquired independence from colonial rule in the second half of the 20th Century, mainly located Asia-Africa & Latin America; or, there were cases of severe market failure which required governments to intervene decisively in public interest as was the case in many developing & even developed economies, like the UK, France, Italy, etc.

Benefits of Disinvestment

- Disinvestment would expose the privatised companies to market discipline, thereby forcing them to become more efficient & survive on their own financial & economic strength or cease.
- Disinvestment would result in greater distribution of wealth through offering of shares of privatised companies to small investors & employees.
- Disinvestment would have a positive effect on the capital market; the increase in floating stock would give the market more depth and liquidity, give investors easier exit option, help in establishing more accurate benchmarks for valuation and pricing, and facilitate raising of funds by the privatised companies for their projects of expansion, in future.
- Opening up the public sector to suitable private investment would increase economic activity and have an overall beneficial effect on the economy, employment & tax revenues in the medium to long term.

Government Policy towards Disinvestment

The main elements of the Government's policy towards the public sector, as announced by the finance minister in his Budget Speech for the year 2000-01 are:

- Restructure and revive potentially viable PSUs
 - Close down PSUs which can't be revived
 - Bring down Government equity in all non-strategic PSUs to 26% or lower, if needed; and
 - Fully protect the interests of workers
-
- In line with this policy, financial restructuring of revivable Public Sector Undertakings is being done. As a result, many PSUs have been able to improve productivity, restructure their operations & achieve a turn-round in performance.

- There are many PSUs which are sick and are not capable of being revived. The only remaining option is to close them down after providing an acceptable safety net for the employees and the workers.
- With the aim of establishing systematic policy approach to disinvestments and privatisation and to give a fresh impetus through the disinvestments programme which will emphasise increasingly on strategic sales of identified PSUs, the Government established a new Department of Disinvestment in December 1999. The Department has now been made a full-fledged Ministry of the Government. The first strategic sale of a PSU, viz., Modern Food Industries Ltd. took place in January, 2000 after the Department of Disinvestment was set up. In March, 2001 strategic sale of BALCO was completed and the government realised Rs. 551.50 crore.

Present Status of Disinvestment

- Government has identified 27 PSUs and disinvestments are in progress in 27 Public Sector Undertakings. Disinvestment in CMC and HTL is complete.
- Since the process of disinvestments began in 1991, no privatisation took place till 2000. However, since 2000, almost 30 PSEs were privatised including Maruti Udyog Limited, IPCL, VSNL, IBP and others. Government, through privatisation, so far raised Rs. 19.000 crores. The government has a stiff target of Rs.1.75 lakh crore for the financial year 2021-22.

Mixed Economy Model

- In the 50s, 60s and 70s, the economic development in the majority of the less developed countries and the newly independent nations took place either on a mixed economy model or an autarkic State controlled model. In the Indian Context, as far back as in 1956, through a parliamentary resolution, a mixed economy model was adopted which gave the public sector a strategic & key role in the process of development.
- In search of the objective of development by direct intervention in a public sector which was expected to acquire a commanding role in the economy, at least in the size & scale of operation and especially in the economic infrastructure area.

Public Sector's Commanding Role & Reasonable Return for Investment

- The commanding role, however, assumed a level of efficiency on the part of the public sector, which would generate resources and that would be made available to other sectors. However, this didn't happen. On the other hand, there is no doubt in the mind of informed observers of the Indian Economy currently that although the Public Sector has played an important and vital role in economic development of the country all these years, the current advantages from it are not (and have not been) proportionate with the investment made. It's cost of maintenance is high and it is now an overall burden on the Economy. This investment is of the order of about \$ 50 to 70 billion. The return on these investments has varied a poor two to five percent in the last few years.
- By considering the investment, funds must have come out of savings which are being serviced by the government at about 12 percent, a return of two to five percent would appear to be too paltry to enable servicing of the equity as well as the loan content of the investment adequately. Quite evidently, the government is using budgetary resources (or further savings) to service both equity and debt.
- It must be considered fair for any country to expect a reasonable return from public investment. Accordingly, the categorical need for restructuring such investments is clearly unavoidable, based on a closer re-look at their current structure, their initial objectives and their likely future, despite of the fact that in the past this was avoided for a variety of reasons of public policy which are no longer valid and, hence, no longer avoidable in the light of the new policy of plugging the Indian economy into the global market on the premise of its efficiency & competitiveness.
- Therefore, there was a need on the part of the government for both the strategies, i.e., (i) of being able to let go, and (ii) to fashion an administrative interface between itself and the enterprise that optimised their commercial performance by tackling the problems highlighted above.

Imperatives of Efficiency under New Economic Policy

- The rationale that emerged was that the new objectives of greater 'efficiency' & productivity could be achieved by exercising a family of options for the whole portfolio rather than carrying on as before. The two imperatives at work were:
 - (a) The burden on the budget had risen which required to decrease the expenditure on account of PSE's and simultaneous improvement of their performance, and
 - (b) The consequences of trade liberalisation and industrial deregulation will be to expose public sector (as well as Indian private sector whose

performance was dependent upon the public sector dominated infrastructure) to intense competition and hence, poor performance on the part of public sector enterprises would not only be unacceptable but, if allowed to go on, will cut short the very reform process.

- The obvious conclusion was that performance, in a competitive environment of global dimension, was the key to their existence and, in the light of a logical & humane policy of exit for them through the BIFR route, their existence under all conditions could not be taken for granted.
- The year 1991 was to prove the watershed for economic policy in general & public sector policy in particular.

Elements of New Economic Policy Affecting PSEs

- In the era of pre-1991 policy, which was unidimensional and status quoist, failed to deliver either sufficient growth or allocative justice. What it delivered in plenty was red tape, inefficiency & corruption. The post-1991 thrust was on greater productivity, efficiency & competitiveness in order to plug into the global market.

The New Public Sector Policy

- As a part of the Industrial Policy, a statement of Public Sector Policy was announced by the Government of India on the day of July 24, 1991. The policy attempts at improving the performance and portfolio of PSUs.
- The statement contains the following decision:
 - Portfolio of public sector investments will be reviewed with an objective to focus the public sector on high-tech, strategic and essential infrastructure. Whereas some reservations for the public sector are being retained, there would be no bar for areas of exclusivity to be opened up to the private sector selectively. In the same way, the public sector will also be allowed the entry in areas not reserved for it.
 - Public Sector enterprises, which are continually sick and unlikely to be turned around, will, for the formulation of revival or rehabilitation schemes, be referred to the Board for Industrial and Financial Reconstruction (BIFR), or other parallel high-level institutions created for the purpose. A social security mechanism will be created to protect the welfare of workers likely to be affected by such a rehabilitation package.
 - To raise the resources & encourage wider public participation, a part of the government's share-holding in the public sector would be offered to mutual funds, financial institutions, general public and workers.

- Board of public sector companies could be made more professional & given greater powers.
- There will be a larger focus on performance improvement through the Memoranda of Understanding (MoU) system through which management would be granted greater autonomy & held accountable. Technical expertise on the part of the Government would be upgraded to make the MoU negotiations & its implementation more effective.
- To facilitate a complete discussion on performance, the MoU signed between the Government and the public enterprises would be placed in Parliament. While focusing on major management issues, this would also help to place matters on day-to-day operations of public enterprises in their correct perspectives.
- The 7 new elements of the policy were restructuring of:
 1. Policy environment,
 2. Portfolio of investments
 3. Equity or ownership pattern
 4. Boards of PSUs
 5. Quality of interface between the government & the boards
 6. Sickness of PSEs
 7. Safety net for workers

Pace and Direction of Reforms

- While all the 7 elements of the policy are closely interrelated, the element relating to restructuring of equity is the key element of the pace & success of the reform process. Progress here would set the pace & direction of further reform.

Autonomy – Disinvestment and Setting up of Apex Body

- It would also require fundamental changes. Already such changes are visible in some of the recent policy announcements about reconstitution and autonomy of boards.
- The Rangarajan Committee on disinvestment was set up in recognition of the significance of this issue. The committee made 2 extremely significant policy recommendations. One related to limits of the level of disinvestment in a 3 tier operation, and the other was setting up of an apex body to carry out actual operation.

- Retention of 51% equity continues to remain the mantra. The mindset of ‘socialism’ prevails, among all the sections of governance or even among those who are outside, without options. The Nehruvian legacy continues to hold influence, though Nehru himself would have changed it.

Disinvestment with Efficiency and Productivity

- There are some common lessons for effective disinvestment. Any country embarking upon a liberalisation and globalisation policy has to focus on productivity and efficiency.
- These concepts are not anti-employment as some tend to harshly complain but are actually pro-employment generation. In achieving desired results, there cannot be islands of efficiency and inefficiency.

Impact of the New Policy

Opening up of Public Sector to Competition

- In pursuance of the announced policy, the areas, which were earlier reserved under the monopoly of public sector, has been changed. The 17 industries reserved for public enterprises under the Industrial Policy Resolution of 1956 have been reduced to six and even out of these six; some private organisations have already been allowed to operate in coal and lignite.

Que. “Public Sector Undertakings (PSUs) in India face tough competition from the private enterprises & Multinational Corporations (MNCs). “ Explain (2017)(10M)

Raising of Resources, Disinvestment & Rehabilitation of Sick Units

- As a part of the policy announced to encourage wider participation, raise resources and promote greater accountability, the Government of India has offered disinvestments in the selected public enterprises. A huge number of public enterprises were earlier allowed equity participation by the financial institutions & general public.
- The PSUs, which are chronically sick & unlikely to turn around, are being referred to the BIFR for the formulation of revival/rehabilitation scheme.

Que. Public Sector Undertakings must learn to survive & be entrepreneurial without assured government budgetary support.” In the light of this statement give your suggestions for strengthening their autonomy & reviving the health of sick Public Sector Undertakings. (2014) (20M)

Conference on Greater Autonomy

- During the last few years, there has been a continuous demand for greater autonomy to the public enterprises. It has been argued that Article 12 of the Constitution, where the public sector units are treated as ‘authorities’ under ‘State’, has put a lot of constraints.
- The demand for autonomy has also become somewhat irrelevant if we take cognizance of the recent development regarding providing autonomy to a large number of PSUs.
- To conclude, it is clear that during the last 50 years, public sector units have registered a growth in jurisdiction, volume of investment & activities. The performance of public enterprises, which at times was miserable, has improved to some extent. Great contributions have been made by the public enterprises in the past. Even after the liberalisation, the public sector will play a significant role in the economic development of the country.
- What is required is to have a supporting role from the private enterprises. Instead of privatisation of the public sector units, one can argue that there is a need to bring in a private culture of management in the PSUs. Efficiency is not the function of ownership, but of management.
- In case, we are able to provide real operational autonomy, reduce the bureaucratic way of functioning, bring about modern techniques of management, reduce considerably the size of manpower and bring about effective accountability, the public sector would still occupy commanding heights and play a significant role in the economic development with social justice in India.

Industries reserved for PSU's since July 1991

- Arms and ammunition and allied items of defence equipment, defence aircraft and warship
- Atomic energy
- Coal and lignite
- Mineral oils
- Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond
- Mining of copper, lead, zinc, tin, molybdenum and wolfram
- Minerals specified in the schedule to atomic energy
- (control of production and use) order, 1953
- Railway transport

Industries reserved for PSU's since December 2002

- Atomic energy

- Minerals specified in the schedule to atomic energy (control of production and use) order, 1953
- Railway transport
- Arms and ammunition

Categories of Public Sector Enterprises in India

MAHARATNA CPSEs

- The “Maharatna” category for CPSEs was introduced in 2009 with objective to empower mega CPSEs to expand their operations and emerge as global giants or become Indian Multinational Companies (MNCs).
- **CRITERIA**
- Having Navratna status.
- Listed on Indian stock exchange with minimum prescribed public shareholding under SEBI regulations.
- Average annual turnover of more than Rs. 25,000 crore, during the last 3 years.
- Average annual net worth of more than Rs. 15,000 crore, during the last 3 years.
- Average annual net profit after tax of more than Rs. 5,000 crore, during the last 3 years.
- Should have significant global presence/international operations.

MAHARATNA PSEs

- Bharat Heavy Electricals Limited
- Coal India Limited
- GAIL (India) Limited
- Indian Oil Corporation Limited
- NTPC Limited
- Oil & Natural Gas Corporation Limited
- Steel Authority of India Limited

NAV RATNA CPSEs

- The Government had introduced the **Navratna scheme, in 1997**, to identify CPSEs that had comparative advantages and to support them in their drive to become global giants.
- **CRITERIA**
- The **Miniratna Category – I and Schedule ‘A’ CPSEs**, which have obtained ‘excellent’ or ‘very good’ rating under the Memorandum of Understanding system in three of the last five years, and have a composite score of 60 or above in the six selected performance parameters, namely:
 - Net Profit to Net Worth (Maximum: 25)
 - Manpower cost to cost of production or services (Maximum: 15)
 - Gross margin as capital employed (Maximum: 15)
 - Gross profit as Turnover (Maximum: 15)
 - Earnings per Share (Maximum: 10)

- Inter-Sectoral comparison based on Net profit to net worth (Maximum: 20)
- **NAV RATNA CPSEs (16 in Number)**
 - Bharat Electronics Limited (BEL)
- Container Corporation of India Limited
- Engineers India Limited
- Hindustan Aeronautics Limited
- Hindustan Petroleum Corporation Limited
- Mahanagar Telephone Nigam Limited
- National Aluminium Company Limited
- National Buildings Construction Corporation Limited
- NMDC Limited
- Neyveli Lignite Corporation Limited
- Oil India Limited
- Power Finance Corporation Limited
- Power Grid Corporation of India Limited
- Rashtriya Ispat Nigam Limited
- Rural Electrification Corporation Limited
- Shipping Corporation of India Limited

MINIRATNA CPSEs

- The CPSEs that have shown profits in the last continuous three years and have positive net worth can be considered eligible for grant of Miniratna status. Presently, there are 71 Miniratnas in total. The Miniratnas are divided into two categories (I and II).
- **Category One:** The PSUs that have made profits in the previous three years or have generated a profit Rs 30 crore or more in one of the preceding three years
- **Category Two:** The PSUs that have made profits in the preceding three years and have a positive net worth in all three preceding years.
- **CRITERIA**
- The CPSEs which have made profits in the last three years continuously and have positive net worth are eligible to be considered for grant of Miniratna status
- **MINIRATNA CPSEs**
- In 2002, there were 61 government enterprises that were awarded Miniratna status. However, at present there are 71 government enterprises that were awarded Miniratna status.

Privatization's experience:

- India's attempt at dismantling the PSUs over the years has seen little success, with the last big-ticket privatization taking place between 1999 and 2004.
- Since then, most governments have tried to disinvest and privatize. But this has led only to incremental progress, with no big-ticket

privatization taking place since then. A good example is Air India, the national carrier that the Centre has repeatedly tried to privatize. However, it has met with limited success.

- Stiff opposition from unions, concerns of allegations of graft and criticism of the sale of “family silver” act as major hurdles to the drive for privatization.
- A good example of privatization and its effect on the enterprise is Hindustan Zinc. The Atal Bihari Vajpayee-led BJP government sold 45% of Hindustan Zinc for ₹769 crore in 2002. The 30% stake the government retained was valued at over ₹20,000 crore. The company became the world’s second-largest zinc-lead miner and one of the top 10 silver producers. Management change and privatization can thus raise shareholder wealth through improved efficiency.

What are Central Public Sector Enterprises (PSEs) or Public Sector Units (PSUs)?

- Companies in which Central Government or a CPSE holds 51% stake or direct holding are known as Central public sector enterprises (CPSEs) or Public Sector Units (PSUs).
- In India, CPSEs hold key position in sectors like Petroleum, Banks, Coal, Power, Steel and Mining such as SBI in Banking sector; LIC in life insurance; Coal India Limited in coal sector and others.

What's the upshot of selling these public sector firms?

- Most PSUs are making losses and are funded by the largesse of taxpayers. The public resources spent on them could be better utilized elsewhere, especially for development.
- Selling them can also yield non-tax revenue, which could be used to augment public infrastructure. Moreover, their turnaround by the private sector can generate tax revenue for the government.

But why not disinvest, rather than privatize?

- The Centre has had some success with disinvestment over the years. Of late, most of the disinvestments are funded by the Life Insurance Corporation of India.
- The problem in disinvestment is that it does not ensure a change in management of the enterprise. To make PSUs efficient, there is a need to bring in private management that runs it with the aim of maximizing profit.
- Thus, privatization is important and disinvestment a second-best alternative that yields revenues for the Centre, but does not improve the condition of the enterprise.

Challenges:

- **Loss making units** don't attract investment so easily.
- Government has mostly used it for fiscal reasons rather than growth objectives.

- Most firms are not clear with their **legal land rights**.
- Process is not favoured socially as it is against the interests of socially disadvantaged people.
- Over the years the policy has increasingly become a tool to raise resources to **cover the fiscal deficit** with little focus on market discipline or strategic objective.
- Sometimes with the emergence of private monopolies consumer welfare will be reduced.
- Mere change of ownership from public to private does not ensure higher efficiency and productivity.
- It may lead to retrenchment of workers who will be deprived of the means of their livelihood.
- Private sector governed as they are by profit motive has a tendency to use capital intensive techniques which will worsen unemployment problem in India.

HIGHLIGHTS OF PERFORMANCE OF CPSEs (2019-20)

The Highlights of the performance of Central Public Sector Enterprises (CPSEs), during 2019-20 are as under:

- **Total Paid-up Capital** in all CPSEs as on 31.3.2020 stood at Rs 3,10,737 crore.
 - **Total Financial Investment** in all CPSEs was Rs 21,58,877 crore.
 - **Capital Employed** in all CPSEs was Rs 31,16,455 crore.
 - **Gross Revenue from Operations** of 256 operating CPSEs during the Financial Year 2019-20 was Rs 24,61,712 crore.
 - **Profit** of 171 profit-making CPSEs stood at Rs 1,38,112 crore in Financial Year 2019-20.
 - **Loss** of 84 loss making CPSEs was Rs 44,817 crore in Financial Year 2019-20.
 - **Reserves and Surplus** of all CPSEs stood at Rs 9,57,579 crore as on March 31, 2020.
 - **Net Worth** of all CPSEs was Rs 12,35,706 crore as on March 31, 2020.
 - **Dividend** declared/paid by 105 CPSEs in Financial Year 2019-20 stood at Rs 72,136 crore.
 - **Contribution of all CPSEs to Central Exchequer** by way of excise duty, custom duty, GST, corporate tax, interest on Central Government loans, dividend, and other duties and taxes stood at Rs 3,76,425 crore in Financial Year 2019-20.
 - **Foreign Exchange Earnings** of CPSEs through export of goods and services stood at Rs 1,21,756 crore in Financial Year 2019-20.
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Model Answers

Que 1. Argue the case for and against creating Indian Public Enterprises and Industrial Service for boosting the moribund public sector in India. (2015) (10M)

Public Sector Undertakings in India have held a position of primacy since independence, but have been criticized for their track record of poor efficiency and performance. Due to the unique role played by Public enterprises and their importance especially in strategic and social sectors, they require special skills in their management. The creation of Public Enterprises and Industrial Service has been suggested as a potential solution to this problem.

Arguments for creation of the service

- Creating Separate Cadre: Autonomy will increase specialization of management and balancing of various goals of PSEs. This will improve performance compared to current performance by generalists, who are usually transferred to disparate departments and may not have intimate knowledge with the PSE.
- Attracting best talent and professionalization of Public Sector: Currently, best management talent is being engaged either in the private sector or in other countries. Creating a separate cadre can help in attracting best talent, by well-defined and competitive emoluments.
- Enhancing Adaptation and competitiveness with Private sector: A Public Enterprises and Industrial Service can help Public enterprises to operate proactively and develop new strategies, products or services in the cutting edge of the market. This is necessary to ensure the organizations are not subject to entropy, as pointed out by systems theory.

Arguments against creation of the service

- If not done correctly, it will become an example of Parkinson's law, i.e. bureaucracy creating work for itself and bloating its ranks.
- Same objectives of the proposed service are likely to be achieved if Surinder Nath committee and 2nd ARC's recommendation of functional specialization of generalist bureaucrats are followed.
- Importance of generalists cannot be discounted – due to the dynamic and interdisciplinary nature of goals of PSUs.
- Does not solve issues of political interference and lack of autonomy. For example, Representatives of government will continue to man the board of directors in case of Companies and ministers will have final say in departmental undertakings, regardless of professional managers

The major reasons for poor performance of the moribund public sector has been attributed to lack of autonomy, excessive unionization and reactive approach to changing environment. Creation of a separate service is not likely to solve the issues satisfactorily. Consequently, the recommendations of ARC-II regarding autonomy and specialization should be pursued parallel to focus on

disinvestment, in order to ensure that the goals of an Atmanirbhar Bharat are achieved.

Que 2. “Autonomy to public sector understating is a myth.” Analysis in the context of the use of government expenditure by politicians who control government at different levels. (2013) (20M)

Public Enterprises function with utmost autonomy under given situations. They are free from day-to-day interference in their affairs and management. ‘Autonomy’ means “freedom to act” & is related to “freedom in internal management”. Autonomy in the case of public sector enterprises does not imply the ‘full freedom’ to act as desired by the individual enterprise management. The Public Sector Enterprises are accountable to Parliament through the concerned minister and hence cannot act freely.

Even though the Indian public sector attracted the best human resource in brains, talents & skills, the problem of poor performance, lack of competitiveness and low productivity was entirely due to management control structure characterised by multiple principals and multiple goals, which forced them into a bureaucratic rather than commercial mode of behaviour characteristics of which was lack autonomy and accountability. Politicisation of appointment process and rampant nepotism, hampers the efficacy of merit based appointment mechanism.

During the last few years, there has been a demand for greater autonomy to the public Sector enterprises. It has been argued that Article 12 of the Constitution, where the public sector units are treated as ‘authorities’ under ‘State’, has put a lot of constraints.

The demand for autonomy has also become somewhat irrelevant if we take cognisance of the recent development regarding providing autonomy to a large number of PSUs. At the same time the public enterprises should be accorded sufficient autonomy to run their operations on business lines. It facilitates quick decision-making & encourages initiative.

Chapter 4- Union Government and Administration

Syllabus: Executive, Parliament, Judiciary - structure, functions, work processes; Recent trends; Intra-governmental relations; Cabinet Secretariat; Prime Minister's Office; Central Secretariat; Ministries and Departments; Boards; Commissions; Attached offices; Field organizations.

LEGISLATURE, EXECUTIVE, JUDICIARY

EXECUTIVE

- India has opted for parliamentary democracy where legislature is supreme and executive comes from legislature. Executive is also accountable to the legislature. When the constituent assembly met to discuss the form of the government, members had opted for a parliamentary form of democracy. Democracy is a political system wherein people are sovereign.
- There are two types of Democracies:

- In case of direct democracy, people rule themselves without the help of any intermediaries. This is possible only when the population is less and the area to be administered is small. For example, Gram Sabha is an example of Direct Democracy.
- All countries in the world had opted for indirect democracy or representative democracy. Here people elect their representatives, who in turn would rule the country on behalf of people for a specific period of time.

At the time of framing the Constitution, our Constitutional forefathers had to choose between these two types of democracy viz. Presidential form of democracy and parliamentary democracy.

Presidential Form of Democracy

- In the presidential form of democracy there is clear cut, separation of powers between the three organs of the state.
- Separate elections are held for the legislature and for the office of president.
- President is not part of the legislature.
- Council of ministers need not be part of the legislature. They don't have to be members of the legislature; they can be selected by the president without any restrictions.
- Once a person is elected as president, he can continue to stay in power for the remaining term without any difficulty.
- Impeachment of the president is a very difficult and complicated task that requires a special majority. When the president dies while he is in office, vice president would become president till the completion of the term.

Strengths of Presidential Form of Democracy:

- It ensures stability to governance. For example, since the USA opted for this system, from 18th Century till now not even a single president of America is impeached or removed from his office before the expiry of his term.
- It gives a lot of flexibility to the president of America to select his advisors or his ministers; they need not be members of the legislature.
- There is no scope of overlapping of functions or powers between legislature and executive.

Weakness of Presidential Form of Democracy:

If a charismatic personality is elected to the office of president, there is every possibility of the president transforming himself into a dictator. Since there is stability of tenure, he need not make himself continuously accountable to legislature. In case of a conflict with the legislature, he can override the decisions of the legislature.

Parliamentary form of Democracy

In the parliamentary form of democracy, the executive is part of the legislature and is accountable to the legislature. For example, for a person to be elected as a minister or Prime Minister he/she must be eligible to become a member of the legislature. He can stay in power only for as long as he has majority on the floor of the House. It is difficult for the Prime Minister to become a dictator.

Weakness of Parliamentary form of Democracy:

- It can result in political instability and survival of the government depends on the majority it enjoys on the floor of the house.
- Opposition parties can move a No Confidence Motion after a period of 6 months; it can result in policy paralysis. The government would be spending a lot of time only on survival; it will not have much time for governance.
- It can also result in the government transforming itself into a soft state. The government is not willing to take tough decisions for fear of losing majority on the floor of the House.

Evaluating the merits and demerits of presidential and parliamentary democracies:

- Our Constitutional forefathers felt that in a presidential democracy there is every possibility of the president becoming a dictator. Conditions in India at that time of independence were such that if a charismatic person becomes the President, he could easily become a dictator. Parliamentary form of democracy ensures continuous accountability of the Prime Minister to parliament. They felt that accountability is more important than stability. They have opted for parliamentary democracy.
- Another reason why they opted for parliamentary democracy was that India had the experience of parliamentary democracy with GOI act 1935; it was felt that it is better to go with a known devil parliamentary democracy than with an unknown angel presidential form of democracy.
- In a parliamentary democracy, there are two types of head, Nominal and Real. President is the nominal executive whereas the Prime Minister, who leads the Council of Ministers, is the real executive. President is the head of the state, the prime minister is the head of the government; the entire administration of the country is carried out in the name of the President.

Functions, Powers and Responsibilities of the Parliamentary System:

- According to the Constitution, parliament includes Lok Sabha (LS), Rajya Sabha (RS) and the President.

- Once a bill is passed by parliament, it becomes an act only with the assent of the President.
- When parliament is not in session, the President can issue Ordinances (Article 123) which has the same kind of impact as a law passed by parliament.
- President addresses the first session of Lok Sabha after elections. She/he also addresses the first session of the parliament every year.
- The Speaker can introduce a money bill only with prior approval of the President.

Executive Powers of President:

- The President can appoint the Prime Minister and on the basis of advice of the Prime Minister, he can appoint rest of the Council of Ministers. He also allocates portfolios to them. He can remove them from the office, again on the advice of the Prime Minister.
- He is the supreme commander of the armed forces. He appoints Chiefs of Armed Forces.
- Supreme Court and High Court judges are appointed by the President.
- President also has the power to frame the rules of business of the government.

Judicial Powers of the President:

The President of India has five judicial powers -pardon, respite, reprieve, commutation and remission. Apart from these nominal powers, the President also enjoys veto powers. For example, while exercising these powers the President need not to go by the aid and advice of the Council of Ministers.

President enjoys three veto powers:

ABSOLUTE VETO: Here, the President can reject any bill passed by the state legislature, sent to him by the governor for his approval. Similarly, the President also enjoys absolute veto in case of private members bills.

POCKET VETO: Our Constitution did not prescribe any time limit for the President to give his opinion on a bill passed by the parliament. He can exercise pocket veto, that is, he can keep the bill with himself for any length of time.

SUSPENSIVE VETO: 44th Constitutional Amendment Act has given suspensive veto powers to the President. Once a bill is passed, the President can return the bill to parliament for reconsideration for once. If parliament passes the bill again with or without amendments, he shall give his approval.

Powers of the President can be seen in articles 73, 74, 77 & 78 and Constitutional amendments like 42nd & 44th have also redefined the power of the President. The Office of President of India had come into existence with the objective of constitutionalism, since the role of Judiciary is Post Mortem in nature. For example, Judiciary can intervene only after the parliament passes the bill and Executive implements it.

The President of India is expected to ensure checks and balances within the system to ensure limited government. It is said that if Prime Minister had 2/3rd majority in both houses of parliament, the Prime Minister can become a dictator. He can be more powerful than the US president with 2/3rd majority. He can amend any part of the constitution including Fundamental Rights. In order to prevent the dictatorship of the Prime Minister, our constitutional fore-fathers had opted for the office of the President of India.

Election to the Office of President:

- Since India is a republic, the head of the state must be elected. The UK has constitutional monarchy, where the position of the head of the state is hereditary in nature.
- The Prime Minister is elected by the people directly and if the President were to be elected by the people directly, it can result in conflict between two constitutional authorities. Our constitutional forefathers had decided that the President would be elected indirectly by an electoral college, on the basis of the Single Transferable Voting system.

Presidential Years since Independence:

PHASE I: 1950 TO 1967

Rajendra Prasad

- President between 1950-1962
- After he became President of India, his tenure witnessed a difference of opinion between President and Prime Minister. The President wanted to know the real powers enjoyed by his office, as he opined that the office of Indian President, being elected in nature; he ought to enjoy more discretionary powers than the British queen whose position is hereditary in nature. He had requested the Council of Ministers, headed by the PM, to clarify the powers of the President. The Prime Minister had sent a reply

through the Attorney General (highest law officer of government) and clarified the position of the President.

- The President of India is only a nominal Executive. He does not enjoy any real discretionary powers, as long as the Prime Minister enjoys the majority on the floor of the house. Since India is a republic, he is elected otherwise the position is exactly similar to that of the British queen.

The passing of the Hindu code bill:

- The government had decided to codify the civil laws of Hindu religion relating to marriage, divorce, succession and inheritance. The bill was passed in the parliament, and was sent to the President for approval. It has been opposed by majority sections within the Hindu community. They had requested the President to stop the code from becoming an Act using his discretionary powers. The President used pocket veto. It resulted in an embarrassing situation for the Prime Minister
- The main argument against the bill was that Article 44 of the Constitution favours Uniform Civil Code rather than codifying laws of only Hindu religion. The President was also in favour of Uniform Civil Code. The Prime Minister met the President and explained to him the position of the government. He said that it is not possible to bring Uniform Civil Code at this juncture, as the country was partitioned along communal lines. If Uniform Civil Code was imposed on religious minorities and communities, it can result in one more partition of the country. On the other hand, India being Hindu majority country, the government gets the natural right to reform Hindu religion. Nehru requested the President to give approval for the bill; ultimately the President gave his approval.

Dr Sarvapalli Radhakrishnan

- He was known as the philosopher President. He was President between 1962 and 1967. He had differences with the Prime Minister during the China war.
- The Indo-China War of 1962 resulted in humiliating loss for India. The President demanded accountability at the top and demanded the resignation of the defence minister Krishnan Menon. He requested the Prime Minister to remove from the Council of Ministers but the Prime Minister rejected the demand, resulting in conflict between Prime Minister and President.
- The President had threatened the Prime Minister that he would be forced to use his discretionary power under Article 74 and remove the Minister resulting in a constitutional crisis. Finally the Prime Minister was forced to remove the Defence Minister.

Henderson Brooks report on failure of India in 1962 war:

- Henderson Brooks committee was appointed by the army to investigate the reason for India's humiliating loss to China.
- Committee had submitted the report and was extremely critical of the role of top political and military leadership.
- The President demanded that a copy of the report should be given to him by the Council of Ministers but the Prime Minister refused, saying that the report is part of Official Secrets Act 1923 and cannot be given to the President.
- The President reminded the Prime Minister of his duties under Article 78 of Constitution wherein the President has the right to demand any information from the Government and it is the responsibility of the Prime Minister to furnish the information demanded by president. He is also the supreme commander of armed forces and as such has every right to demand any report prepared by army. Finally government was forced to send a copy of report to the President.

Between 1950 and 1967, the relationship between the President and Prime Minister could be described as a balanced polity. Both President as well as Prime Minister were strong personalities but at the same time they were also flexible enough to resolve their differences and ensure constitutionalism.

PHASE II: 1967-1990

This phase had witnessed politicization of the office of President. During this phase, successive Presidents have failed to perform their functions. They had become nothing but an extension of the office of Prime Minister. They acted more as the representatives of the ruling political party at the centre than as custodians of the constitution.

ZAKIR HUSSAIN

- In 1967, Zakir Hussain had become President by defeating Subbarao, who was popular for his Golaknath judgement. He died while he was in office.
- In 1969 elections were held and at the same time there was a split in the Congress party. Prime Minister Indira Gandhi's faction had put up V.V. Giri as their candidate and Congress (O) nominated Neelam S Reddy. V. V. Giri became President after the second round of counting.
- 1969 and 1974, office of President was politicized with the President giving approval for radical amendments to the constitution without using his discretionary powers including Bank Nationalization, MRTP

legislation, FERA and 24th Constitutional Amendment Act and 25th Constitutional Amendment Act.

FAKHRUDDIN ALI AHMED KHAN (1974-77)

- In 1974, elections were held and Fakhruddin Ali Ahmed became the President.
- His tenure was the darkest period in India's Presidential history. Emergency was imposed, radical amendments like 39th and 42nd amendments were passed, and the President failed to ensure constitutionalism. He has failed to perform his functions as the highest constitutional dignitary of the State.

Neelam Sanjeeva Reddy (1977-1982)

- Janata Party came to power in 1977 and then N.S Reddy became President.
- It dismissed states ruled by Congress [Article 356].
- Conflict between Morarji Desai and Charan Singh was visible. NS Reddy invited the minority government of Charan Singh to form a government with Congress providing outside support. In 1979, Congress party withdrew support within one month. NS Reddy asked Charan Singh to resign but Charan Singh refused. Later the Charan Singh government was dismissed.
- In 1980, when Indira Gandhi returned to power, she requested the President to dismiss nine state governments ruled by opposite parties using Article 356. President failed to use discretionary powers and allowed himself to be dictated by Prime Minister

Gyani Zail Singh (1982-1987)

- He became President in 1982. He was considered as a loyal Congressmen.
- Prime Minister Indira Gandhi was assassinated in 1984 by her own body guards. The President had appointed Rajiv Gandhi as Prime Minister even before the Congress Working Committee elected him as their leader. He did not follow the constitutional convention.
- Assassination of the Prime Minister was followed by massive level of communal violence in Delhi. It resulted in the killings of more than 4000 Sikhs.
- The President was highly disappointed by the inaction on the part of the Prime Minister. This led to high levels of confrontation between the President and Prime Minister.

- The Bofors Scandal came to light directly affecting the Prime Minister Rajiv Gandhi. The President wanted to remove the Prime Minister but opposition parties explained to the President that it was not possible as long as the Prime Minister had a majority. It was also conveyed that in case of President still trying to pursue removal of PM, he would be liable to impeachment.
- Indian newspapers, magazines sent their reporters to Europe to investigate the Bofors scandal and they reported aggressively on it. In order to intercept the mails and letters and to put an end to this investigative journalism, the Postal Bill was introduced. It was passed easily by the Parliament. Opposition parties have requested the President to use his pocket veto. The President had used pocket veto. The next President Venkataraman also used pocket veto to deny the bill from becoming an act. Finally, when V P Singh became the Prime Minister of the country, he requested the President to reject the bill and was rejected by the President.

PHASE III: 1987 to Present

This is the phase of Activist President or Presidential activism. During this phase, successive Presidents had become proactive in ensuring constitutionalism. They used their discretionary powers to reduce and eliminate the dictatorial functioning of the Prime Minister. During this phase due to the emergence of the coalition governments, the balance of power had shifted in favour of the President.

VENKATRAMAN (1982-87)

- He continued to use pocket veto in case of postal bill and after VP Singh government came to power, he requested President to reject the bill.
- He was also the first President to reject a money bill since proper procedure was not followed while passing the money bill.
- He came out with a convention of electing Prime Minister in case of hung parliament, by inviting the leader of the single largest party in Lok Sabha to form the government.
- In 1991, he requested political parties to explore ideas of national government which was rejected by political parties.

SHANKAR DAYAL SHARMA (1992-1997)

Elections were held to Lok Sabha in 1996, which again led to hung parliament. He followed the convention established by Venkatraman and invited BJP to form the government. When it failed, he invited other political alliances to form the government.

K.R NARAYANAN (1997-2002)

- The then United Front government recommended imposition of Article 356 in UP. The President sent back the bill to the Council of Ministers for reconsideration using suspensive veto [44th Constitutional Amendment Act].
- Elections were held to Lok Sabha in 1998 and again a hung parliament with BJP emerging as the single largest party. He did not follow the convention set by Venkatraman and asked the political parties to come with letters of support before they are invited to form government. Vajpayee provided letters of support.
- In 1998, the central government recommended Article 356 in Bihar, which he rejected by saying corruption cannot be the reason for imposition of Article 356. But Central Government again recommended imposition of Article 356 in Bihar in 1999 and the President had given his approval. In 2002, post Godhra violence in Gujarat, he called for information from the PM on measures being taken to protect the minority community. He also requested the Prime Minister to take strong action against the state government and impose Article 356. This suggestion was rejected by the Prime Minister.

ABDUL KALAM (2002-2007)

- He was known as the People's President. In 2005, elections were held to the Bihar state assembly which resulted in a hung assembly. Government recommended imposition of Article 356 and dissolution of the state assembly. The President approved imposition of Article 356 and his decisions were criticized by the Supreme Court.
- In the Office of Profit bill in 2006, parliament kept certain offices out of provisions of the bill and also provided that it would also come into effect retrospectively. The President felt that retrospective provisions are against the principles of natural justice and used pocket veto. Finally, he had given his approval to avoid a constitutional crisis.

PRATIBHA PATIL (2007-2012)

- Her use of discretionary powers of pardon remains controversial. She had not given her approval for capital punishment in spite of repeated request by the Central Government.
- From KR Narayana to Pratibha Patil, all Presidents were against capital punishment. Even though the Supreme Court awarded death sentences to terrorists, they filed mercy petitions. With no time limit for the President to give his\her opinion, it resulted in inordinate delays. The Supreme Court intervened and said if decisions are not taken on time it can reduce sentences. It created a lot of contention and raised questions whether

there should be a time limit for the President to give opinion on these critical matters.

PRANAB MUKHERJEE (2012-2017)

There was controversy regarding his nomination as his opponent alleged that he was holding office of profit position at the time of filing nomination, which was rejected by EC. Immediately after he became President, he had given approval for death sentences. In 2013, the UPA government had come out with an Ordinance to nullify Supreme Court judgement in Representation of People Act, 1951.

- The President did not give his approval and finally the government was forced to withdraw the ordinance.
- Similarly, the President cautioned the government regarding issuing ordinances every 6 months.

To conclude, since independence it was the political condition and personalities of the President that influenced their functioning rather than the constitutional provisions. Before passage of 42nd Constitutional Amendment Act, the President had more discretionary powers. Decades of 1970s and 1980s witnessed Prime Ministerial form of government where the President lost independence.

With the emergence of coalition governments from the 1990s onwards the country witnessed the age of activist Presidents. Successive Presidents had become proactive in protecting and promoting ideals of the Constitution. Finally, the role of the President in a parliamentary democracy can be explained in the words of Former parliament Venkatraman: "The President should be like an emergency lamp, which should be switched on as and when the situation arises, and should automatically be switched off when the situation returns to normalcy."

Prime Minister and Council of Ministers

The framers of the Constitution adopted the conventions of the British Cabinet government as they had evolved up to that point, including the Prime Minister's leadership role and Cabinet's collective responsibility. In India, based on the pattern of the British political system, a distinction could be made between what was referred to as the "formal executive" and the "real executive." The former was made up of the President and Vice President, while the latter was made up of the Prime Minister and the Council of Ministers.

Walter Bagehot best describes this feature by his celebrated distinction between the 'dignified' (the monarch) and 'efficient' (the Prime Minister and his cabinet) parts of the executive. This is similar though not identical with the role of the President and Prime Minister/Cabinet in the Indian political system.

Features of the Cabinet System:

The Cabinet System as it has evolved in Britain is said to have four basic features.

- **Political Homogeneity:** It means that the members of the Cabinet must have common political objectives and outlook, as well as ideologies and principles. They came from the same political party. In a coalition government they must share collective responsibility and function on a common programme;
- Accountability to the Lower House of the Parliament. Members of the Cabinet are responsible to the Lok Sabha for all their policies and actions.
- Collective responsibility of the Ministers for Cabinet decisions and action taken to implement those decisions;
- The ascendancy of the Prime Minister. The prime Minister, who is the leader of the House and the party, has the option to choose members for his Cabinet.

Constitution of Council of Ministers

- Article 75(5) lays down the qualification for the office of Ministers and the only qualification is that he should be a member of either House of Parliament. If a Minister does not become a member of either of the two Houses within a period of six months, he ceases to be a Minister. This means that the Prime Minister can advise the President to appoint a non-member to the office of a Minister, but if that Minister were to be retained in Office, he should be provided membership of Parliament either through election or nomination.

Functions and powers of Prime Minister in parliamentary democracy:

- The Prime Minister is a real executive.
- The Prime Minister has the power to appoint Council of Ministers and allocate portfolios to them. In case he is not satisfied with their performance, he can remove them from their office.
- The Prime Minister also takes decisions related to other constitutional dignitaries.
- As the leader of the house, the Prime Minister is expected to ensure smooth functioning of the parliament.
- He also appoints high ranked officials within government. All appointments above the rank of Joint Secretary are done by the Prime Minister, who heads the cabinet committee on appointments.
- The Finance Minister formulates the budget in consultation with the Prime Minister.

- In a federal polity, the Prime Minister is also responsible for ensuring better conditions between the union and the states.
- The Prime Minister is also responsible for formulating the foreign policy of the country.
- Takes critical decisions like imposition of Articles 356, national emergency and financial emergency.
- As the leader of a country, he is also a role model for citizens of the country.

Evolution of Office of Prime Minister

In a parliamentary democracy, Legislature is expected to frame laws and the Executives role is defined in terms of their implementation. But over a period of time Legislature found it difficult to perform the function of law making as governance had become highly technical in nature resulting in delegated legislation where in Legislature delegates the function of law making to the Executive. It was the Council of Ministers which was given the responsibility of law making on behalf of Legislature.

- Council of Ministers consist of
 - Cabinet Ministers
 - Minister of State [independent charge]
 - Minister of State [working under Cabinet Minister]
- From the Council of Ministers form of government, we have moved towards the Cabinet form of government. Over a period of time, the decision making process further shrunk with Kitchen Cabinets replacing Cabinet form of Government. With the emergence of Charismatic leadership, the country had witnessed the emergence of Prime Ministerial form of government wherein the decision making powers were vested in the hands of a single person.
- In a parliamentary democracy, it is imperative on the part of the Prime Minister to not only act in a democratic manner but more importantly in the perspective of people, he should be democratic in his functioning.

Analysis of the Office of Prime Minister since independence

JAWAHARLAL NEHRU (1946 TO 1964)

- He was known as democratic Prime Minister Initially, he faced a challenge to his authority from Sardar Vallabh Patel, who was Deputy Prime Minister and Home Minister of the country. They had many differences but after the death of Patel, Nehru had become the undisputed leader of Congress party as well as country.

- In spite of being the most powerful leader in the country, he was always known for his democratic style of functioning, and had a lot of respect for democratic institutions like parliament.

LAL BAHADUR SHASTRI (1964 to 1965)

- Shastri did not enjoy same kind of popularity as Nehru but was very effective as Prime Minister.
- India fought war with Pakistan in 1965 and emerged victorious. He gave the slogan ‘Jai Jawan, Jai Kisan’ as the country was facing severe agrarian crisis as well as threat of war from Pakistan.

INDIRA GANDHI (1966 to 1977)

- Between 1966 and 69, Indira Gandhi faced a lot of opposition within the congress party and from political opponents from outside. Elections to Lok Sabha and State Assembly were simultaneously in 1967 and congress party’s majority came down drastically. In 9 states, opposition parties came to power.
- Finally, there was a split in congress in 1969. She opted for elections before expiry of term in Lok Sabha in 1971. She came out with slogan ‘Garibi Hatao’ which helped her to achieve landslide victory. It led to the emergence of Prime Ministerial form of government. In 1975, emergency was imposed and democracy was subdued. The country witnessed the darkest phase of democracy wherein civil services and the press lost their independence and credibility. She was defeated in elections held in 1977.

MORARJI DESAI(1977-79)

Initially, he gave freedom to cabinet colleagues and it was a Council of Ministers form of government. Later, when he faced political challenge from his deputy Prime Minister, he became dictatorial in his functioning.

Charan Singh (1979-80)

Charan Singh was invited by the President to form the government with outside support from the Congress party. But Congress party had withdrawn support to his government within one month. He was asked to continue as caretaker Prime Minister till the elections were held later. He was the only Prime Minister of the country who did not face parliament even once during his tenure.

Indira Gandhi (1984)

Indira Gandhi returned to power after failed experiment with the Janata party. She had decided to undertake Operation Blue Star to flush out militants from Golden Temple in 1984. Ultimately, it led her assassination by her own bodyguards.

RAJIV GANDHI (1984-1989)

- Congress under RG's leadership achieved unprecedented victory by bagging more than 80% seats in Lok Sabhas but during his tenure, controversial decisions by the government including bringing out amendment to Constitution to nullify Supreme Court judgement in Shah Bano case 1986, removing VP Singh from cabinet and removing Foreign secretary in a press conference were taken.. He also took controversial decisions like sending the Indian army to fight militants in Sri Lanka.
- In 1989, he also took the decision of opening locks of the disputed Babri Masjid and allowed Hindu people to worship inside. There was no cordial relationship with President Zail Singh. Prime Minister's Office had become extremely powerful during his tenure.

VP SINGH (1989-1990)

- The country had for the 1st time seen a coalition government as well as a minority government at the Centre. The National Front was led by Janata Dal with other regional political parties. It was supported from outside by BJP and communist parties. But the government could not survive for long because of internal differences as well as BJP withdrawing support over Ram Janma Bhoomi issue. The government took the decision to implement the Mandal Commission recommendation which revolutionized the Indian political system in the coming years.

CHANDRA SHEKHAR (1990-1991)

- He became Prime Minister after V.P. Singh. His government was supported from outside by Congress. The government faced a severe financial crisis due to the Gulf War. In order to overcome this crisis, the government had to mortgage gold with the Bank of England to get necessary forex.

P.V. NARASIMHA RAO (1991-1996)

- Elections were held to Lok Sabha in 1991 and Congress emerged as the single largest party. P V Narasimha Rao became Prime Minister and the government implemented economic reforms and also passed the 73rd and 74th amendments to the Constituiton.

- Babri masjid demolition took place in 1992, which led to dismissal of the BJP led state government using Article 356.
- In 1993, the government faced no confidence motion and it resulted in JMM bribery case wherein the MPs were paid huge amounts of money to vote in favour of the government.

H D DEVEGOWDA AND I K GUJRAL (1996-1998)

- Gujral tenure was popular for Gujral doctrine in International Relations. In 1997, the then FM Chidambaram introduced what was popularly known as dream budget.

A B VAJPAYEE(1998-2004)

- Vajpayee led a coalition of more than 25 political parties. India conducted nuclear tests and became a de facto nuclear power.
- In 1999, AIADMK led by Jayalalitha withdrew support from the government. The NDA government was defeated by a single vote on the floor of the house.
- In 1999, elections were again held and BJP came back to power during this period. The country witnessed 2nd generation economic reforms between 2001 and 2003. This period also witnessed communal violence in Gujarat.

MANMOHAN SINGH (2004-2014)

- Elections were held to Lok Sabha in 2004 with Congress emerging as the single largest party. It formed the government with the help of communist parties. This period witnessed a rights-based approach to development with implementation of many flagship schemes like NREGA, NRHM, SSA, and SOM. This period also witnessed many financial scams involving top union ministers.

Narendra Modi(2014 –Till Present)

- The country again witnessed single party rule after 1984. Shri Narendra Modi had become the Prime Minister. This period witnessed abolition of the Planning Commission and implementation of GST. It also had seen radical measures like demonetization and agrarian reforms.

Conclusion

As and when the country witnessed a charismatic person becoming the Prime Minister, it inevitably led to the Prime Ministerial form of Government especially from 1970's onwards. But true spirit of parliamentary democracy can be seen only in collective responsibility of the Council of Ministers. As big and

as diverse country like India must have collective decision making process than power being concentrate in the hands of a single person. A coalition government might result in delay in the decision making process but it ensures participation of all stakeholders whereas in a single party rule, it inevitably results in dictatorial decision making process which may not be good for the effective functioning of democracy.

LEGISLATURE

India has opted for parliamentary democracy on the lines of the Westminster model of democracy of the UK. Parliament in India consists of LS, RS, and President.

FUNCTIONS OF PARLIAMENT:

- Make laws rules and regulation for the entire country
- Act as a forum for discussion and debate
- Executive comes from legislature
- Quality of Executives depends on quality of legislature
- Parliament must ensure that people with impeccable integrity and honesty become members so that it improves the quality of Executives too.

Another function of Parliament is to ensure accountability of Executive. Tools for holding Executives accountable are listed below:

- Question hour.
- Zero hour.
- Short duration discussion.
- Adjournment motion.
- Censure motion.
- No confidence motions.
- Passing of budgets.
- Cut motivation.
- Passing of bills introduced by Executives
- With the help of committee system
- Permanent committee, non-financial and financial committees
- Ad hoc committee and joint Parliament committee.

FUNCTIONING OF PARLIAMENT SINCE INDEPENDENCE

1947-1967

- Between 1947 and 1967, the country experienced a true parliamentary form of democracy. During this period parliament used to meet for at least 150-180 days in a year.

- All bills were passed only after in-depth discussion on the floor of the house. Even though Congress had an absolute majority, it ensured democratic functioning of the house. Nehru was a democratic Prime Minister who always respected parliament. Opposition members of parliament were very small in number but they actively participated in discussion and debates and made the government accountable for its performance.
- Budgets were passed only after in-depth discussion. For example, the 1st budget of independent India was around Rs 1700 cr but was discussed for more than 45 days before being voted on the Floor of House.
- MP's were part of the freedom struggle and entered into politics with the objective of serving society. Political culture was dominated by values and ideologies and it reflected in the functioning of parliament too.
- There was major consensus among political parties regarding economic and foreign policy believed in socialism and NAM. Question hour was a very effective instrument during this period.
- In the early 1950s the then FM was forced to resign due to questions raised during question hour. Prime Minister Nehru would always attend sessions of parliament and would always be proactive in ensuring floor coordination to ensure effective functioning of parliamentary democracy.

1967-1990

- This phase witnessed a drastic decline in standards of parliament. The first generation of politicians retired from politics (or) and was replaced with 2nd generation of politicians. Mostly feudal land lords and leaders of princely states entered into politics with the objective of protecting their properties and business interests. Monopoly of congress party ended in the states whereas its majority in Lok Sabhas too had come down. Due to emergence new political parties like Swatantra Party, Bharatiya Jan Sangh and Lok Dal, there is huge competition for public offices. (MP's and Member of Legislative Assembly).
- Political parties had realized the fact that they can no longer win elections only on the basis of ideologies and values. Emotion and sentiments replaced values based political culture. Political parties took the help of criminals to win elections; these criminals provided money and muscle support to candidates resulting in criminalization of politics. It also reflected in the functioning of parliament.

- Parliamentary standards declined drastically and the speaker's position was completely politicized. For example, the first speaker of Lok Sabha, Mavlankar resigned from membership of congress following British traditions to ensure impartial functioning of the speaker.
- But after 1967, speakers' positions were misused by the ruling political party. Discussions and debates on the floor of the house were replaced with walkouts and adjournments. Bills were passed without any discussion on the Floor of House. From the early 1970s onwards, the country witnessed ordinance Raj. The government deliberately ignored parliament by passing ordinances even though it had majority on the floor of the House.

Que. “Ordinance-making power of the Executive needs to be suitably restrained.” Examine it critically. (2015)(10M)

- Indian democracy witnessed the darkest phase during the emergency. For 19 months, parliament functioned without any opposition on the Floor of House as all opposite members were jailed during this period.
- Critical amendments to the Constitution which changed the basic structure of our constitution like 39th and 42nd were passed without opposition on the Floor of House. Ruling political parties used the majority to control and silence opposition. Guillotine had become the order of the day. Budgets were passed without any discussion on the Floor of House.
- In the 1980s, the government came out with an anti-defection law as part of 52nd Constitutional Amendment Act. It had taken away the freedom and independence of Members of Parliament and Members of Legislative Assemblies. Legislature had become nothing but an extension of Executive, in the process losing its identity and credibility.

1999-TILL NOW

- The 3rd phase witnessed further decline in the standards of parliament. Criminalization of politics has been transformed into politicization of crime.
- After the 1990s with the Ram Janma Bhoomi movement and recommendation of the Mandal Commission, the country witnessed future fragmentation of Indian society on religious and caste lines.

- Competition for public offices increased as criminals could see golden opportunity for themselves by contesting elections directly. This period also witnessed the emergence of minority and coalitional governments at the Centre. Government survival depended on support provided by smaller regional political parties and independents. There has been further decline in standard of political' parties. They started selecting candidates only on the basis of winnability criteria. i.e. ability to win elections. They have welcomed criminals to contest elections to parliament and state assemblies, as these criminals have better chances of winning elections. When political parties reject the candidature of these criminals, they contested as independents.
- Once they had become part of the Legislature, they also demanded positions in the Council of Ministers. As the survival of the government depended on the critical support provided by these criminals, political parties had no option but to make them part of the Council of Ministers. Law breakers had become law makers. It resulted in complete politicization of crime. Not only had criminals become part of the Legislature, political parties also used crime as a means to win elections. Communalism, caste conflicts, regionalism, language, ethnicity have been used by political parties to win elections and retain power.

Deterioration in Parliamentary Functioning

- There has been further decline in the standards of parliament with criminals directly entering into politics.
- There was vertical fragmentation of India polity since the beginning of 1990s. It was divided into, Secular Vs Communal. Any political party that supported BJP was branded as communal and that opposed BJP, secular. There was no meeting ground between these political ideologies. It is reflected in the functioning of parliament also. No consensus between ruling and opposite parties was reached. The Speaker's role had been highly politicized. Bills were passed without any discussion on the Floor of House. Guillotine had become the order of the day.
- For example, 2012 and 2013 budgets were passed in 2 minutes without any discussions on the Floor of House. Since the ruling political party did not enjoy any majority in Rajya Sabha they resorted to issuing ordinances. Parliament lost its credibility during the 2nd decade of the 2000s. Failure of legislature resulted in judicial activism and civil society activism.

- In the present Lok Sabha, more than 43% of Members of Parliament have serious criminal records against them. Money power started influencing electoral outcomes. In recent Lok Sabha elections all political parties combined together had spent more than Rs 60,000 Crores. Representative democracy had become neither representative nor democratic. Recommendations of parliament were not taken seriously by Executive. Critical bills were introduced as money bills to avoid scrutiny by Rajya Sabha, as the government did not have majority in Rajya Sabha. Legislature has become nothing but an extension of Executives, defeating the very purpose of parliamentary democracy. Number of days parliament had met also came down drastically. With the Government getting majority in Rajya Sabha since 2019, most of the bills were passed without any discussion also. Not even a single bill was referred to the Select Committees of Parliament since then. Controversial legislations like Agrarian reforms bills were passed in Rajya Sabha without the presence of opposition parties also. Ultimately, Parliament had become nothing but an extension of Executive losing its credibility and significance in the process.
- In the 1950s, it used to meet for 180 days a year but it had come down to less than 60 days by 2009.

Reforms to ensure effective functioning of Parliament

- Under Article 324, the Election Commission (EC) has been given responsibility for conducting free and fair elections. On the basis of powers given to EC, parliament has enacted Representation of Peoples Act 1950 and 1951 to define the responsibilities, functions privileges and powers of EC.
- Representation of People Act 1950 and Representation of People Act 1951 had given powers to the Election Commission to conduct elections. Representation of People Act 1950 focused on determination of constituencies, appointment of election officers, and revision of electoral rolls.
- Representation of People Act 1951 contained aspects related to qualification and disqualification of members and de-recognition of political parties, defining electoral malpractices, model code of conduct and other issues related to conduct of election. For the 1st time elections were held in 1952 on the basis of Representation of People Act 1950, and Representation of People Act 1951.

Que. To strengthen the Election Commission of India and its commissioners

is the need of the hour. Suggest measures to make it more independent and impartial. (2020) (15M)

MAJOR PROBLEMS WITH ELECTION IN INDIA

ROLE OF MONEY POWER IN ELECTIONS

- In the 1990s, money power started affecting electoral outcomes. It has been found that rich candidates have more chances of winning elections. All political parties combined together had spent Rs 60,000 cr in the recent General election but they had reported only less than Rs 5000 crores as donations. The rest is unaccounted black money. Even in these political donations, more than 90% of donations are received in terms of cash, misusing provisions of Representation of People Act. Under section 29 of Representation of People Act 1951, political parties can receive small donations in cash. Earlier limit was Rs. 20,000, which was revised to Rs. 2000. The Recent amendment is cosmetic reform, which did not change the situation at ground level.
- Recently the government introduced electoral bonds (EB) to reduce the role of black money. Any person can buy these EB from SBI. The identity of the person would be kept secret. These bonds are cashed within a stipulated time period. The person must buy these bonds with necessary documents like PAN, to ensure transparency in election funding.
- It was believed that these electoral bonds can ensure transparency in electoral funding but in reality it did not achieve the desired purpose. Ordinary citizens have no knowledge about who is funding their political parties. Even political parties are kept in the dark except the ruling political party. Ruling political party directly controls PSBs, so they automatically know about sources. It can result in the ruling political party targeting all those businessmen who have donated opposite parties.
- Expenditure to be made by candidates, under section 77 of Representation of People Act 1951, is up to maximum Rs 70 Lakh for elections to Lok Sabha and Rs 40 Lakh for state assembly.

SOLUTION:

Representation of People Act SECTION 29 TO BE AMENDED:

- No political party should be allowed to receive even a single rupee in cash. All donations should be in cheques. The name of the donor along with address has to be clearly mentioned. Political parties must put all

details of donors on their website so that there is complete transparency in funding.

- EB [electoral bond] have failed to ensure more transparency and accountability.
- Amendments should be made to sec 77 of Representation of People Act. Under this section, amount of money spent by the political parties is not part of the expenses of the candidates. On an average, a candidate contesting elections for Lok Sabha in 2019 had spent around 30 crore rupees but all of them had shown their expenditure to be less than Rs.70 lakh using this loophole in electoral laws.
- Political parties should not be allowed to spend their money in cash. Every single rupee of expenditure should be accounted for. Political parties should also be brought under Right to Information so that people can have complete information about the whole process of political functioning.
- Those political parties which receive money but do not contest elections should be derecognized.

STATE FUNDING OF ELECTIONS

- In order to ensure level playing field on all Political Parties at time of election state funding of election was suggested. It includes giving equal time to all registered Political Parties on national TV, printing, publicity material of political parties and providing other logistic support in terms of transportation etc. But state funding of elections can have minimal impact and can be complicated too.
- India is a multi- party system where national political parties, state political parties along with independent candidates contest elections. Dividing the time equally can be a complicated task. Political parties spend more amount of money when elections come to an end than during elections. They also spend a lot of money in the rallies and meetings of their national leaders. Still, funding of elections can be an effective solution in case of a party system where voters are aware about rights. It is difficult to implement in India.

MODEL CODE OF CONDUCT

- Election Commission imposes Model Code of Conduct after the announcement of election. The objective is to ensure that there is a level playing field for all Political Parties. Ruling Party should not derive any advantage by being in power. But this Model Code of Conduct has no

legal sanctity. If it is violated by Political Parties and candidates, the Election Commission cannot take any legal action. It is suggested that the Election Commission should be given more powers to enforce Model Code of Conduct.

- Use of religion, caste and other divisive factors: Supreme Court, in one of its judgements has ruled that use of religion in elections is illegal. For example, Political Parties cannot use religion symbols. They cannot demand votes in the name of religion and if they do so they can be disqualified from contesting election and Political Parties can be de recognized also but these judgements are difficult to implement at ground level as Political Parties must take promises to people by taking into consideration the demands of all section of society. Ultimately the solution does not lie in Supreme Court judgements or in electoral laws. It lies in changing political culture of country. We should move towards a political culture based on cognitions where in people vote on the basis of performance of political parties and not on any other emotional considerations. Increasing awareness among people about their rights with the help of media, CSOs, NGOs must be the way forward.

PAID NEWS

- In recent times, with the spread of electronic media and print media, political parties are using this channel to influence voters in paid media. Articles are written about candidates in the form of news items so that votes are made to believe that the content of articles is genuine. Recently, the Election Commission has recommended to the Law Ministry to include paid news in electoral offences.
- The amount of money spent by candidates in sponsoring this article not included in election expenses can be disqualified under Representation of People Act 1981. Very recently, the Election Commission has recommended to the government For example, paid news he made an electoral offence. They should be disqualified for a period of 6 years from contesting elections.

SIMULTANEOUS CONDUCT OF ELECTION

- India has a federal form of government with elections held separately to both union and state government. One of the suggestions made in recent times, simultaneous conduct of elections elections to both Lok Sabha and all state assemblies combined together. Advantages include:
 - It will reduce election expenditure.
 - It ensures stability to governance.
 - Political Parties and governments can concentrate more on governance without worrying about fighting elections all the time.

- With Model Code of Conduct in place, the government cannot take any decision after the announcement of elections, resulting in policy paralysis in administration. Simultaneous conduct of elections can help in overcoming this problem.
- Political Parties can also take tough decisions in the long-term interest of the country. Otherwise with elections conducted regularly it becomes difficult for the government to take tough decisions.

DISADVANTAGES

- People vote differently in state and national elections. Mostly local factors influence state electoral outcomes. If simultaneous elections are conducted, there is every possibility of national issues dominating elections which may not be good for a federal policy.
- If a state assembly or Lok Sabha is dissolved before the expiry of the term, the election should be held within 6 months. But with simultaneous elections it may not be possible the states would have to be put under rule for the rest of the term, unconstitutional.
- Elections are one form of ensuring continuous accountability of politicians to citizens. If there were no elections for 5 years continuously, it can result in electoral dictatorship. At present, the government fears taking unpopular decisions due to regular elections. When GST was implemented, it resulted in more sufferings for people. Before Gujarat state assembly elections, the union government was forced to make changes to GST to alleviate the suffering of people. The government might not have taken this decision but for state assembly elections.
- Election expenses are a small fraction of total expenditure of the government. Taking into consideration our GDP, the country can definitely afford this expenditure.

SOLUTION:

- Simultaneous elections are not possible because of the size and diversity of the country. What can be done is conduct of elections in 2 phases. Half the State Assemblies can go to elections along with Parliament and the remaining half can have elections after a gap of 2.5 years. It reduces the possibility of the country being in election mode although the years.
- Candidates contesting from more than one section: if the candidate wins from both the seats in elections, by elections will have to be conducted to the second seat vacated by the candidate, which is a huge amount of burden on the government. Recently the Election Commission has suggested that candidates should be allowed to contest only from one seat and if a candidate contests elections from two constituencies, Election

Commission must recover the expenses for conducting by elections from the victorious candidate.

ANTI-DEFECTION LAW

- The government passed the 52nd Constitutional Amendment Act and added the 10th schedule to our constitution in 1985. Under Representation of People Act 1951, candidates for example, Member of Legislative Assembly's and MP's can be disqualified by the speaker under anti-defection law, if they violate the whip issued by leaders of political parties on the floor of house.
- Initially, if 1/3rd of members come out party and decides to form a separate group, they can be recognized as a split group and could escape the provisions of the anti-defection law. Later the law was amended in 2003 through 91st Constitutional Amendment to make it 2/3rd for them to be recognized as a split group only to ensure that the members will maintain discipline and to eliminate "Aaya ram, gaya ram" culture of Indian politics which was widely prevalent during 1970s and 1980s. The amended act maintained that a member disqualified due to defection should not hold any ministerial post or any other remunerative political post until the term of his office as a member expired. The 2003 amended act excluded the provisions from the Tenth Schedule for authorizing the defections arising out of splits. The amended act also stipulated that the number of ministers in states and union territories should not exceed fifteen percent of the total number of members in the respective house. In the 1970s, a Member of Legislative Assembly in Haryana changed sides four times within 10 days.
- But in actual implementation, Anti-Defection Law has been misused and abused. There are many provisions which had become controversial. Speaker is given absolute discretionary power to decide on defections. No time limit is fixed for speaker to decide on defections. Since speaker always belongs to ruling Political Parties, Anti-Defection Law has been used and misused by the ruling Political Parties to promote defections from opposite parties and also to punish ruling Political Party members who have defected to other parties.
- Smaller Political Parties have almost become extinct due to Anti-Defection Law. It is easy for ruling Political Parties to ensure a split within smaller Political Parties. Decisions of speakers can be challenged in a court law but Judiciary has refused to enter into the domain of Legislature citing separation of powers. Speakers have continuously misused and abused provisions.

- In a Parliamentary democracy, Legislature is expected to control the functioning of Executives. Members of Parliament have lost the freedom to speak independently on the Floor of House and also to vote according to their conscience. Legislatures have become nothing but an extension of Executives losing their freedom, credibility and independence.

Que. The Speaker of the State Assembly has assumed a significant role in formations and dissolutions of governments. Examine under the circumstances of coalition governments with examples. (2020) (20M)

Solution:

- Political Parties should not be allowed to issue whips for regular conduct of business. They can issue whips only during confidence or non-confidence motion and for passing budgets. For other bills, members should be given freedom to vote according to conscience.
- As recommended by 2^d ARC in its report on ethics in governance, the power to decide defection should be given to the Governor and President respectively. These higher constitutional authorities must take their decisions on the basis of recommendations of a committee consisting of constitutional experts.
- Any member who is willing to defect can do so only by resigning from his seat; otherwise they shall automatically be disqualified as defection. It is against the spirit of democracy. They have been elected by people on the basis of Political Parties. If they defect, they are violating the mandate of people, and therefore, they should be immediately disqualified. They can be allowed to contest elections for the rest of the term. Speaker's powers should be curtailed drastically as it has only resulted in gross misuse and abuse of the legislation.

MORE RECOMMENDATIONS:

- India has First Past the Post (FPTP) electoral system, wherein candidates are declared elected if they get one vote more than their nearest rivals. With a multi-party system, it is not required for political parties to get a majority of votes to win elections. Since Independence, almost all governments have come to power on the basis of minority votes. It also resulted in communalism, caste conflict, regionalism and other problems. Political Parties have created false identities among people and divided

the societies, created vote banks to win elections. Communalism has been a major problem due to electoral politics.

- It has been suggested that India should move towards Proportionate Representation System at constituency level to overcome the weakness of FPTP system. For example, a candidate can be declared elected only when he gets more than 50% of votes polled. Political Parties cannot derive any mileage by dividing the country on communal and cash lines. If they have to win the confidence of people, they must integrate the society.

OTHER REFORMS TO MAKE PARLIAMENT EFFECTIVE

ROLE OF SPEAKER:

- In Parliament democracy the speaker has absolute discretionary powers in running Parliament or assembly after Anti-Defection Law. Speaker has become more powerful, unfortunately it has not resulted in improved functioning of speakers. Since 1967 onwards, speakers have been used to control activities of the house by the ruling political party. The Speaker does not allow opposition members to raise issues sometimes, acting in an illegal and unconstitutional manner. For example, in 2014, the then speaker of Lok Sabha did not allow the introduction of No Confidence Motion to protect the minority government.
- At the state level, speakers have used speakers under Anti-Defection Law to disqualify members before voting takes place to protect the government. In the UK, once a person is elected as speaker, he will resign from Political Party to which he belongs to ensure impartial functioning of the house. But in India, speakers participate in programs of Political Parties and regularly in touch with leaders of ruling Political Parties.
- In order to ensure impartial functioning of the speaker, it has been suggested that India should also follow the convention of the UK. Speakers should resign from the political party and not participate in activities of Political Parties. Since in India elections are held on a party basis, Speaker can be nominated to next term during which he can go back to Political Party, so that he can contest election. Impartial functioning of the speaker is necessary to effective functioning of the parliament democracy.
- Parliament must define the number of days it has to meet in a year. For example 150 days. If its fails to conduct business for this minimum no of

days due to adjournment and other reasons, it must meet for an additional number of days to compensate for the loss. For this additional number of days, the members should not be paid their allowances.

- Guillotine should be removed from Parliament procedures; all budgetary proposals should be discussed on the Floor of House in an extensive manner before they are voted on Floor of House. It is the basic minimum responsibility of parliamentarians to protect the financial interests of the country.
- In case of ordinary bills, it should be made mandatory that Parliament should give its approval only after in-depth discussion on the Floor of House. Delegated Legislation is a necessary evil. It reduces the effectiveness of Parliament democracy. In order to overcome the limitations of it, the Parliament should send the bills regularly to select standing committees of Parliament so that they can discuss the content of the bill and come out with their suggestions. Political Parties should not be allowed to issue whips during passage of these bills.

PRIVILEGES OF Member of Parliament

Privileges are given to ensure their independent functioning. They are expected to deliberate and vote on the floor of houses without any fear or favour.

Under Article 105, Parliament can publish any material with regard to discussion on the Floor of House. Members of Parliament can express their opinions freely without worrying about contempt of court. Parliament has complete freedom in terms of its functioning. Similarly, Members of Parliament cannot be arrested during session of house and before and after the expiry of session.

Under Article 105, these privileges were mentioned whereas our constitutional forefathers had left to Members of Parliament regarding other privileges. Members of Parliament are expected to codify their privileges but in the past 70 years this was not done by Parliament in a deliberate manner as codification of privileges can result in defining their powers. It also results in drawing boundaries regarding their powers. On the other hand, if they are not codified it gives ample opportunities to Members of Parliament to define them in a retrospective manner.

In recent times the issue has become significant due to misuse and abuse of these privileges.

- In early 1990s, Tamil Nadu state assembly had passed a resolution demanding imprisonment of the editor of a newspaper for publishing an

article criticizing the government and Chief Minister. Supreme Court had come to the rescue of the editor.

- In 1993, Member of Parliament belonging to JMM had accepted taking money to vote in a particular manner on the Floor of House but Judiciary could not do anything as voting on Floor of House is part of their privileges.,
- In 2009, the same Member of Parliaments again took more money to vote in a particular manner on the Floor of House. Judiciary could not do anything as voting on the Floor of House is part of their privileges.
- In early 2000s, the UP state assembly passed a resolution demanding imprisonment of managing editor of a news channel for telecasting a story critical of the state government. Again, the Judiciary had to come to the rescue of the editor.
- In 2014, a Member of Parliament from Lok Sabha had used pepper spray to disturb the proceedings of the house. No action could be taken against him as it is part of their privileges.
- Recently, a Member of Parliament from Rajya Sabha from Maharashtra had beaten an airline employee but could not be arrested as Parliament session was ‘ON’.

All these instances clearly prove beyond doubt that Members of Legislative Assembly as well as Members of Parliament have misused their privileges. In order to ensure the credibility of a house in the eyes of people, they must define their privileges. Taking bribes and voting for money cannot be part of their privileges. Similarly, they must also remember that they are servants of people and not their masters. Their impeccable behaviour will also influence the overall functioning of the political and economic system. They should be role models for society.

OTHER REFORMS

ISSUES REGARDING ORDINANCES

- Act 123 and Act 213 gives powers to the President and Governor respectively, to issue an ordinance when Parliament/Assembly is not in session. It has been observed since the 1970s onwards that both the central and state governments are relying on issuing Ordinances to continue governance rather than on seeking approval of Legislature. Same Ordinance was issued by successive governments in Bihar for more than 25 years from 1980s onwards even though ruling political party enjoyed absolute majority on the floor of the House.
- Historically, in the 1950s, central ordinances were issued at an average of 7.1 per year. However, the number peaked in the 1990s at 19.6 per year. The last couple of years has also seen a high spike in ordinance promulgation (16 in 2019, 15 in 2020).

Supreme Court's Judgement on Ordinances

- **RC Cooper Case 1970:** Supreme Court in RC Cooper vs. Union of India (1970) held that the **President's decision to promulgate ordinance could be challenged** on the grounds that 'immediate action' was not required, and the ordinance had been issued primarily to bypass debate and discussion in the legislature.
- **DC Wadhwa Case 1987:** The issue of frequent promulgation of ordinances was again brought up in the Supreme Court through a writ petition.
 - The petition was regarding the promulgation of 256 ordinances between 1967 and 1981 in Bihar.
 - This included 11 ordinances that were kept alive for more than 10 years and famously dubbed as ordinance raj.
 - The Supreme Court held that the legislative power of the executive to promulgate ordinances is to be used in **exceptional circumstances** and not as a substitute for the law-making power of the legislature.
- **Krishna Kumar Singh Case 2017:** Supreme Court in Krishna Kumar Singh v. the State of Bihar held that the authority to issue ordinances is not an absolute entrustment, but is "conditional upon satisfaction that circumstances exist rendering it necessary to take immediate action".
 - It further stated that the re-promulgation of ordinances is a fraud on the Constitution and a subversion of democratic legislative processes.
 - According to existing rules and regulations, once Ordinances are issued, they must be approved by Legislatures within 6 months and within 6 weeks of introduction on the Floor of House. But Political Parties have misused this provision. These ordinances are never introduced on the Floor of House even when house is in session. The Speaker has absolute discretionary power to decide whether to introduce these ordinances on the Floor of House.
 - Sometimes sessions of Parliament and Assemblies are curtailed for governments to issue these ordinances again. Issuing an ordinance is against the spirit of Parliament democracy. All legislations must be implemented by Executive only after in-depth discussion on the Floor of House but ordinances are never discussed and voted on before they are implemented.

SOLUTION

- Ordinances are integral and are the part of governance in Parliament democracy or functioning of democracy. They should not be misused; the government can be allowed to issue ordinances only under certain conditions.
- Once a session of the house starts, the house must take up ordinance first before transacting any business of the house except in case vote on No Confidence Motion. The Speaker should not have any discretionary power on introducing ordinances on the Floor of House.

COMMITTEE SYSTEM:

The Committee on Public Accounts is the oldest Parliamentary Committee and was first constituted in 1921. The Committee consists of 22 Members, 15 Members are elected by Lok Sabha and 7 Members of the Rajya Sabha are associated with it. The Speaker is empowered to appoint the Chairman of the Committee from amongst its Members.

Functions of the Committee

The Committee on Public Accounts scrutinizes the Appropriation Accounts of the Government of India and the reports of the Comptroller and Auditor General of India thereon. While doing so, it is the duty of the Committee to satisfy itself:-

- (a) that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which have been applied or charged;
- (b) that the expenditure conforms to the authority which governs it; and
- (c) that every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority.

It is also the duty of the PAC :-

- (a) to examine the statement of accounts showing the income and expenditure of State Corporations, trading and manufacturing schemes, concerns and projects together with the balance sheets and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of statutory rules regulating the financing of a particular corporation trading or manufacturing scheme or concern or project and the report of the C&AG thereon;

- (b) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the C&AG of India either under the directions of the President or by a statute of Parliament; and
- (c) to consider the report of the C&AG in cases where the President may have required him to conduct an audit of any receipts and to examine the accounts of stores and stocks.

If any money has been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the Committee examine with reference to the facts of each case the circumstances leading to such an excess and make such recommendations as it may deem fit.

An important function of the Committee is to ascertain that money granted by Parliament has been spent by Government within the scope of the demand. The implications of this phrase are that (i) money recorded as spent against the grant must not be more than the amount granted; (ii) the expenditure brought to account against a particular grant must be of such a nature as to warrant its record against the grant and against no others; and (iii) the grants should be spent on purposes which are set out in the detailed demand and they cannot be spent on any new service not contemplated in the demand. The functions of the Committee extend, however, beyond the formality of expenditure to its wisdom, faithfulness and economy. The Committee thus examines cases involving losses, nugatory expenditure and financial irregularities. When any case of proved negligence resulting in loss or extravagance is brought to the notice of the Committee, it calls upon the Ministry/Department concerned to explain what action, disciplinary or otherwise, it had taken to prevent a recurrence. In such a case it can also record its opinion in the form of disapproval or pass strictures against the extravagance or lack of proper control by the Ministry or Department concerned.

Another important function of the Committee is the discussion on points of financial discipline and principle. The detailed examination of questions involving principles and system is a leading and recognized function of the Committee.

The Committee is not concerned with questions of policy in the broad sense though it is within its jurisdiction to point out whether there has been extravagance or waste in carrying out that policy.

While scrutinizing the Reports of the C&AG on Revenues Receipts, the Committee examines various aspects of Government's tax administration. The Committee, thus, examines cases involving under-assessments, tax-evasion, non-levy of duties, mis-classifications etc., identifies the loopholes in the taxation laws and procedures and makes recommendations in order to check leakage of revenue.

Estimates Committee: It has 30 members from Lok Sabha. Its function is to scrutinize the estimates of expenditure of Ministries and suggest measures to reduce expenditure. It is also known as continuous economics committee.

Committee on Public Undertakings: It has come into existence in 1964. PSEs were recognized as engines of growth. In order to ensure effective parliamentary control over Public Sector Enterprises, Committee on Public Sector Enterprises has come into existence.

Department-related standing committees

During the year 1989 – 8th Lok Sabha the Rules Committee considered and approved a proposal that three subject committees, on (i) Agriculture; (ii) Environment & Forests; and (iii) Science & Technology. related to these committees were finally approved by the House and the committees were formally constituted with effect from 18 August, 1989.

The Reports of Rules Committees of the 10th Lok Sabha and Rajya Sabha adopted by the two Houses on 29 March, 1993 paved the way for the setting up of the 17 departmentally related standing committees covering under their jurisdiction all the Ministries/Departments of the Union Government.

These DRSCs replaced the earlier three subject committees constituted in August, 1989. The 17 departmentally related standing committees were formally constituted with effect from April, 1993. After experiencing the working of the DRSC system for over a decade, the system was re-structured in July, 2004 wherein the number of DRSCs was increased from 17 to 24.

Till 13th Lok Sabha, each of these standing committees used to consist of 45 members— 30 nominated by the Speaker from amongst the members of Lok Sabha and 15 members nominated by the Chairman, Rajya Sabha from amongst the members of Rajya Sabha. However, with re-structuring of DRSCs in July, 2004 each DRSC consists of 31 members—21 from Lok Sabha and 10 from Rajya Sabha.

There are 24 department-related standing committees (DRSCs). Each of these committees have 31 members – 21 from Lok Sabha and 10 from Rajya Sabha.

These members are to be nominated by the Speaker of Lok Sabha or the Chairman of Rajya Sabha respectively. The term of office of these committees does not exceed one year. These committees are serviced either

by Lok Sabha secretariat or the Rajya Sabha secretariat, depending on who has appointed the chairman of that committee.

Core functions of all these committees include:

- Scrutinize demands for grants
- Discuss and debate
- Recommended
- Submit Report to parliament

PROBLEMS WITH COMMITTEE SYSTEM:

- Recommendations are not mandatory in nature. Executive do not take these recommendations seriously and they are mostly not implemented. It reduces the effectiveness of committees.
- The term of all these committees is just one year. It takes members of these committees at least one year to understand technicalities of administration so that they can ensure effective control over functioning of ministries and departments. After one year they are replaced with another set of members. It reduces their effectiveness.
- Members nominated to committees by Political Parties in a random manner. Qualifications, experience, skills and knowledge are not taken into consideration while nominating members. For example, a doctor can work in a committee related to health. If he is nominated to the commerce ministry his effectiveness will come down as he does not have domain expertise.
- Conflict of Interest is routinely ignored while appointing members to the Committees. A Member of Parliament having business interest in a particular ministry cannot be appointed as a member. Vijay Mallya was appointed to the Parliament committee on Civil Aviation where he was allegedly misused membership to influence policies of the ministry. Similarly, at the State level, most of the members have misused these committees to further their business interests.
- Services of CAG are available only to Public Accounts Committee; they are not available to other committees of Parliament; it has made them less effective in their functioning.
- CAG performs a job which is post-mortem in nature. For example, it evaluates the performance of the ministry only after money is spent. It is difficult to recover unproductive expenditure. Effectiveness of PSE reduced on it depends on reports submitted by CAG.

- Every year PAC (Public Accounts Committee) evaluates the performance of around 7 to 8 ministers and departments. There are 54 ministries. To evaluate the performance of the same ministry again it would take at least 7 years. It reduced the effectiveness of control exercised by PAC.
- Executive normally do not cooperate with these committees. These committees have powers to summon officials but if they are not present either deliberately or otherwise these committees do not have power to punish them.
- Most of the time the government takes shelter under Official Secrets Act 1923, and denies information to these committees. For example, in the Bofors scam, the government did not provide critical information to the Parliament committee as it could have resulted in proving the guilt of the people in positions of power. The government took shelter under OSA.
- Failure of members of these committees to rise above petty political interest and submit reports in a manner.
- Proceedings of their committees are held in camera. For example, ordinary citizens have no access to proceedings. In countries like USA, the proceedings of committees telecast live so that people will come to know about what their members are doing in these meetings, transparency can ensure accountability and good governance.
- Reports of these committees are never discussed on the Floor of House so that ordinary citizens also know about the functioning of these committees. There is no motivation for members as they do not get any recognition for their hard work.

SOLUTIONS:

- Recommendation of these committees should be made mandatory. For example, the government must submit an action taken report regarding recommendations of these committees. It must provide information about the time limit during which recommendations will be implemented. It must also provide reasons why recommendations are rejected so that it ensures accountability of Executive towards Legislature.
- The term of these committees must be extended to at least 3 years so that members can use their knowledge and experience in a more efficient manner.
- Conflict of interest should be taken into consideration while appointing members to these committees.
- Like in the US and UK, proceedings of these committees should be telecast live so that ordinary citizens can come to know about the performance of their members.
- Services of CAG should be provided to all other committees, not only PAC.

- OSA should be amended to allow the members to access and securitize information also.
- These committees should be given powers to punish officials who do not present themselves and who do not cooperate with these committees.
- Proper training should be given to members of these committees in aspects related to administration so that they can ensure more effective control Executive.
- Concurrent audit should be adopted in place of the existing post audit.
- Members of Parliament must rise above their selfish political interests and submit reports in a unanimous manner so that they have more credibility.
- Reports of these committees should be regularly discussed on the Floor of House.

REGARDING PRIVATE MEMBERS BILL

- President has absolute veto power to reject a private members bill.
- As part of Delegated Legislation, the Council of Ministers introduces bills on behalf of Executive known as treasury bills. In case of these bills, President of India can exercise suspensive and pocket veto but not absolute veto. For example, he cannot reject those bills.
- Members of Parliament can introduce bills on their own known as private members bills. Rajya Sabha has provision for discussing these private members bills on every Friday afternoon.
- Under Government of India Act 1935, the Viceroy or Governor General was given absolute veto power to reject private members bills. It was a colonial government and they did not want Indians who are part of central Legislature to introduce bills on their own.
- After independence, some provisions were included in the Constitution without much deliberation. Absolute Veto Powers of the President defeats the very purpose of Parliamentary democracy. Members are expected to formulate laws, Rules and Regulation and if this power is taken away from them then Parliament democracy loses its meaning. Since the commencement of the constitution, not many private member bills have been introduced and passed. The Constitution should be amended to take away absolute discretionary power of the President in case of a private members bill.

QUESTION HOUR should not be suspended under any circumstance as it is the most effective instrument in the hands of Legislature to ensure accountability of Executive.

JUDICIARY

CONSTITUTIONAL PROVISIONS:

The British for the first time introduced the modern concept of rule of law. They also introduced a judiciary which is independent of religion for the first time. During Mughal times, it functioned under Islam personal laws. But judiciary introduced by British was neither independent nor impartial. Constitutional forefathers rightly identified judiciary as the most important instrument in releasing ideas of constitutionalism. They made sure that the judiciary would be able to retain its independence so that it can perform an impartial manner.

According to our constitutional provisions, judiciary in India expected to perform the following functions:

- To protect the rights of individual citizens from exploitation by other organs of state, private individuals and institutions.
- To ensure constitutional government. To make sure that Legislature & Executive formulates laws, Rules & Regulations strictly according to the provisions of the constitution and also implement them in the same manner.

Our constitution has conferred certain powers of judiciary to perform this function Article 13, 32, 226, 141 & 142 gives powers to judiciary to perform the above functions.

- Article 13 gives the power of judicial review to the Supreme Court. Judiciary has the power to declare any law made by parliament as ultra-vires, null and Void if it violates the fundamental rights of citizens.
- Under Article 32 & 226, citizens can approach the Supreme Court & High Court directly if their fundamental rights are violated, by filling writ petitions.

Article 131: Original jurisdiction of the Supreme Court Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends: Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagements, and or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute

- **Article 139:** Conferment on the Supreme Court of powers to issue certain writs Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of Article 32.
- Under Article 141, the judgement of the Supreme Court is binding on all other courts in India.
- Under Article 142, Supreme Court has the power to enforce decrees and orders etc. The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.

Evolution of Judiciary in India

PHASE I: Passive Judiciary (1947-1967)

- During this phase, the judiciary is passive. It had given maximum freedom to Legislature & Executive in their functioning.
- There has always been conflict between Fundamental Rights & Directive Principles of State Policy because of their conflicting objectives. FR are essential for our existence. They are basic human rights. During the British rule, ordinary citizens were never allowed to enjoy basic human rights. Our Constitutional forefathers while framing the constitution were very much clear in their mind regarding what they wanted to realize. They felt that the basic objective of the constitution should be to protect Fundamental Rights and freedom of citizens.
- Directive Principles of State Policy were influenced by Gandhian philosophy.
- Directive Principles of State Policy emphasize on economic and cultural freedom of society as a whole. While Fundamental Rights focus on individual political freedoms. What is good for individuals may not be good for society resulting in conflict. It can get much more serve is a federal and hierarchical society like India.
- As the name as the name itself indicates Directive Principles of State Policy are directivities of the state in formulating and implementing policies. This directivity mostly focuses on macro parameters like collective economic, environmental social and cultural freedoms of society.
- Why was the judiciary passive? During this period, Judiciary remained passive because the political leadership of the country was committed to

the ideology of socialism and it was felt that Fundamental Rights can be given more importance DPSPs. Also, leaders were freedom fighters, hence garnered huge respect. Judiciary deliberately was not involved in the functioning of Legislature & Executive. It felt that social welfare was more than individual freedoms and rights. Political Executive was interested in establishing a socialistic pattern of society by removing inequality of income and wealth.

- The 1st Constitutional Amendment Act itself violated the Fundamental Rights of people. It added the 9th schedule to our constitution under which those laws which are part of the 9th schedule are given immunity from judicial scrutiny. For example, law cannot be declared null and void for violating Fundamental Rights.
- Land ceiling Legislation was passed to implement land reforms. Acharya Vinoba Bhave started the Bhoojan movement, requesting zamindars and landlords to donate the lands in a voluntary manner but the movement was not successful. It has forced the government to pass land ceiling legislation. The objective is to collect excess land from zamindars and distribute it. But Right to Property was a fundamental right at that point of time. Land Ceiling legislation could have been questioned in the judiciary for being ultra-virus. The 9th schedule was added to the constitution; the judiciary remained passive and did not interfere in the functioning of Legislature & Executive.
- **A.K. Gopalan v. State of Madras**, AIR 1950 SC 27, was a landmark decision of the Supreme Court of India in which the Court ruled that Article 21 of the Constitution did not require Indian courts to apply a due process of law. Supreme Court had upheld the procedure established by law in the A.K Gopalan case. For example, it recognized the power of Legislature to legislate on any item as long as proper procedure is followed. Judiciary did not question the content of Legislation. This procedure established by law is a feature of British parliamentary democracy where in parliament is supreme as well as sovereign.

PHASE II: Confrontation between Judiciary and Executive

- **Golaknath v. State Of Punjab** (1967 AIR 1643, 1967 SCR (2) 762), or simply the Golaknath case, was a 1967 Indian Supreme Court case, in which the Court ruled that Parliament could not curtail any of the Fundamental Rights in the Constitution.
- In India, a **privy purse** was a payment made to the ruling families of erstwhile princely states as part of their agreements to first integrate with

India in 1947 after the independence of India, and later to merge their states in 1949, thereby ending their ruling rights.

- The privy purses continued to be paid to the royal families until the 26th Amendment in 1971, by which all their privileges and allowances from the central government ceased to exist, which was implemented after a two-year legal battle.
- A motion to abolish the privy purses, and the official recognition of the titles, was originally brought before the Parliament in 1970 and passed in the Lok Sabha, but failed by one vote to reach the required two-thirds majority in the Rajya Sabha, with 149 voting for and 75 against.
- On 6 September 1970, the President of India passed an laconic order in respect of each of the rulers of former Indian states. In exercise of the power vested in him under Article 366(22) of the constitution, the President directed that with effect from the date of his order, all rulers ceased to be recognised as rulers. This resulted in the forthwith stoppage of the privy purses received by the rulers and the discontinuance of their personal privileges. Writ petitions under Article 32 of the constitution were filed by some of the rulers as test cases to question the orders. The Supreme Court ruled in favour of the rulers.
- It was again proposed before Parliament in 1971, and was successfully passed as the 26th Amendment to the Constitution of India in 1971. The then Prime Minister Indira Gandhi argued for the abolition based on equal rights for all citizens and the need to reduce the government's revenue deficit.
- The *State of Uttar Pradesh v. Raj Narain* (1975 AIR 865, 1975 SCR (3) 333) was a 1975 case heard by the Allahabad High Court that found the Prime Minister of India Indira Gandhi guilty of electoral malpractices. Ruling on the case that had been filed by the defeated opposition candidate, Raj Narain, Justice Jagmohanlal Sinha invalidated Gandhi's win and barred her from holding elected office for six years. The decision caused a political crisis in India that led to the imposition of a state of emergency by Gandhi's government from 1975 to 1977.
- In 1973, the Supreme Court had come out with a landmark judgement in the Keshavnanda Bharati case to put an end to the conflict between Legislature & Judiciary.
- The Supreme Court ruled that the Parliament has absolute power to amend any part of the constitution but at the same time it limited the power of Parliament by taking away their power to amend the basic structure of the constitution. The Supreme Court left this basic structure undefined so that it will have the freedom and power to limit the powers of Legislature. It defined the basic structure in terms of parliamentary democracy and federal form of government. The Supreme

Court also ruled that the preamble is also an integral part of the constitution.

PHASE III: Darkest phase of Judiciary (1975-77)

- In 1975 emergency was imposed due to internal disturbances. Parliament came up with radical amendments after that. 39th Constitutional Amendment Act prohibited Judiciary from questioning the validity of election to higher constitutional offices like President, Vice-President, Prime Minister, Speaker of Lok sabha.
- Judiciary did not interfere; Indira Gandhi gave a call for committed Judiciary that led to politicization of Judiciary. Judiciary lost credibility in the eyes of people. All opposition party leaders were arrested. Family members filed habeas corpus. The Supreme Court ruled in favour of the government.
- **ADM Jabalpur case** is landmark judgment pertaining to *Habeas corpus* case. This controversial judgment of P.N. Bhagwati was decreed during the Emergency of 1975 to 1977, a person's right to not be unlawfully detained (i.e. *habeas corpus*) can be suspended. This judgment received a lot of criticism since it reduced the importance attached to Fundamental Rights under the Indian Constitution. Going against the previous decision of High Courts, the bench which included Bhagwati concluded in favour of the then Indira Gandhi government while only Justice Hans Raj Khanna was opposed to it.
- Article 20 and 21 too cannot be abrogated during emergency but emergency took away that too. Judiciary remained a mute witness to these unconstitutional actions on the part of the Executive.

PHASE IV: Revival of credibility of the judiciary (1977-1980)

- Janata Party came to power after elections were held in 1977.
- **Maneka Gandhi v. Union of India**, AIR 1978 SC 597, was a landmark decision of the Supreme Court of India in which the Court significantly expanded the interpretation of Article 21 of the Constitution of India. It overruled A. K. Gopalan v. State of Madras, which had implied the exclusiveness of fundamental rights, and established a relationship between Articles 14, 19, and 21 of the Constitution (known as the 'golden triangle' or 'trinity'), holding that a law depriving a person of 'personal liberty' must not violate any of them. The decision also held, once again overruling *A. K. Gopalan* that a 'procedure' under Article 21 of the Constitution cannot be arbitrary, unfair, oppressive, or unreasonable.
- The decision had a significant influence on Indian constitutional law and has been described as the moment when the Supreme Court of India rejected

"three decades of formalist interpretation, and inaugurated a new path where Courts would expand the rights of individuals against the State, instead of limiting or contracting them. The Supreme Court for the 1st time introduced due process of law not just letter but spirit to be taken into account of the action taken. Scope of Fundamental Rights expanded, Article 21 right to life induced dignified living too. Due process of law is taken from the American Judiciary.

Minerva Mills Ltd. and Ors. v. Union Of India and Ors is a landmark decision of the Supreme Court of India that applied and evolved the basic structure doctrine of the Constitution of India.

- The Supreme Court introduced due process of law in the functioning of our Judiciary till then functioning on the basis of procedure established by law DPL future of the American legal system where the Judiciary not only looks into procedure and legal aspects but also as power to question the spirit behind law. If the intention behind the law is wrong, the Judiciary can strike down a particular act of government that gives Judiciary extraordinary powers.
- The Supreme Court also expanded scope of Article 21. Right to life and liberty includes the right to have a dignified existence also from these cases onwards Supreme Court literally interpreted Article 21. The Supreme Court also expanded the scope of basic structure of the constitution. Judicial review is part of the basic structure of the constitution.
- In the ***Minerva Mills*** case, the Supreme Court provided key clarifications on the interpretation of the basic structure doctrine. The court ruled that the power of the parliament to amend the constitution is limited by the constitution. Hence the parliament cannot exercise this limited power to grant itself an unlimited power. In addition, a majority of the court also held that the parliament's power to amend is not a power to destroy. Hence the parliament cannot emasculate the fundamental rights of individuals, and also includes the right to liberty and equality (which is not a fundamental right but considered a basic structure of the Constitution).

PHASE V: Judicial Activism (1980-Till Now)

- In a parliamentary democracy, the three organs of the State are expected to perform their functions efficiently with the objective of realizing the ideals of the Constitution. Between 1950's and 1980's, both legislature and executive have failed to perform their functions. Ordinary citizens were fed up with the emergency and dictatorial functioning of the Government during emergency and votes for Janata party in 1977. But Janata party was united in opposing the Congress but not in ruling the country. It led to a situation wherein the people had no option but to bring back Congress to power in

1980. Failure of legislature and executive led to creation of vacuum at the top. People were looking up to Judiciary to fill in the vacuum created by the non-performance of legislature and executive.

- Judiciary's own performance was also not up to the mark. Until then, judicial functioning was either inactive or reactive and not proactive. It functioned on the basis of LOCUS STANDI i.e. only those people whose fundamental rights are violated can directly approach judiciary for assistance. In reality, it is almost impossible for the poor to approach the Judiciary. On top of it, judiciary suffered from long delays and also high cost of litigation. To overcome this, the Supreme Court came up with PIL (Public Interest Litigation), which had its origin in the Australian & New Zealand judicial system. It removed locus standi clauses, and now anyone could approach Judiciary as long as it involves public interest.
- During this period, Judiciary entered into the domains of legislature and executive as part of Judicial Activism. It must be remembered that Indian Constitution provides for separation of functions between the three organs of the State but not powers. With the help of PIL and more importantly by introducing due process of law, Judiciary expanded its scope rapidly and in the process erased the delicate balance of power between the three organs of the State. It has become proactive in protecting and promoting the interests of citizens.
- It was Justice P N Bhagawati and Justice V R Krishna Iyer who introduced this in the functioning of Indian Judiciary in early 1980s. It literally opened the floodgates of judicial activism in the country. In 1980s, PIL most focussed on protecting the individual political freedoms of citizens from exploitation by the organs of the State. By 1990s, the scope of PIL was expanded to include social, economic and cultural freedoms of the society as a whole. India had opted for liberalization, privatization and globalization during this period. Issues related protection of environment, labour rights, rights of small and marginal farmers, tribal rights and rights of other vulnerable sections of society had become central focus of PIL during this period.
- From 2000s onwards, there was further expansion in the scope of PIL with many NGOs coming up only with the objective of filing PILs. This period also witnessed coalition governments which resulted lots of cases related to corruption.
- In the entire process, there were many instances of the Judiciary crossing its limits and over reaching its powers as alleged by the Legislature & Executive. Judicial activism has come in for criticism from both Legislature & Executive. It was felt that by crossing its limits, Judiciary was deliberately

disturbing the delicate balance of power between the 3 organs of state. Some people have criticized it as judicial adventurism. Important judgements of judiciary during this period include:

- Cancelation of all 122 licenses in the 2G spectrum scam
- Removal of CVC
- Cancellation of all licenses related to allocation of coal mines since 1993
- Supreme Court judgement in Bihar assembly dissolution case 2006
- Supreme Court judgement in Coelho Case 2008 wherein Supreme Court ruled that 9th schedule will not remain sacrosanct. For example, the Supreme Court has power to review all legislations which have been included in 9th schedule after Kesavananda Bharati case 1973.
- Supreme Court judgement in directing the Executive to explore the possibility of implementing Uniform Civil Code (UCC)
- Recent Supreme Court judgement in case of Aadhar, wherein it has ruled that Aadhar is not compulsory for transactions related to the Government except in filing Income Tax returns and availing benefits of Government schemes. It has ruled that Right to Privacy is part of Fundamental Rights under Article 21.

But PIL has been severely criticized for its misuse. It was criticised as *Private Interest Litigation*.

Que. “Judicial overreach to a large extent is a consequence of ineffective executive.” Examine. (2018)(20M)

- Critics have alleged that the Judiciary was more proactive in making Legislature and Executive accountable for their performance without looking at its own performance. With more than 45 million cases pending with our Judiciary at all levels, it would take over at least 300 years to come out with judgements in these cases provided no fresh cases are filed during this period. Justice delayed is justice denied. Thousands of cases are pending for more than 30 years. Appointment of judges had also become controversial.
- There were allegations of nepotism and favouritism in the appointment of judges. The Collegium system, which had come into existence after successive judgments of the Supreme Court, had failed to ensure transparency and accountability in the functioning of the Judiciary. There were many instances wherein senior judges have criticized the collegium system. The government had come out with a solution in the form of NJAC, and the constitution was amended to ensure transparency and

accountability in apportionment of judges to Supreme Court & High Court.

- But the Supreme Court had ruled that NJAC was unconstitutional, as it violated the basic structure of the constitution. NJAC had members from Executives. Also the Supreme Court ruled that since in a maximum number of cases, the government is the main litigant, the government cannot have a say in appointment of judges. It created conflict between Judiciary & Executive as the solution was not acceptable to Judiciary.

Que. "The absence of congruence of views on appointments to judiciary between the Supreme Court and the Union Government has had an adverse impact on the judicial system." In the light of the above statement, examine the proposal to constitute an All India Judicial Service (AIJS). (2016) (20M)

Que. There has been an opinion that the ethos of Indian Judicial System continues to be colonial. Suggest measures for raising the level of judicial excellence for achieving speedy justices. (2019) (10M)

Recently, four senior Supreme Court judges have revolted against the Chief Justice. Chief Justice of India is the master of the roaster similarly he has absolute discretionary powers in terms of allocating cases to various benches. This controversy had impacted the credibility of the Judiciary in the eyes of ordinary citizens.

Que. Discuss the arguments for and against the National Judicial Appointments Commission Act, 2014. (2015)(20M)

In a very controversial move, Chief Justice of India sat on judgement in a case related to himself. There were allegations of sexual misconduct against the Chief Justice of India but the Chief Justice of India headed the bench that inquired into this allegation. Even though he had refrained from final decision, it has raised questions regarding ethics in judicial functioning as the actions of Chief Justice of India are against principles of natural justice. It has also affected the credibility of the Judiciary. There are many allegations of corruption against senior judges. In a revolutionary move recently, the Supreme Court had given permission to the CBI to investigate cases of corruption against one of the judges, Allahabad HC.

With all these criticisms, it is time for the Judiciary to reform itself so that it can continue to enjoy credibility among ordinary masses. Following reforms have been suggested to make Judiciary transparent efficient and accountable:

- There must be an AIJS (All India Judicial Service) on the lines of IAS, IPS and IFoS.

- Judges should be recruited to AIJS at a lower level. For example, at district level and must be promoted to High Court and Supreme Court over a period of time.

Evolution of AIJS

- The AIJS was first proposed by the 14th report of the Law Commission in 1958.
- The 42nd Constitutional amendment in 1976 amended Article 312 (1) empowering Parliament to make laws for the creation of one or more All-India Services, including an AIJS, common to the Union and the States.
 - Under Article 312, Rajya Sabha is required to pass a resolution supported by not less than two-thirds of its members present and voting. Thereafter, Parliament has to enact a law creating the AIJS. This means no constitutional amendment will be required for establishment of AIJS.
- The Supreme Court of India also endorsed the same in the 'All India Judges Association vs. Union of India' case (1993) laying down that AIJS should be set up.

Why AIJS?

- **Addressing Judges To Population Ratio:** A Law Commission report (1987) recommended that India should have 50 judges per million population as against 10.50 judges (then).
 - Now, the figure has crossed 20 judges in terms of the sanctioned strength, but it's nothing compared to the US or the UK — 107 and 51 judges per million people, respectively.
 - Thus, AIJS envisages to bridge the underlying gap in judicial vacancies.
- **Higher Representation of Marginalised Sections of Society:** According to the Government, the AIJS to be an ideal solution for equal representation of the marginalised and deprived sections of society.
- **Attracting Talent Pool:** The government believes that if such a service comes up, it would help create a pool of talented people who could later become a part of the higher judiciary
- **Bottoms-Up Approach:** The bottoms-up approach in the recruitment would also address issues like corruption and nepotism in the lower judiciary. It will improve the quality of justice dispensation in the lower levels of society.

Problems

- **Dichotomy Between Articles 233 and 312:** As per Article 233, recruitment to subordinate judiciary is the prerogative of the State.
 - Due to this, many states and high courts have opposed the idea on the ground that it would go against federalism.

- If the fundamental power of the States to make such rules and govern the appointment of district judges is taken away, it may be against the principle of federalism and the basic structure doctrine.
- **Language Barrier:** Since cases in lower courts are argued in local languages, there have been apprehensions as to how a person from north India can hold hearings in a southern state.

Thus, another fundamental concern regarding AIJS is the language barrier.

Constitutional Limitation: Clause 3 of Article 312 places a restriction that AIJS shall not include a post inferior to that of a district judge. Thus, appointment of subordinate judiciary through AIJS, may face a constitutional barrier.

Dilution of Administrative Control of High Court: Creation of AIJS would lead to an erosion of control of the High Courts over the subordinate judiciary, which might affect the judiciary's independence.

- There must be a permanent secretariat in the Supreme Court whose main function is to collect all the information about the judges at all levels.
- Performance evaluation of judges should be done in a transparent manner. For example, their performance should be evaluated by stakeholders including lawyers and other citizens who approach the Judiciary. This objective performance evaluation should be the basis for this further career advancement in terms of promotions transfers suspensions and removals.
- In order to improve our legal system, there must be a time limit on Judiciary to come out with judgement. But this reform can be successful only with reforms in other areas like police reforms and other governance reforms.
- As pointed out by an economic survey this year, the Supreme Court takes the maximum number of leaves. It works for less than 180 days in a year. The number of working days should be increased to at least 270 days.
- Retirement age of Supreme Court judges can be increased. There were also suggestions regarding adoption of the American system wherein judges are appointed for life.
- As far as PILs are concerned, the Supreme Court had come out with a judgement regarding their misuse. The Supreme Court had asked the High Court to be extremely careful while accepting PILs. If it is proved that the PIL has been filed with a vested interest, the High Court has been given the authority to punish those people.
- Former Chief Justice had remarked that the Judiciary must not enter into the domain of Legislature and Executive. It must confine itself to interpretation of laws. It should not make laws for the country.
- With the advent of single party rule at the centre from 2014 onwards, judicial activism had come down drastically. Absolute majority on the Floor of House can make the government decisive and Judiciary need not enter into the domain of Legislature and Executive.

- As for the future of judicial activism, Judiciary continues to remain active for as long as the Legislature and Executive fail to perform their functions. For example, both Legislature and Executive fail to eliminate criminalization of politics, forcing the Judiciary to enter into the domain. In this same manner, there is no real effort on part of Legislature & Executive to fight corruption.
- Citizens will continue to support judicial activism as they believe that Judiciary is one of the institutions which can protect their rights from exploitation by other organs of state. But at the same time, the Judiciary must also remember that its credibility depends on its own performance. Unless Judiciary improves performance and ensures Good Governance in its own functioning, it becomes difficult to enjoy credibility of masses.

To conclude, in a developing democracy like India, Judiciary can play a very significant role in realizing effective constitutionalism. It must make Legislature & Executive accountable to the people for their performance.

Que. The spirit of democratic values requires that the independence of the judiciary remains absolute. It is high time that the All India Judicial Service (AIJS) was created. Elaborate. (2020)(20M)

Que. Do you agree that “All India Judicial Service (AIJS) would contribute to timely delivery of justice to the citizens? Argue your case (2017)(10M)

Cabinet Committees

Because it is extremely difficult for the Prime Minister to convene the entire cabinet for every issue, a system of cabinet committees has been established to facilitate the government's smooth operation. A committee is a tool for increasing an organization's output. The implementation of a cabinet committee system reduces the overall workload of the cabinet.

They provide the cabinet with the information it requires to make a decision on a specific issue. Their system also protects the principle of shared responsibility. It also vastly improves the effectiveness of the political executive's control over bureaucracy.

Cabinet committees are required to carry out functions delegated to them by the cabinet. Another advantage of cabinet committees is that they facilitate effective coordination among cabinet members.

Cabinet committees are classified into two types. Ad hoc and Standing. Ad-hoc committees, as the name implies, are formed to solve specific problems, and once the task is completed, the committee ceases to exist.

Standing Committees, on the other hand, wield real power and are vital to the political system. A cabinet committee is led by a Cabinet Minister, and in exceptional cases, the Prime Minister leads a cabinet committee.

Transaction of Business

The executive works under the Government of India Transaction of Business Rules, 1961. These Rules emerge out of Article 77(3) of the Constitution, which states: “The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.” The Rules mandate the minister-in-charge of a department (ministry) to dispose of “all business allotted to a department under” him or her. However, “when the subject of a case concerns more than one department”, no decision can be taken “until all such departments have concurred, or, failing such concurrence, a decision thereon has been taken by or under the authority of the Cabinet”.

Cabinet Committees in India

After independence the Government constituted two Standing Committees, the Defence Committee and the Economic Committee. They were constituted in 1948. The Gopalaswami Ayyangar Committee that went into the working of the political system in its report strongly recommended the constitution of cabinet committees by the Government.

It recommended that the Standing Committee should be regarded as part of the permanent machinery of government for which appropriate secretariat may be provided on a permanent basis.

The Prime Minister constitutes Standing Committees of the Cabinet and sets out the specific functions assigned to them. He can add or reduce the number of committees.

Ad hoc committees of ministers, including Groups of Ministers, may be appointed by the Cabinet or by the Prime Minister for specific matters. A policy paralysis had hit the UPA-II government because it had passed on numerous issues to Groups of Ministers.

Key Committees

Appointments: Of the eight panels constituted by Prime Minister Narendra Modi, the most vital is the Cabinet Committee on Appointments. This panel makes appointments to posts of the three service chiefs, Director General of Military Operations, chiefs of all Air and Army Commands, Director General of Defence Intelligence Agency, Scientific Advisor to the Defence Minister,

Director General of Armed Forces Medical Services, Director General of Ordnance Factories, Director General of Defence Estates, Controller General of Defence Accounts, Director of Institute for Defence Studies and Analyses, Solicitor-General, Governor of the Reserve Bank of India, Chairman and Members of the Railway Board, Chief Vigilance Officers in Public Sector Undertakings and Secretariat posts of and above the rank of Joint Secretary in the Central Government. This Committee decides on all important empanelments and shift of officers serving on Central deputation.

Accommodation: The Cabinet Committee on Accommodation determines the guidelines or rules with regard to the allotment of government accommodation. It also takes a call on the allotment of government accommodation to non-eligible persons and organisations as also the rent to be charged from them. It can consider the allotment of accommodation from the General Pool to Members of Parliament. It can consider proposals for shifting existing Central Government Offices to locations outside the capital.

Economic Affairs: The Cabinet Committee on Economic Affairs is supposed to review economic trends, problems and prospects “for evolving a consistent and integrated economic policy”, coordinate all activities requiring policy decisions at the highest level, deal with fixation of prices of agricultural produce and prices of essential commodities. It considers proposals for investment of more than Rs 1,000 crore, deal with industrial licensing policies and review rural development and the Public Distribution System.

Parliamentary Affairs: The Cabinet Committee on Parliamentary Affairs draws the schedule for Parliament sessions and monitors the progress of government business in Parliament. It scrutinises non-government business and decides which official Bills and resolutions are to be presented.

Political Affairs: The Cabinet Committee on Political Affairs addresses problems related to Centre-state relations. It also examines economic and political issues that require a wider perspective but have no internal or external security implications.

Security: The Cabinet Committee on Security deals with issues relating to law and order, internal security and policy matters concerning foreign affairs with internal or external security implications. It also goes into economic and political issues related to national security. It considers all cases involving capital defence expenditure more than Rs 1,000 crore. It considers issues related to the Department of Defence Production and the Department of Defence Research and Development, Services Capital Acquisition plans and schemes for procurement of security-related equipment.

The new panels

Investment: The Cabinet Committee on Investment will “identify key projects required to be implemented on a time-bound basis”, involving investments of Rs 1,000 crore or more, or any other critical projects, as may be specified by it, with regard to infrastructure and manufacturing. It will prescribe time limits for giving requisite approvals and clearances by the ministries concerned in identified sectors. It will also monitor the progress of such projects.

Employment: The Cabinet Committee on Employment and Skill Development is supposed to provide “direction to all policies, programmes, schemes and initiatives for skill development aimed at increasing the employability of the workforce for effectively meeting the emerging requirements of the rapidly growing economy and mapping the benefits of demographic dividend”. It is required to enhance workforce participation, foster employment growth and identification, and work towards removal of gaps between requirement and availability of skills in various sectors. The panel will set targets for expeditious implementation of all skill development initiatives by the ministries and to periodically review the progress in this regard. The addition of the two committees is indicative of the new focus areas for the government. The goal of both is new jobs.

Cabinet Secretariat

Prior to the implementation of the portfolio system in the Government of India, the Governor-General-in-Council handled all governmental business, with the Council acting as a joint consultative board. As the amount and complexity of the Government's business increased, the work of the various departments was distributed among the members of the Council, with only the most complex and important cases being handled by the Governor-General or the Council collectively.

The Councils Act of 1861, enacted during Lord Canning's tenure, legalised this procedure, resulting in the introduction of the portfolio system and the establishment of the Governor-Executive General's Council. The Executive Council Secretariat was led by the Viceroy's Private Secretary, who did not attend Council meetings. Lord Willingdon pioneered the practise of having his Private Secretary accompany him to these meetings. Later, this practise was continued, and the Viceroy's Private Secretary was given the additional designation of Secretary to the Executive Council in November 1935.

The formation of the Interim Government in September 1946 resulted a change in the name, though little in functions, of this Office. The Secretariat of the Executive Council was renamed Cabinet Secretariat. However, it appears that,

at least in retrospect, independence brought about a shift in the functions of the Cabinet Secretariat. It evolved from a passive organisation concerned with distributing papers to Ministers and Ministries to one concerned with achieving Ministry coordination.

Functions:

The Cabinet Secretariat is under the direct charge of the Prime Minister. The administrative head of the Secretariat is the Cabinet Secretary who is also the ex-officio Chairman of the Civil Services Board.

In the Government of India (Allocation of Business) Rules, 1961 "Cabinet Secretariat" finds a place in the First Schedule to the Rules. The subjects allotted to this Secretariat are,

- Secretarial assistance to Cabinet and Cabinet Committees.
- Rules of Business.

The Cabinet Secretariat is in charge of enforcing the Government of India (Transaction of Business) Rules, 1961 and the Government of India (Allocation of Business) Rules, 1961, facilitating smooth transaction of business in Government Ministries/Departments by ensuring adherence to these rules. The Secretariat aids in government decision-making by ensuring inter-ministerial coordination, resolving differences among Ministries/Departments, and evolving consensus through the use of standing/ad hoc Committees of Secretaries. New policy initiatives are also promoted through this mechanism.

Que. "Central Secretariat is the nodal agency for administering the Union subjects and establishing coordination among the various activities of the government." Discuss. (2013) (20M)

Promotion of Inter-Ministerial Coordination

Among the inter-Ministerial matters, the coordination is required for:

- (i) removing difficulties;
- (ii) removing differences;
- (iii) overcoming delays;
- (iv) coordination in administrative action
- (v) coordination of policies.

Prime Minister Office (PMO)

The Prime Minister as the head of Government plays a crucial role in the political, administrative system of the country. To fulfill his responsibilities he is assisted by the PMO. PMO is a staff agency meant for providing secretarial assistance and crucial advice to the PM. It is an extra constitutional body and enjoys the status of a department of Government of India under the allocation of business rules 1961. By replacing the secretary to the Governor General

(Personal) PMO came into existence in 1947. PMO is headed by the PM and administratively by the Principal Secretary. Additionally it consists of one or two additional secretaries, 3-5 joint secretaries and a number of directors, deputy secretaries/ under-secretaries.

Function of PMO

1. It deals with all government files.
2. Puts before the PM all important documents for orders and instructions.
3. Look after the affairs of different Ministries and Departments which are headed by the PM.
4. Tender advice to the PM on various foreign and domestic matters.
5. Helps the PM in respect of his responsibilities as chairman of Niti Ayog and NDMA.
6. Look after the public relations of the PM like and press.
7. Acts as a think tank of the PM.

Evolution of PMO under different Prime Ministers

Jawaharlal Nehru

During the period of JLN, it was known as PMS (secretariat). Nehru was the most popular and powerful leader of the country. At the same time, he believed in democratic functioning. He made sure that the PMO would always remain a back office of the PM. He restricted the function of PMO to only administrative functions. During his tenure, he was also the country's external affairs minister. PMO performed functions of these ministries also. Only an officer of the rank of joint secretary was allowed to head the PMO. Nehru made sure that cabinet secretary and secretariat are given more prominence and PMO was made a subordinate of cabinet secretary.

Lal Bahadur Shastri

During the tenure of LBS, PMS had become powerful. He did not enjoy the same popularity as that of JLN. In order to ensure effective control over governance, PMS was made very powerful. Cabinet ministers were asked to get their decisions rectified by the PMS so that the PM can have complete control over administration.

Indira Gandhi

She was PM between 1966-1977 and later between 1980-1984. During her first phase, she did not have control over administration as it was the syndicate that exercised control over party and government. From 1969 onwards and especially after 1971, PMO had become extremely powerful. P.N. Haksar was the most powerful bureaucrat in the country during this period. He headed the PMS. This period also witnessed PMS performing political functions. It decided

cabinet ministries, state CMs and Governors. It also took controversial political decisions like the imposition of Article 356. After the emergency was imposed in 1975, PMS became the most powerful institution in the country. Sanjay Gandhi had become the extra constitutional authority controlling PMS. The PMS took all decisions without involving cabinet ministers, cabinet secretariat or secretariat. The Cabinet secretary lost his/her reliability during this period.

Morarji Desai (1977-79)

During this period, Prime Minister's Secretariat was renamed as Prime Minister's Office. It was downgraded to a department in Government of India. Initially the Prime Minister gave more freedom to council of ministers. But later PMO had become controversial. It was controlled by the son of the Prime Minister. It also interfered in the functioning of the council of ministers as the Prime Minister felt threatened by some of his council of ministers.

Indira Gandhi (1980-84)

Indira Gandhi returned to power in 1980. During this period, P C Alexander had become the most powerful bureaucrat in the country. He was heading PMO. It took some controversial decisions and the country also witnessed Prime Ministerial form of Government.

Rajeev Gandhi (1984-89)

PMO was again powerful during the tenure of Rajeev Gandhi. It consisted of technocrats like Sam Pitroda, Montek Singh Ahluwalia, Arun Singh, Mani Shankar Iyer and others. It dominated the decision making processes within the Government as the country continued with Prime Ministerial form of government.

P V Narasimha Rao (1991-96)

PMO officials participated in negotiations related to the Ram Janma Bhoomi-Babri Masjid issue. Later, as part of the Hawala scam, cases were filed against important opposition leaders and some cabinet ministers. PMO played a crucial role in all these matters.

Vajpayee (1998-2004)

For the first time, the PMO was headed by a non-IAS officer. Brijesh Mishra, IFS officer had become the most powerful bureaucrat in the country during this period. Vajpayee was a democratic PM and he ensured that cabinet secretary was given its due respect. It was a coalition government, PMO performed political functions also, like ensuring coordination between coalition partners.

Manmohan Singh (2004-2014)

This period witnessed rapid expansion in the size of PMO. More than 350 officers of the rank of JS worked in PMO. A Minister of State was also appointed to oversee the functioning of PMO. But during this period, PMO had become controversial due to inefficient and often controversial functioning. During commonwealth games, that was held in Delhi, the Cabinet recommended union sports minister as the official head of the organizing committee but PMO overruled the decision of the cabinet and appointed Suresh Kalmadi as the chairman of committee. It resulted in a massive scam. In the 2G spectrum case, the SC observed the PM could not take the right decision regarding continuation of A Raja in the council of ministers as the PMO failed to provide accurate information regarding the happenings in the telecom ministry. The PM also headed the coal ministry in the absence of a regular cabinet minister. This period witnessed coal scam, again officials of PMO were blamed for this scam. The Government of India signed a deal with Davos Corporation. The deal was signed by the Department of Space. It was alleged that corruption had taken place in the deal to the tune of Rs 2 lakh crore. Again, officials of PMO were blamed as Department of Space works under direct control of PM. Ultimately during this period, it was inefficiency of officials working in PMO resulting in ineffectiveness of PM.

Narendra Modi: [2014 to Present]

The country again witnessed single party rule after a period of 30 years. It resulted again in a strong PMO. Major decisions were taken by the PMO, which otherwise could be taken by concerned Ministers and Departments. PMO also supervised all major development and welfare schemes. Crucial decisions like demonization were taken by the PM with PMO officials without informing cabinet ministers. All cabinet ministers were directed by PMO to make major Policy decisions related to their ministry only after they receive the consent from PMO officials.

To conclude, a strong PMO is a salvation for any Prime Minister. It helps him to control, coordinate and regulate the activities of the government. But at the same time, it can go against our spirit of parliamentary democracy. Collective decision process of council of ministers is hall mark of parliamentary democracy. But with the emergence of strong PMO, it defeats the very purpose of collective responsibility of council of ministers.

Ultimately, the spirit of parliament demands that it should remain the highest policy making body. PMO should always remain a back office of the PM. There must be a clear decision of the work between the cabinet and the PMO. The Cabinet Secretary being the senior most civil servant in the country should always control and coordinate activities of all ministries and departments including PMO.

Que. "From coalition government to one-party dominance is a big change that is bound to affect the government system." Explain why and how. (2014)(10M)

Que. "Dominant centralized administration is correlated with decisive and authoritative leadership provided by the Prime Minister's office." Explain with suitable examples since independence. (2016) (20M)

Que. The functional role of the Prime Minister's Office (PMO) depends on the Prime Minister's policy orientation, personality and style of administration. Comment on the statement with suitable examples (2014) (10M)

Chapter 5 - Plans and Priorities

Syllabus: Machinery of planning; Role, composition and functions of the Planning Commission and the National Development Council; 'Indicative' planning; Process of plan formulation at Union and State levels; Constitutional Amendments (1992) and decentralized planning for economic development and social justice.

Planning Commission and NITI Aayog

- The planning process in India is to be broadly understood within the overall political framework. Article 1 of the Constitution clearly states that India is a Union of States. We have a unique system of federation with a manifest unitary character. There is a clear demarcation of functions between these two levels. Through the 73rd and 74th Amendments to the Constitution power has been devolved on the panchayats and the local tiers of government, which reflects the political objective of giving “power to people”.
- In the beginning, the activities of our national party produced no effect upon the foreign government of India. But the economic pressure during the War and the famous Atlantic Charter stirred the review of her pre-war policies, estimated the progress made during the last few decades, and in the light of such review, adopted broad lines of policy aimed at concerted development in all the spheres of economic and social activity.” A Planning Department was set up at the Centre and a few Development Officers were also appointed. This Department produced some “Panel Reports”, but nothing substantial came out of it.
- India had opted for a centralized planning process to ensure rapid growth and development. The Planning Commission came into existence in 1950 to formulate plans for the entire country. It was headed by the Prime Minister, along with a full-time deputy chairman. It had members from academic fields like agriculture, industry, statistics, economics, accounting and so on.

Important functions of Planning Commission

- To evaluate resources of the country, human, financial, natural, fiscal etc.
- To formulate both long term and short-term objectives
- Rapid industrialization
- Self-sufficiency
- Employment generation
- Balanced regional development
- Planning Commission was expected to plan in such a manner that it ensures optimum utilisation of resources in various sectors with the aim of achieving rapid growth and development. From the 1st Five Year Plan to 7th Five Year Plan, the country has opted for imperative planning which is a feature of socialist economy. It provided financial assistance to states. Failure of regulatory planning forced India to adopt indicative planning from 8th Five Year Plan onwards. By the end of the 11th Five Year Plan, the global economic situation had become so volatile that long term planning was not considered a good option.

- The Planning Commission also had come in the way of ensuring better relations between the Union and states. The Planning Commission had extraordinary financial power which had become a major source of conflict. State governments ruled by opposition parties regularly criticized the Planning Commission for its biased functioning. In 2014, the union government abolished Planning Commission and established a new staff organization called National Institute for Transforming India, fondly known as NITI Aayog. It was felt that the Planning Commission had lost its relevance in the age of globalization and liberalisation.

National Development Council

The N.D.C. (or Rashtriya Vikas Parishad) was established for the first time in 1951 with the goal of coordinating plans between Central Ministers and State Governments. Its original membership included the Prime Minister as Chairman, the Chief Ministers of the State Governments, and members of the Planning Commission. As long as the same political party remained in power at the Centre and in the State Governments, the National Development Council played no effective role and only after 1967 general elections when different political parties gained power made the National Development Council more effective, and centralised planning became extremely difficult to achieve.

Following are the functions of NDC:

- NDC review the working of the National Plan from time to time,
- It consider important questions of social and economic policy affecting national development, and
- Recommend measures to achieve the objectives and objectives set out in the national plan including measures to ensure active participation and cooperation between the people, to make the administrative services more efficient, to make sure that the less developed regions and communities are completely developed and by sacrificing themselves equally to all citizens, to develop measures to ensure the achievement of them.

Que. How far do you agree with the view that the National Development Council (NDC) could resonate the demands of State governments as long as the Planning Commission is kept subservient to it? Critically examine. (2014) (20M)

After the first Five Year Plan, the Government had opted for a change in the strategy with industrial sector being given more prominence than Agriculture. It was based on the assumption that the second sector would produce enough surpluses to offset any shortfall in agricultural production. But it failed due to

long gestation periods of Public Sector Enterprises (PSE). By early 1960s, the country witnessed severe food crises due to failure of planning. India had to import food grains from USA under PL 480 agreement.

3rd Five Year Plan gave equal importance to both agriculture and industry but again this plan also ended up as a failure due to India war with China and Pakistan. Till the end of 3rd Five Year Plan, Planning Commission enjoyed credibility among state government it was believed that Planning Commission consisting of experts from different fields to formulate Five Year Plan that would ensure rapid economic growth and development but none of the objectives were realized. State governments started questioning the credibility of Planning Commission. Opposition ruled states also questioned the impartial functioning of Planning Commission.

During the period of confrontational federalism, the Planning Commission had become a major source of confrontation between the union and state governments. The Planning Commission had extraordinary powers in deciding allocation of financial resources to the state government. The Planning Commission was an extra constitutional body. Its members were appointed only by the union government. Powers to decide financial allocation to the state government went against the spirit of cooperative federalism.

4th Five Year Plan focused on redistribution of wealth.

By the end of the 7th Five Year Plan, it was realised that the plan process has failed to realise the objectives. Indian economy had collapsed by 1991 due to centralised planning process and closed economic system. Expansionary fiscal and monetary policies also contributed to the downfall. Iraq occupied Kuwait in 1990 and the US announced war on Iraq and this turmoil affected India's oil imports. It led to serious BoP crisis with just 3 weeks of Foreign Exchange left in the coffers. Left with no other option than radical change, it opted for Liberalisation, Privatisation and Globalisation. It forced a radical change in the planning process from imperative planning to 'indicative planning'..

From 8th Five Year Plan onwards, the country had opted for indicative planning, a feature of capitalist economies. The role of government is restricted to act as a facilitator to the process of development. Private sector would be given complete freedom in terms of allocation of resources, production of goods and services, distribution of output and determination of prices.

Role of the Planning Commission would be restricted to indicating the financial always to be spent by the private sector. Public Sector Enterprises would no

longer enjoy monopoly and had to compete with private sector on a level playing field as part of globalization foreign MNCs were also allowed to invest in the domestic markets by removing controls over trade and investments. The Planning Commission role was different in terms of acting as a think tank, as a staff organization whose primary function is to provide suggestions to the government in policy matters.

By the end of 11th Five Year Plan [2007-12], the country faced severe economic uncertainty due to the global recession of 2008. It was realized that medium term plans like Five Year Plans had become redundant in the age of globalization due to very high levels of economic uncertainties. The 12th Five Year Plan did not take off at all.

In 2014, the NDA government took the decision to abolish the Planning Commission and replace it with a new staff organization known as NITI Aayog.

Que. "Planning in India has failed to meet the challenges of economic development and social change." Discuss the statement in the context of the emergence of NITI Aayog. (2016) (10M)

NITI Aayog

The Planning Commission was headed by the Prime Minister with members appointed by the Central Government, consisting of experts from different fields. NITI Aayog is also headed by the Prime Minister and members are all Chief Ministers of state along with the union cabinet.

Plans formulated by Planning Commission rectified by NDC [National development Council] consisting of Prime Minister and all Chief Ministers of state, Governor of UTs along with Cabinet Ministers. NITI Aayog can be described as a combination of Planning Commission & NDC. The Planning Commission was responsible for formulating the Five Year Plan. NITI Aayog did not perform this function since the government decided to discontinue the Five Year Plans.

The Planning Commission had the power to determine the financial resources of the state government as part of the Five Year Plan. NITI Aayog has no financial powers. It cannot determine allocation of funds to State Governments. This function is performed by respective union ministries and departments. The Planning Commission also had the powers to allocate funds to union ministers and departments. NITI Aayog does not have these powers.

Annual financial statements (budgets) are nothing but Five Year Plans divided into 5 annual plans. The Planning Commission had a major role in formulation

of union budgets also. NITI Aayog at present cannot look into budgets allocations. It is under the domain of the ministry of finance.

All state budgets must be ratified by the Planning Commission before they are implemented. State Governments need not take permission of NITI Aayog while formulating & implementing budgets.

As part of a centralized top down approach to development, the Planning Commission also had power to oversee implementation of development and welfare schemes. NITI Aayog has no such power.

Functions to be performed by NITI Aayog:

It is said that NITI Aayog is an example of cooperative federalism. NITI Aayog has members not only from experts from different fields but also academicians from India and all over. They conduct extensive research on policy matters and provide invaluable suggestions to the government regarding public policy.

- NITI Aayog will act as a think tank for the government in the age of globalization wherein administration has become highly technical and specified. The experts in NITI Aayog come from different fields, and would help the government in coming up with pragmatic policies based on ground level realities.
- NITI Aayog would also collect, store, update information on real time basis using MIS (Management Information System). This information pertains to implementation of development and welfare schemes. It helps the government to modify policies according to their outcomes.
- NITI Aayog will also help the State Governments in conducting research at the ground level regarding effectiveness of their development and welfare schemes. It provides suggestions to State Governments, to improve their welfare administration.
- Also, it would come out with a long term development agenda for the country with the objective of ensuring sustainable development. It would link hence long term policy objectives with short term goals of the government to ensure continuity to the development process.
- In the age of globalization and liberalization, governance means regulation. NITI Aayog from time to time provides critical inputs to the government regarding improving functioning of regulatory authorities.
- Governments can succeed only when there is close coordination between union and state government, in terms of their economic policies. For example, FDI proposals are cleared at the central level but their implementation will take place at state and local levels only. State Governments are responsible for providing the necessary land, ensuring

skilled labor and removing red tapism. NITI Aayog provides suggestions to State Governments in this regard.

- NITI Aayog also provides a platform for the state CMs to meet regularly along with union ministers to discuss debate and decide major policy issues. State Governments mostly indulge in competitive federalism to attract investment. NITI Aayog helps State Governments to come up with a uniform policy to overcome this problem.
- NITI Aayog also provides research support to union ministers and departments to come out with better policies. After all, it's a Staff organization, hence got to provide academic and policy assistance.
- NITI Aayog, a research organization giving expert opinions.
 - Traced all the benefits reaching the last person of the lowest level, as deposited to the account's unifications via various e-governance and digital schemes.
 - NITI Aayog, through an extensive network, traced and helped plug leakage use of supercomputers and MIS.
 - State Governments too have approached NITI Aayog to conduct research in their states to know the ground realities.
 - Releases various reports like ease of doing business improves competitive federation.

Objectives of NITI Ayog

- To evolve a shared vision of national development priorities, sectors and strategies with the active involvement of States.
- To foster cooperative federalism through structured support initiatives and mechanisms with the States on a continuous basis, recognizing that strong States make a strong nation.
- To develop mechanisms to formulate credible plans at the village level and aggregate these progressively at higher levels of government.
- To ensure, on areas that are specifically referred to it, that the interests of national security are incorporated in economic strategy and policy.
- To pay special attention to the sections of our society that may be at risk of not benefiting adequately from economic progress.
- To design strategic and long-term policy and programme frameworks and initiatives, and monitor their progress and their efficacy. The lessons learnt through monitoring and feedback will be used for making innovative improvements, including necessary mid-course corrections.
- To provide advice and encourage partnerships between key stakeholders and national and international like-minded think tanks, as well as educational and policy research institutions.
- To create a knowledge, innovation and entrepreneurial support system through a collaborative community of national and international experts, practitioners and other partners.

- To offer a platform for the resolution of inter-sectoral and inter departmental issues in order to accelerate the implementation of the development agenda.
- To maintain a state-of-the-art resource centre, be a repository of research on good governance and best practices in sustainable and equitable development as well as help their dissemination to stake-holders.
- To actively monitor and evaluate the implementation of programmes and initiatives, including the identification of the needed resources so as to strengthen the probability of success and scope of delivery.
- To focus on technology upgradation and capacity building for implementation of programmes and initiatives.
- To undertake other activities as may be necessary in order to further the execution of the national development agenda, and the objectives mentioned above.

Features

NITI Aayog is developing itself as a state-of-the-art resource centre with the necessary knowledge and skills that will enable it to act with speed, promote research and innovation, provide strategic policy vision for the government, and deal with contingent issues. It is supported by two attached offices—Atal Innovation Mission (AIM) and Development Monitoring and Evaluation Organisation (DMEO)—and an autonomous body, National Institute of Labour Economics Research and Development (NILERD).

NITI Aayog's entire gamut of activities can be divided into four main heads:

1. Policy and Programme Framework
2. Cooperative Federalism
3. Monitoring and Evaluation
4. Think Tank, and Knowledge and Innovation Hub

The key differences between NITI Aayog and Planning Commission:

NITI Aayog	Planning Commission
NITI Aayog is a think-tank or an advisory body. It has not been given the mandate or powers to impose policies on States.	The Planning Commission had the authority to impose policies on states as well as to approve projects.
NITI Aayog has not given the powers related to the allocation of funds. The Finance Ministry is responsible.	The Planning Commission had the authority to allocate funds to state governments and various central government ministries for various National and State-level programmes and projects.
The State Governments have to play	Apart from participating in the

a more proactive role in NITI Aayog.	meetings of the NDC, the state governments had little to do.
In NITI Aayog, part-time members are nominated according to the requirements.	There were no provisions for the appointment of part-time members in the Planning Commission.
The Governing Council of NITI Aayog has Lieutenant Governors of Union Territories and State Chief Ministers.	Lieutenant Governors and State Chief Ministers were in the National Development Council. It was the Planning Commission which had to report to the NDC.
The Prime Minister shall appoint the CEO of NITI Aayog. The CEO is known as Secretaries.	Planning Commission secretaries were appointed through the usual process.
NITI Aayog could have a number of full-time members lower than the numbers the planning commission had.	The last Planning Commission had eight full-time members.
New positions – CEO, Vice-President – were created under the NITI Aayog organisation structure. CEO's a Secretary's rank. As ex-official members, four cabinet members would serve. NITI Aayog has two-part time and a full-time membership of five.	There were full-time members, a Member Secretary and a Vice-President of the Planning Committee.
The final policy would bear fruit in NITI Aayog after properly discussing policy formulation with state governments.	First policies were drafted by the Planning Commission and then State governments consulted on how the funds for programmes or projects were allocated.
Because it is not mentioned in the Indian Constitution and was not established by an Act of Parliament, NITI Aayog is also an Executive Body. However, if necessary, it can be converted into a Statutory Body by enacting legislation in Parliament, as UIDAI has done.	The now-defunct Planning Commission was an Executive Body.

Que. ‘NITI Aayog’ has changed the way India strategized for economic

development, but its effectiveness is yet to be seen, especially when its financial powers are far less than its predecessor. Analyze. (2019) (20M)

Que. It is argued that the NITI Aayog has broken the edifice of planning into fragments. Comment. (2018) (20M)

Que. The objectives, approaches and organizational arrangements for decision making of the NITI Aayog aim at restoring the federal character of the Indian polity. Explain. (2015) (20M)

Indicative planning

Indicative planning is a type of central economic planning used by governments to address the problem of imperfect information in economies and thus improve economic performance. The state uses "influence, subsidies, grants, and taxes [to affect the economy] but does not compel" when using indicative planning. This method of planning originated in France after the Second World War and was carried out by the Commission General du Plan.

Following the example of the Soviet Union, several developing countries prepared multi-annual plans in the early post-war period. These plans were comprehensive. Their failure brought about changes in the planning process towards an approach that has been christened indicative planning.

Under indicative planning, sectoral targets are established but these are not compulsory for the private sector. In a subsequent stage, these targets have also been abandoned and emphasis has been given to prices and markets.

Que. Considering India's diversity, the planning pattern of 'one-size-fits-all' was discarded in favour of indicative planning. To what extent has it been useful to India? (2020) (10M)

Que. "In the transition from the State-led economy to the market economy, India should rely more on 'indicative planning'." Do you agree? Explain your position. (2018) (10M)

State level planning

Close coordination between the central and state governments in the areas of development policy and administration is critical in a federation for balanced and rapid socioeconomic development. Unlike the centre, states have Planning Department, and not Planning Commission as Centre.

Each state has a State Development Committee composed of the Chief Minister and Ministers in charge of departments concerned, as deemed necessary by the Chief Minister. The Committee is in charge of planning, supervising, and coordinating. In addition, each state has a Development Commissioner who is in charge of directing Development Projects in the state and serves as Secretary to the Committee. He is also in charge of coordinating the work of all rural development projects. In the States, he is usually the Chief Secretary or the Additional Chief Secretary. He is not the head of an independent Development ensuring coordination, as the Head of a team consisting of Heads of all the Development Departments.

State Planning Board

The ARC recommended the formation of State Planning Boards to oversee the development and ongoing evaluation of five-year plans. These planning boards should have their own secretariat to assist them in carrying out these functions effectively.

Planning Process at the State Level

- States initiate advance action on plan formulation even before the guidelines of the Planning Commission on the preparation of five-year plans are received. Different departments of the state governments are involved in formulating broad parameters of the state plans.
- The States, in response to calls from the Planning Commission, send their suggestions, which form the base of the approach paper for the national plan.
- Once the planning commission's approach paper is approved by the NDC, it serves as the foundation for states to develop their draught five-year plans in accordance with the objectives and strategies outlined in it.
- During this stage, a state planning board holds continuous discussions with other state departments and district and regional planning agencies on the one hand and with the central working groups, the Planning Commission and the central ministries on the other hand.
- The state development plan is then debated at the central working groups and the Planning Commission levels. The Planning Commission approves/modifies the proposals in light of national and state priorities and resources.
- The draft national plan is prepared by the Planning Commission and discussed in the NDC.
- With the NDC's approval, the plan is ready for approval by the Union Cabinet and the Parliament.

The whole process of the formulation of a five-year plan takes about two years.

Distributive Justice: Problems of Inequality and Poverty

India's development experience points to certain weaknesses in the sphere of correcting skewed income distribution despite targeted poverty alleviation schemes and measures. The richest 30 percent of the population accounts for 52 percent of the private consumption expenditure in rural areas and 54 per cent in urban areas. The poorest 30 per cent have had a disproportionately low share of 15 per cent in total consumption in the rural areas and 14 per cent in urban areas.

Leakages

A large number of studies have indicated that the programmes of poverty alleviation, irrespective of whether they focused on employment generation or asset creation or asset maintenance, suffered from implementation and a host of other problems which defeated the very purpose of these programmes. In a large number of cases, the beneficiaries were wrongly identified, the schemes were too rigid to adapt to the local skills and resources and suffered from bureaucratic approaches. Those managing the delivery systems lacked the basic commitment towards the potential beneficiaries. Outcome of all these was leakages and less than optimal results.

Not only in the context of poverty alleviation programmes, but also other schemes as well, there is a widespread feeling that the benefits intended to be delivered to the people through development programmes in various social sectors have not fully reached the beneficiaries because of the weaknesses in administrative planning and the delivery mechanism. However, the government did respond to this scenario and brought basic changes, which were required to improve the overall effectiveness of such programmes and make planning more relevant to the needs of the toiling masses.

Government has taken various measures to control the situation. They are:

1. Strengthening the Panchayati Raj Institutions (PRIs) so that power is devolved to the lower tiers of the government;
2. Move towards transferring a large number of Centrally-sponsored schemes to the respective State Governments along with funds;
3. Special measures related to empowerment of women;
4. Special Package for the girl child;
5. Making primary education a fundamental right; and
6. Emphasis on the basic minimum services so that an integrated approach can be followed in pursuing the basic minimum requirements of the people residing in the rural areas.

The process of decentralisation and grant of autonomy does not stop at the State level but has to be carried forward by State Governments to the regional and sub-regional levels.

A candid review of the planning experience of four and a half decades reveals the broad limitations of the ‘top down’ or ‘trickle down’ approaches to development. To improve the effectiveness of the various programmes, which help the poorest of the poor, the institution of plan administration must be reoriented to capture and internalise the aspirations of the common man and suitably modify them keeping in view the resources availability and the state of technology. The 73rd and 74th Constitutional Amendments will pave the way for the flourishing of the PRIs and the Ninth Plan must hasten the process of giving ‘power to the people’.

Model Answers

Que 1. “Planning enables comprehensive and scientific understanding of problems.” Examine the statements in the context of planning methodology. (2013) (12M)

- “Planning”, according to Henri Fayol, is one of the most important functions in managing any organization. It refers to the activities relating to outlining goals, targets and strategies to be used to reach them.
- In India, Planning was adopted as a means to rapid socio-economic transformation following independence, with the creation of the Planning Commission in 1950 and adoption of 5 year plans (modelled on Soviet planning).
- As Amartya Sen has remarked, planning allowed India to achieve in 50 years. that which the USA took 200 years to achieve.

Additional Information

Types of planning

Based on nature of economy –

- Imperative planning: state acts as producer, actor and doer. Centralized planning mostly followed in countries where market economy is not established firmly.
- Indicative Planning: State acts as regulator and facilitator. Used in market economies.

Based on nature –

- Top-down
- Bottom-up

- Perspective Planning
- Scenario Planning

History of planning in India

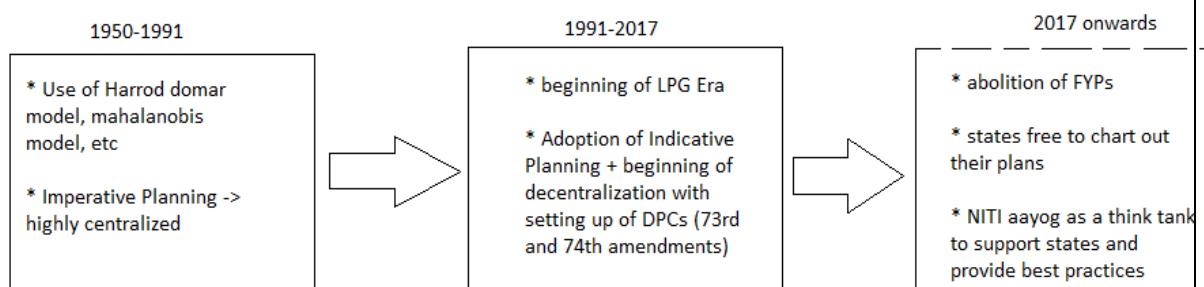
Pre independence

- Dadabhai Naoroji in 1876 talked about the need for planning in India.
- M Visvesvaraya's book "Planned economy in India" is published in 1931
- National Planning Committee is established under the Congress in 1938
- 1944 v- Bombay Plan is published

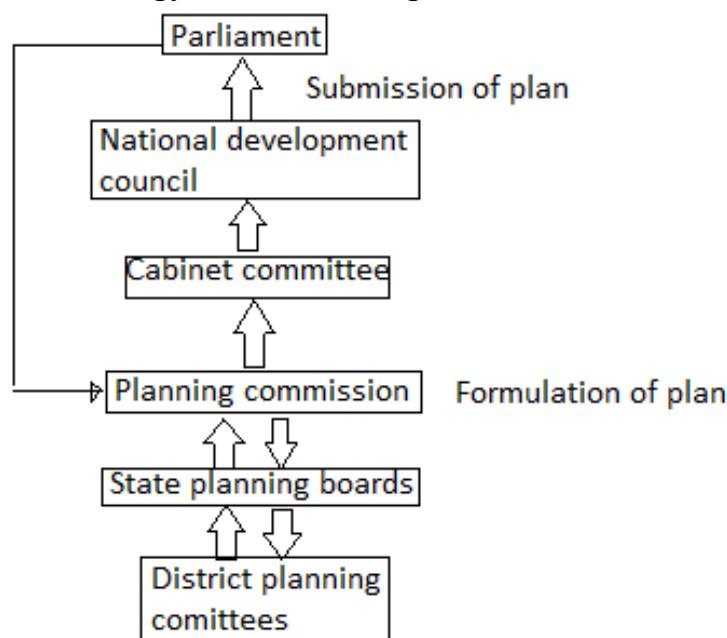
Post independence

- Plan Period (1951-2017): 12 five year plans were done.
- 2015- Planning Commission is Dismantled and NITI Aayog is setup. End of FYPs. Start of National Development agenda with 3 year action plan, 7 year perspective and 15 year development agenda.

Methodology of Planning



Methodology under Planning commission:



Planning allows comprehensive understanding of problems:

- The planning process involves extensive consultation with various stakeholders and comprehensive survey of concerned sectors. Thus, a comprehensive view of the ground situation can be gleaned. For example, the planning commission involved the State Planning Boards as well as district planning committees
- Formulation of plans is preceded by consultation with sectoral experts (For example, expert members in NITI Aayog or Planning commission) which allows for a detailed identification of issues.
- Strategic Planning and Scenario planning follow systems approach and contingent approach to anticipate all possible risks and upcoming challenges.
- Planning involves assessment of available resources- financial, technological, etc and understanding the competing uses for allocation of resources.
- Setting goals and strategies allows for setting of Key Performance Indices for review, which can allow problems to be discovered systematically.
- Perspective planning allows for long term consideration of problems in a systematic manner.

However Planning is not a panacea to all problems

- Planning can lead to rigidity in implementation.
- It may create newer problems in a dynamic environment if contingencies are not taken into consideration.
- In absence of sufficient data/ evidence, not all problems can be anticipated and planning may fail.

Failing to plan is planning to fail. Planning allows policy makers to understand problems and chart the course to the future. While the era of the planning commission may be over, planning remains an integral part of national development for this reason.

Que 2. "In the transition from the State-led economy to the market economy, India should rely more on 'indicative planning'." Do you agree?

Explain your position. (2018) (10M)

- Indicative planning is a central economic planning method implemented by the State to tackle the problem and thus improve the economic performance of imperfect information in economies. When utilizing indicative planning, the state employs "influence, subsidies, grants, and taxes [to affect the economy], but does not compel."
- Indicative planning should be distinguished from so-called "indirect planning," which was embodied in Hungary's New Economic Mechanism

in 1968 and was considered by Soviet reformers in the late 1980s. Rather than establishing a mixed or regulated market economy, as in Western Europe, Communist authorities continued to dominate the economy through investment, supply planning, and subsidies. In both Hungary and Gorbachev's Russia, a lack of fiscal restraint on wages and other costs resulted in inflation, shortages, and rising external debts. These issues aided in the demise of indirect planning.

- Following the example of the Soviet Union, several developing countries prepared multi-annual plans in the early post-war period. These plans were comprehensive and dirigiste. Their failure brought about changes in the planning process towards an approach that has been christened indicative planning.
- Under indicative planning, sectoral targets are established but these are not compulsory for the private sector. In a subsequent stage, these targets have also been abandoned and emphasis has been given to prices and markets.
- Being a developing country, India needs to increase employment and incomes; revive investments and growth; untangle the financial sector; navigate muddied-up international trade; solve the perennial problems of poor education and health, and the growing problems of environmental pollution and water scarcity.
- In the creation and spread of such technologies Indian research institutions and our PSUs should be engaged. The industrial policies of the country should be able to encourage young and trained rural entrepreneurs to use these technologies to create new jobs. And for all these plans, the centre of our economic discussions should be brought back to the fore.

Chapter 6 - State Government and Administration

Syllabus: Union-State administrative, legislative and financial relations; Role of the Finance Commission; Governor; Chief Minister; Council of Ministers; Chief Secretary; State Secretariat; Directorates.

Union-state relations

During colonial times, states were created only for administrative purposes. They were not created on the basis of identity, or for decentralization of Power.

- At the time of independence, it was decided by our constitutional forefathers that India will have a federal form of government but it will not be a classical federation like the USA.
- In the USA, all federal units have come together and merged themselves with the central government in a voluntary manner but at the same time they maintained their district identity also.
- Every state can have a separate citizenship. Every state can have its own Supreme Court, which is independent and the residual powers, those not mentioned in the constitution, were given to the states. In India, states were

forced to come together; there was no choice for them to secede from federation.

If we analyse conditions prevailing in India at the time of independence, it would have become almost impossible for India to have a classical federation like the USA. Government of India Act 1935 proposed a loose federation with provinces having more freedom and powers. The rule of the central government was to be restricted to external affairs, defence, communication, etc. Even this arrangement was not accepted by provinces.

The country faced severe problems at the time of independence in the form of politicization on communal lines. The questions of integration of more than 550 princely states and secessionist movements, were going on in different parties of the country, was the major problem in front of our policy makers. The idea of India as a single nation had come into existence only during the freedom movement. Even though Mughals have ensured political integration of the country, emotional connects between people was absent. It was rightly decided by our constitutional forefathers that India would be a strong unitary state. Article 1 of Constitution has stated that India would be a union of States and not a federation of states. States had no independent political existence. They are created with the sole purpose of ensuring better governance. India had opted for federal form of government only for administrative convenience. Being such a diverse and large country, it was not possible to rule the entire country from one place. States have been given powers to ensure better governance at the local level. Indian constitution can be defined as federal in form but unitary in spirit.

Que. “There is a tendency of centralism in Indian federalism, but it is not because of its institutional framework but because of its socialistic goals and centrally devised plan development.” Explain the statement in the context of the Union-State relationship. (2013) (20M)

Unitary features of our constitution include:

- Article 3 & 4: Wherein, the union government has absolute powers to create, destroy, rename and to change boundaries of state government. States are only administrative entities without any political identity.
- Emergency provisions: Article 352, 356 and 360 gives powers to the union government to suspend state assemblies; take actions in favour of the central government under emergency situations.
- Integrated judiciary: Orders of the Supreme Court are binding on all High Court and other courts in the country.

- All India services: Appointment is done by central government; service conditions are decided by central government but they work in states.
- Finance commission: Members are appointed by Union Government but they are responsible for giving recommendations regarding devolution of revenue between centre & state.
- Governors & their discretionary power: Appointed by the central government but has more discretionary powers to control functioning of states.
- Institutions like CAG, EC: Members appointed by the President but have jurisdiction over the entire country.
- Union government: Also have powers to make laws under state list in exceptional circumstances.

Federal features:

- Written constitution: This clearly divides the powers between union and state government.
- Independent judiciary: Whose original jurisdiction includes settling the dispute between the union and state governments.
- RAJYA SABHA: Which is a council of states and whose primary objective is to protect the interests of the states.
- Interstate council: NITI Aayog, National Integration Council and some other institutes whose job is to ensure better coordination between union & states.

Constitutional provisions related to union-state relations are part of the 7th schedule of the constitution. They are broadly divided into legislative, administrative and financial relations.

This division of powers is based on the concept of Subsidiarity. Those functions which can be performed best at state level are part of the state list, whereas those functions which can be effectively performed by the Centre are part of the union list whereas those functions which can be performed by both Centre and state are in concurrent list.

Parliament can enact laws for the entire country or any part of the territory of India. Similarly, state government can enact laws for the entire state or any part of the state.

- Article 254, is invoked in case of a conflict between union law and state law. Union law shall prevail over the state law, irrespective of whether Union Law is enacted earlier or later.
- Article 248, says that residuary powers are with only the union government.
- Article 249, under this, parliament has power to legislate on items in the State List under resolution of Rajya Sabha.
- Under Article 250, during emergency parliament has power to legislate over state list.
- Under Article 252, parliament can legislate with the consent of the two or more States.
- Article 253 is invoked to give effect to international territories and agreements.
- Under Article 356, parliament has power to legislate on items in the state list during President's rule.
- Under Article 201, Bill reserved for consideration of the President. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom: Provided that, where the Bill is not a Money Bill,

In case of administrative relations:

- Under Article 73 & 62, both the union and state government have the executive power to implement laws made by legislature.
- Under Article 257(1), the executive power of the state shall be exercised in such a manner that it will not impede the executive power of the Union Government. The Union Government has the power to give direction to State Governments in this regard if the state government fails to follow the orders of the Union Government. The Union Government can take action against State Governments under Article 356.
- Article 263, provides for an interstate council, whose basic objective is to ensure coordination between union and states.
- Under Article 262, the Union Government can set up an interstate river water tribunal to resolve disputes between State Governments regarding sharing of river waters.

Challenges to Centre-state relations (brief):

- Role of governor and discretionary powers of the governor (Article 356 and Article 352).

- Absolute veto power of President.
- All India services.
- Tendency of Union Government to transfer subjects from state list to union and concurrent list.
- Tendency of Union Government to make legislations on subjects in state list.

Challenges to centre-state financial relations (pointers for exam):

- Devolution of tax revenues between union and states and between state governments.
- Grants in Aid given to the State Governments.
- Finance commission, its composition and Term-of-Reference and recommendation.
- Role of NITI Aayog
- Surcharge and cess imposed by Central Government.
- Implementation of GST.
- Loan raising capacities of union and state government (Article 292 &293).
- Sharing of profits from central PSU's located in states.
- Sharing of disinvestment proceeds.
- Royalty paid by the Central Government for the use of mineral resources of the state.
- Sharing of revenues from auctioning of natural resources like spectrum coal and others.
- FRBM legislation.
- Allocation of revenues to local self-government.
- Disaster relief.
- Special category status demanded by the some states.
- Writing off loans of State Governments by Centre.
- Centrally Sponsored Schemes is also a major contention between Centre and states.

Dynamics of Centre-State Relations:

Phase I: From 1947 to 1967, Unitary Form of Government:

For all practical purposes, India had a unitary form of government during this period. Both the Centre and the states were ruled by a single political party. Chief Ministers and Governors were appointed by Nehru, who was the most powerful leader in the country.

Members of the Planning Commission were appointed by the Central Government, headed by PM. It had the power to formulate plans for the entire

country. State Governments in general have accepted the superiority of the Planning Commission. It also enjoyed a huge amount of credibility among state governments.

Article 356 was never misused as Centre and states were ruled by the same political party except in 1959 when communist government in Kerala was dismissed using Article 356 for its failure to maintain Law & Order.

Phase II: From 1967 to 1990, confrontational federalism

During this phase, there was continuous confrontation between the central and state governments regarding their respective domains and rights. This period witnessed a strong Centre continuously rejecting the demands of States for more power and participation in governance.

Governor:

The Constitutional assembly discussed the position of Governor in a Federal form of government. During the British times, the governor was the real executive enjoying absolute powers even though the provincial governments had come to power.

With the country opting for a federal arrangement, the Council of Ministers headed by Chief Ministers at the state level was recognized as the real executive of the state. The question is whether we should continue with the office of governor or not. Ultimately it was decided to continue with the office for securing unity and integrity of the nation. Governor is expected to act as the representative of the Union Government at State Governments level, whose primary objective is to ensure constitutional governance at the state level.

As far as the election of governor is concerned, it was decided that the governor would be nominated by the Central Government to avoid conflict between the two constitutional heads, Governor and Chief Minister.

As far as the term of governor is concerned, it was decided that he would continue in office for the period for 5 years or during the pleasure of the President. He can be removed at any point of time before expiry of his term.

Que. “The gubernatorial position of the Governor is comfortably placed in the fuzzy area between ‘Withdrawal of pleasure of the President’ and ‘Compelling reasons for removal’. “Discuss with some recent examples. (2014) (20M)

Powers of Governor:

It is said that the governor of a state enjoys more powers than the President of India. Article 163(2) gives wide discretionary powers to the governor of the state in terms of acting against the Council of Minister's advice.

Other discretionary powers of governor include:

- Power to appointment Chief Ministers & Council of Ministers, and power to remove them.
- Under Article 356, he can recommend to the President for imposition of President's rule in the state, if the constitutional machinery fails in the state.
- Governor also has to send regular reports to the Central Government regarding the situation prevailing in the state. He need not consult the State Governments while sending these reports.
- If a bill passed by the state assembly, Governor has the power to reject it if it is not a money bill, it can be returned by governor for reconsideration and the assembly passes the same bill with or without modifications the governor shall give his approval. The governor can also use pocket veto, and can keep the bill with himself for any length of time. Governor can also reserve the bill for Presidential assent under Articles 200 and 201.
- Governors also have power to appoint chancellors to state universities.
- They also have power to appoint members to Lokayukta, state information Commission, and other statutory bodies.

Que. "In very recent times, the role of the State Governor is found to be more of diplomatic than administrative nature." Comment on the statement with suitable examples. (2015) (20M)

Centre and State Confrontations:

Late 1960's and early 1970's witnessed drastic misuse of Article 356 by the central government for politically partisan purposes. In Rajasthan, the Governor did not invite the opposition parties to form the government even though they had majority on the floor of the House.

IN 1971, elections to West Bengal state assembly CPM emerged as the single largest party and with the support of other left parties, it got majority in the Assembly. Instead of inviting CPM to form the government, the Governor invited a political party with less than 10% of seats in Assembly to form the Government. It was given one month time to prove majority on the floor of the House. After it failed to prove majority, the Governor recommended for imposition of Article 356 and dissolution of State assembly. In 1977, Janata party recommended removal of 9 state governments ruled by Congress party using article 356. In 1980, Congress party removed the same 9 state governments ruled by Janata party using Article 356. In 1984, in Andhra

Pradesh the Governor removed N T Rama Rao as chief minister and sworn in N Bhaskar Rao as CM even though he did not enjoy majority on the floor of the House. Finally, the President had to intervene and remove the Governor and restore the Government of N T Rama Rao.

KARNATAKA:

S R Bommai was Chief Minister of Karnataka. The State Governor dismissed him using Article 356. Janata party approached the Supreme Court demanding Justice.

Sarkaria commission report:

Article 356 has been misused, for political purposes. In 1983 the union government appointed Justice Sarkaria as head of a commission to give recommendations regarding union state relations popularly known as Sarkaria Commission. In 1988, Sarkaria Commission on Centre State Relations came out with seven reports to improve union state relations.

By the end of the 3rd Five Year Plan, Planning Commission's failure was evident and whenever oppositions came to power in the other states, it was found that congress ruled states were given more allocations than other party ruled states.

Que. "In the coalition era with an elusive majority of a single party in the State Legislature, the role of the Governor becomes even more challenging." Discuss. (2018) (20M)

Que. Is there a need to dispense with the office of the Governor? Examine the context of coalition governments. (2013)(10M)

Phase III: From 1990 till now, co-operative federalism:

Emergence of coalition government at the central level:

Union-State relations have changed drastically since 1990's with the coming up of coalition governments at the central level. These coalition governments were formed on the basis of crucial support provided by regional political parties. The balance of power had shifted in favour of the State Governments. No longer can the Central Government use Article 356 in an indiscriminate manner. Regional political parties' were part of the coalition.

Regional Political Parties had for the first time become part of government at central level. Until then, their perspective was restricted to problems faced by the state. Only when they tasted power at the central level for the first time, did

they realize the importance of the office of governor and Article 356. They stopped making these unreasonable demands.

In 1991, the country had opted for LPG to overcome the financial crisis. Good Governance demanded uniform policies between all federal units. The country can attract foreign investment only when the union and state government follow similar economic policy. It had forced them to come together resulting in collaborative federalism. This period also witnessed judicial activism as the Supreme Court through successive judgements prevented misuse of Article 356. Presidential activism was on the rise as successive Presidents from Venkata Raman, have used their discretionary powers in a proactive manner to prevent misuses of Article 356.

Que. Article 356 acts, “very much like the proverbial bolt from the blue.... Without giving an opportunity or notices to the State Government to correct its alleged shortcoming”. This phenomenon not only undermines the autonomy of the State Government, but also demeans the statue of the President of India. Critically analyze. (2019) (20M)

Implementation of the 73rd Constitutional Amendment Act created a third tier in our federalism. Till then, it was only about union state relations from then onwards it was expanded to include Local Governments. State Governments were only demanding more powers from the centre. Now they also had the additional responsibility of transferring powers to Local Self Governments.

Media and civil society activism- with the spread of electronic media and social media along with NGOs it had become difficult for the Union Government to misuse emergency provisions. They were forced to proceed in a more democratic manner.

Supreme Court Judgement on Centre-State Relations:

S R BOMMAI CASE(1994)

The Supreme Court ruled that imposition of Article 356 can be reviewed by the judiciary for its constitutional validity. The Supreme Court believes that Article 356 has been misused for political purposes. It has the power to revoke imposition of Article 356 and restore the State Legislative Assembly.

As part of due process of law, the Supreme Court can look into intentions behind imposition of Article 356. The Governor must explore all opportunities to form government within the existing State Legislative Assembly, and dissolution of assembly should be only as a last resort. Once Article 356 is

imposed, the assembly must be kept in suspended animation to give political parties time to form a new government in the existing assembly.

The Governor must ask Chief Ministers to prove majority on the Floor of House. Raj bhavan (governor residence) should not be the place to decide the majority of the government.

The SC laid down certain guidelines so as to prevent the misuse of Article 356 of the constitution.

1. The majority enjoyed by the Council of Ministers shall be tested on the floor of the House.
2. Centre should give a warning to the state and a time period of one week to reply.
3. The court cannot question the advice tendered by the CoMs to the President but it can question the material behind the satisfaction of the President. Hence, Judicial Review will involve three questions only:
 - a. Is there any material behind the proclamation
 - b. Is the material relevant.
4. Was there any malafide use of power.
5. If there is improper use of Article 356 then the court will provide remedy.
6. Under Article 356(3) it is the limitation on the powers of the President. Hence, the president shall not take any irreversible action until the proclamation is approved by the Parliament i.e. he shall not dissolve the assembly.
7. Article 356 is justified only when there is a breakdown of constitutional machinery and not administrative machinery

Article 356 shall be used sparingly by the center, otherwise it is likely to destroy the constitutional structure between the center and the states. Even Bhimrao Ambedkar envisaged it to remain a 'dead letter' in the constitution.

Based on the report of the Sarkaria Commission on Centre-state Relations(1988), the Supreme Court in Bommai case (1994) enlisted the situations where the exercise of power under Article 356 could be proper or improper.

Imposition of President's Rule in a state would be proper in the following situations:

- Where after general elections to the assembly, no party secures a majority, that is, Hung Assembly.
- Where the party having a majority in the assembly declines to form a ministry and the governor cannot find a coalition ministry commanding a majority in the assembly.
- Where a ministry resigns after its defeat in the assembly and no other party is willing or able to form a ministry commanding a majority in the assembly.

- Where a constitutional direction of the Central government is disregarded by the state government.
- Internal subversion where, for example, a government is deliberately acting against the Constitution and the law or is fomenting a violent revolt.
- Physical breakdown where the government willfully refuses to discharge its constitutional obligations endangering the security of the state.

The imposition of President's Rule in a state would be improper under the following situations:

- Where a ministry resigns or is dismissed on losing majority support in the assembly and the governor recommends imposition of President's Rule without probing the possibility of forming an alternative ministry.
- Where the governor makes his own assessment of the support of a ministry in the assembly and recommends imposition of President's Rule without allowing the ministry to prove its majority on the floor of the Assembly.
- Where the ruling party enjoying majority support in the assembly has suffered a massive defeat in the general elections to the Lok Sabha such as in 1977 and 1980.
- Internal disturbances not amounting to internal subversion or physical breakdown.
- Maladministration in the state or allegations of corruption against the ministry or stringent financial exigencies of the state.
- Where the state government is not given prior warning to rectify itself except in case of extreme urgency leading to disastrous consequences.
- Where the power is used to sort out intra-party problems of the ruling party, or for a purpose extraneous or irrelevant to the one for which it has been conferred by the Constitution.

Que. Various commissions have reiterated the crucial role of the Governor in Indian system of governance, but the successive governments have not heeded to make the Governor's office apolitical. Examine with examples. (2019) (10M)

Recommendations of Sarkaria Commission on appointment of Governor:

- A person from the same state must not be appointed as Governor of the state.
- Any person from an eminent walk of life should be appointed as governor.
- A political person should not be appointed as governor.
- Those who are appointed as governor should not have participated in politics in recent times.
- Once their term is over, they should not again become part of active politics.

- Assembly dissolution should take place only after both the houses of parliament give approval for imposition of Article 356.

Supreme Court judgement on appointment and removal of governor:

In 2004, UPA came to power. It had asked all governors appointed by the previous BJP government to resign. They were dismissed by the Central Government. They had approached the Supreme Court for their illegal removal from office, on which the Supreme Court came out with judgement in 2010 in B P Singhal Vs Union of India case..

- The Supreme Court had ruled that politicization of the office of Governor had taken place due to the method of appointment and removal of Governor. It repeated its judgment of SR Bommai case & Bihar assembly dissolution case, regarding appointment of governor.
- The Supreme Court felt that governors could not act independently, as they do not have any security of tenure. They stay in power till they enjoy the pleasure and confidence of the President. They must have security of tenure. They also do not have any post-retirement benefits.
- The Supreme Court ruled that governors are not representative of ruling political parties at center. They are custodians of the constitution. They cannot be removed in an arbitrary manner. The Central Government must submit a written report to the President explaining the reasons for removal of the governor. The President must satisfy himself with the content of the report before taking a decision, and the report need not be made public.
- The Supreme Court also suggested to the Central Government to provide post-retirement benefits to the governor in the form of pension. This was implemented by the Central Government.
- Punchhi Commission on Centre State Relations recommended that the Governor should be removed from the office same like a judge of the Supreme Court.

Recommendations of Sarkaria Commission and Punchhi Commission on Centre State Relations:

- If the situation of a hung assembly arises, the Governor must invite the single largest party to form the government. If no single party rejects, the Governor must invite a pre-poll alliance to form the government. In case of absence of pre-poll alliance, the Governor can invite a post-poll alliance which has majority on floor of the house to form the govt. If a post poll alliance also lacks majority, then the Governor should invite a coalition government with outside support to form a government.
- In case of withdrawal of support in a coalition, the Governor should ask the Chief Minister to prove the majority of government on the Floor of House. He should give reasonable time to Chief Ministers to prove their majority.

- Governors should recommend for dissolution of state assembly only when it's impossible to form a government within the existing assembly.

Que. Briefly discuss the main recommendations of the Punchhi Commission (2010) on Centre-State relations for transforming Indian Federal System (2015) (20M)

In case of passing of bills, Governor should follow the procedure mentioned below:

- If Chief Ministers have a majority on the Floor of House, the Governor should automatically give his approval for bills passed by the state assembly. He should not exercise any of the veto power under normal circumstances.
- If the Governor has any reservations regarding contents of the bill, he can send back the bill to the assembly for reconsideration explaining the reason. If assembly passes the same bill with or without modification, he shall give his approval.
- If the bill has any provision that conflicts union laws, the Governor can send the bill to the President for his approval. Once the President receives the bill, Punchhi Commission recommends that the President must give his opinion on the bill within two months. During this time the President can seek clarification from the state government.
- In the case of All India Services, both Sarkaria and Punchhi Commission on Centre State Relations have supported their constitution. Both Commissions on Centre State Relations praised the role played by AIS in ensuring unity and integrity of the nation. These services are indispensable. They rejected the demand for discontinuation of AIS; on the other hand they supported the expansion of more AIS in the form of All India Health Service, All India Education Service and All India Judicial Services.
- Regarding the questions related to transfer of subjects from State List to Union List & Concurrent List; both these Commissions have asked the union government to resist the temptation of transferring them.

Inter State river water disputes

In recent times, the country witnessed many conflict between the states regarding sharing of river waters. Regular conflicts are witnessed between Kanrataka and Tamil Nadu, Andhra Pradesh and Telangana, between Tamil Nadu and Kerala and between Maharashtra and other states.

Many solutions were offered to solve this problem. They include,

1. Interlinking of river waters. But it is highly unaffordable, at least 15 lakh crore would be required. Physical geography is highly diverse and it is almost impossible to link rivers from North with that of rivers in the south.

2. Among all BRICS countries, Indian farmers have the highest per capita water consumption.
3. There must be a radical shift in cropping patterns from food and commercial crops to dryland farming.
4. At present, MSP is mainly given only to rice and wheat, even though it is announced for 23 crops. The government must encourage farmers to shift to dryland farming by providing MSP to these crops.
5. Government must end all subsidies related to water and electricity. Government must tax water and electricity to reduce wastage of these precious resources.
6. All state governments should focus on not constructing multipurpose dams which can cause huge damage to ecological equilibrium. Instead, focus should be on constructing canals, small ponds which can link these dams to agricultural fields in villages. These canals, lakes and ponds can serve different purposes in case of excess rainfall water can be stored in them.
7. Government must encourage farmers to take up other professions rather than just depending on agriculture. Agro processing industries and other secondary sources of income must be encouraged in rural areas to reduce dependence of farmers on water.
8. Government must encourage water harvesting.
9. There should be a single river water tribunal for all rivers with a permanent secretariat.
10. Water should be shifted from State List to Concurrent List, depending on states acceptance to ensure better coordination.

Demand for smaller states

- Since independence, reorganization of states has taken place on linguistic basis. Andhra Pradesh was the 1st state to be created on the basis of language.
- In the 1950s, 1st state reorganization Commission on Centre State Relations recommended creation of new states based on language.
- Later in the 1960s, Punjab was divided into Punjab and Haryana.
- In 2000, the NDA government had taken the decision to divide Uttar Pradesh, Madhya Pradesh and Bihar and created Uttarakhand, Chhattisgarh and Jharkhand.
- In 2014, Andhra Pradesh was divided into Andhra Pradesh and Telangana.
- At present, there are demands for new states in Uttar Pradesh, Maharashtra, Bengal, Bihar, Tamil Nadu and Karnataka.
- It is believed that creation of new states would fulfill demands of people regarding self-governance.

Supporters of small state claim that it would facilities governance:

- America with 25 crore population has 50 states whereas India with 130 crore can at least have minimum 50 states.
- Small states also help in improving governance at local level.
- If demands for new states are not fulfilled, there is every possibility of regionalism, turning itself into a secessionist & terrorist movement like in North East & Jammu & Kashmir. On the other hand, if these demands are fulfilled, it can strengthen the unity and integrity of the nation.
- Some states like UP and MH have become so big that it is almost impossible to govern them taking into consideration geographical diversity and a very large population. Some of the concerns of these states are continuously neglected such as being very far from the State capital or absence of natural resources and also due to historical factors.

Those arguing against creation of small states

- A small state does not automatically mean better governance. The States of Jharkhand and Chhattisgarh have not shown much development even after almost 2 decades of creation.
- Creation of new states can result in more problems in interstate cooperation, and increase boundary disputes.
- Sharing of river waters, which is already a major problem, can get complicated further.
- sharing of finances is also a major handle in ensuring interstate coordination. Already many states are demanding special category status to overcome economic backwardness.
- Creation of new states does not automatically mean the end of regionalism. As long as backwardness is a major issue along with a sense of orientation, regionalism will always be a major problem.
- Law & Order can become a major issue with small states.
- Small state means more political instability. States like Uttarakhand, Jharkhand, Goa and other NE states have witnessed a lot of political instability. It has also resulted in massive political corruption.

Solution

- There is a strong case for dividing bigger states like UP & MH as they have become unmanageable.
- State reorganization should take place by taking into consideration geographical, political, economics, administrative and cultural factors.
- It has been proved that language cannot be a unity factor for people of a particular region. The experiment with linguistic reorganization of states has not been successful.

- Economic viability should be the most important criteria along with administration, for creating a new state.
- Creation of new states may be necessary but not sufficient to ensure overall development. What is needed is decentralization of power to the lowest level, effective implementation of 73rd and 74th Constitutional Amendment Act. Opportunities must be given to the people at the lowest level to participate in government and to develop themselves. It has been suggested that it can be created along with development councils for backward regions of a state.

With the rationalisation of the party system and some visible change in the attitudes and behaviour patterns of central and state functionaries, the framework of political power in India has now become more federalized than ever before. State governments now are more autonomous and less insecure from central intervention.

The planning process has also become less centralized both on account of political federalization and economic liberalization and the resultant deregulation of the private sector and also disinvestment in the public sector. However, monetary and fiscal processes still continue to be highly centralized. The State governments continue to be restive about Centre's fiscal dominance. It is in these areas that India could do with a greater openness to the forces of federalization and economic liberalization.

Financial relations:

Article 280, has provisions for the Finance Commission. It states that the Central Government must set up a Finance Commission after an interval of 5 years to decide devolution of revenues. Under Article 280, Finance Commission is expected to give recommendation to the government regarding:

- Vertical devolution of revenues between union & states.
- Horizontal devolution of revenues between the states.
- Grants aid to be given to the states.
- Any other matter referred to the Finance Commission by the President.

Finance Commission members are appointed by the Central Government in a unilateral manner, without consulting State Governments. It has been recommended that states should also be given opportunities to appoint members of the Finance Commission in the true spirit of co-operative federalization.

Que. “The Finance Commission in India performs the job of statics aggregation.” Comment (2013)(12M)

Devolution of tax revenues:

According to the constitution, State Governments are expected to perform around 70% of functions whereas they have only 30% of revenue allocated to them. On the other hand, Centre performs only 30% of functions but has 70% revenue. In order to revenue this a 14th Finance Commission recommended that 42% of overall tax revenues should be given to the states. It was more than 10% over the recommendations of 13th Finance Commission, and states are demanding that at least 50% of overall tax revenue be given.

Horizontal devolution:

Horizontal devolution of tax revenues between states is mostly decided based on and efficiency, performance of state government in terms of reducing poverty levels, improving tax revenues, reducing revenue deficits and so on. Equity in terms of backwardness, poverty, unemployment, population and so on is considered.

On the basis of equity, states like UP and Bihar have the maximum amount of revenue distributed to them overall. In Tax revenues performing states have complained that they have been penalized for their performance by successive Finance Commissions.

The 13th Finance Commission addressed the concerns of performing states by including efficiency as one of the criteria for devolution of tax revenue. 17.5% weightage to fiscal performance of a state but 14th Finance Commission removed this criteria and came out with new criteria for devolution of tax revenue.

- Population 1971(17.5%)-2001(10%)
- Area of the state.
- Forest cover-7.5%
- Income distance -50%

15th Finance Commission

Terms of Reference of 15th Finance Commission were unilaterally decided by the Central Government without state consultation.

The Finance Commission is a constitutional body formed by the President of India to give suggestions on centre-state financial relations. The 15th Finance Commission (Chair: Mr. N. K. Singh) was required to submit two reports. The first report, consisting of recommendations for the financial year 2020-21, was tabled in Parliament in February 2020. The final report with recommendations for the 2021-26 period was tabled in Parliament on February 1, 2021. Key recommendations in the report for 2021-26 include:

Share of states in central taxes

The share of states in the central taxes for the 2021-26 period is recommended to be 41%, same as that for 2020-21. This is less than the 42% share

recommended by the 14th Finance Commission for 2015-20 period. The adjustment of 1% is to provide for the newly formed union territories of Jammu and Kashmir, and Ladakh from the resources of the centre.

Criteria for devolution

Table 1 below shows the criteria used by the Commission to determine each state's share in central taxes, and the weight assigned to each criterion. The criteria for distribution of central taxes among states for 2021-26 period is same as that for 2020-21. However, the reference period for computing income distance and tax efforts are different (2015-18 for 2020-21 and 2016-19 for 2021-26), hence, the individual share of states may still change.

1 : Criteria for devolution

Criteria	14 th FC 2015- 20	15 th FC 2020- 21	15 th FC 2021- 26
Income Distance	50.0	45.0	45.0
Area	15.0	15.0	15.0
Population (1971)	17.5	-	-
Population (2011) [#]	10.0	15.0	15.0
Demographic Performance	-	12.5	12.5
Forest Cover	7.5	-	-
Forest and Ecology	-	10.0	10.0
Tax and fiscal efforts*	-	2.5	2.5

Total	100	100	100
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Note: #14th FC used the term “demographic change” which was defined as Population in 2011. *The report for 2020-21 used the term “tax effort”, the definition of the criterion is same.

Sources: Reports of the 14th and 15th Finance Commissions;

- **Income distance:** Income distance is the distance of a state’s income from the state with the highest income. Income of a state has been computed as average per capita GSDP during the three-year period between 2016-17 and 2018-19. A state with lower per capita income will have a higher share to maintain equity among states.
- **Demographic performance:** The Terms of Reference of the Commission required it to use the population data of 2011 while making recommendations. Accordingly, the Commission used 2011 population data for its recommendations. The demographic performance criterion has been used to reward efforts made by states in controlling their population. States with a lower fertility ratio will be scored higher on this criterion.
- **Forest and ecology:** This criterion has been arrived at by calculating the share of the dense forest of each state in the total dense forest of all the states.
- **Tax and fiscal efforts:** This criterion has been used to reward states with higher tax collection efficiency. It is measured as the ratio of the average per capita own tax revenue and the average per capita state GDP during the three years between 2016-17 and 2018-19.

Grants

Over the 2021-26 period, the following grants will be provided from the centre’s resources (see Table 3 and 4 in the annexure for more details):

- **Revenue deficit grants:** 17 states will receive grants worth Rs 2.9 lakh crore to eliminate revenue deficit.
- **Sector-specific grants:** Sector-specific grants of Rs 1.3 lakh crore will be given to states for eight sectors: (i) health, (ii) school education, (iii) higher education, (iv) implementation of agricultural reforms, (v) maintenance of PMGSY roads, (vi) judiciary, (vii) statistics, and (viii) aspirational districts and blocks. A portion of these grants will be performance-linked.
- **State-specific grants:** The Commission recommended state-specific grants of Rs 49,599 crore. These will be given in the areas of: (i) social needs, (ii) administrative governance and infrastructure, (iii) water and sanitation, (iv) preservation of culture and historical monuments, (v) high-cost physical infrastructure, and (vi) tourism. The Commission

recommended a high-level committee at state-level to review and monitor utilisation of state-specific and sector-specific grants.

- **Grants to local bodies:** The total grants to local bodies will be Rs 4.36 lakh crore (a portion of grants to be performance-linked) including: (i) Rs 2.4 lakh crore for rural local bodies, (ii) Rs 1.2 lakh crore for urban local bodies, and (iii) Rs 70,051 crore for health grants through local governments. The grants to local bodies will be made available to all three tiers of Panchayat- village, block, and district. The health grants will be provided for: (i) conversion of rural sub-centres and primary healthcare centres (PHCs) to health and wellness centres (HWCs), (ii) support for diagnostic infrastructure for primary healthcare activities, and (iii) support for urban HWCs, sub-centres, PHCs, and public health units at the block level.
- Grants to local bodies (other than health grants) will be distributed among states based on population and area, with 90% and 10% weightage, respectively. The Commission has prescribed certain conditions for availing these grants (except health grants). The entry-level criteria include: (i) publishing provisional and audited accounts in the public domain and (ii) fixation of minimum floor rates for property taxes by states and improvement in the collection of property taxes (an additional requirement after 2021-22 for urban bodies). No grants will be released to local bodies of a state after March 2024 if the state does not constitute State Finance Commission and act upon its recommendations by then.
- **Disaster risk management:** The Commission recommended retaining the existing cost-sharing patterns between the centre and states for disaster management funds. The cost-sharing pattern between centre and states is: (i) 90:10 for north-eastern and Himalayan states, and (ii) 75:25 for all other states. State disaster management funds will have a corpus of Rs 1.6 lakh crore (centre's share is Rs 1.2 lakh crore).

Grants in aid:

Grants in Aid are given to State Governments to finance their revenue deficits so that they can spend more money on capital expenditure. Performing states have complained that they have been penalized for their performance. The Finance Commission has argued that revenue deficits of State Governments will be decided by the Finance Commission independently by taking into considerations the revenue expenditure and revenue income of the state.

Que. Critically examines the criteria adopted by the 15th Finance Commission for allocation of resources to States. What have been the major issues of contention since the 10th Finance Commission? (2018) (20M)

Goods and service tax (GST):

Due to the high tax regime, Indian goods were highly uncompetitive. During 1970's, Customs duty was as high as 300 to 400%. India's share in global trade was meagre. In 1991, economic reforms were introduced to make Indian products competitive in the global markets. As part of these reforms, tax reforms were implemented by the Government to rationalise the taxation regimes and also to expand the tax base. Customs and excise duties were brought down to globally acceptable levels of around 10% and in order to increase tax revenues, service tax was also introduced. Valued Added Tax (VAT) was also introduced to evade tax evasion and expand tax base.

Finally all these indirect tax reforms culminated in the implementation of Goods and Service Tax (GST). After approximately 14 years of varying discussions & debates, GST was implemented in 2017. Fearing loss of revenue from sales tax, State Governments demanded compensation for losses incurred. When GST was implemented, neither Central Government nor State Governments were ready for the loss.

In 2017, a constitutional amendment (101) was passed by union and state governments, to implement GST. Implementation of GST, as rightly pointed out by the Economic Survey, is an example of cooperative federalism. State Governments initially objected to the implementation of GST as they would be losing their major source of revenue, which is sales tax. They demanded that the Union government must fully compensate for any loss of revenue with implementation of GST.

Initially, the Central Government agreed to compensate fairly for any loss of revenue but State Governments demanded full compensation. After prolonged negotiations, finally the Union government agreed to fully compensate State Governments for a period of five years. State Governments were able to protect their rights and the Central Government was also willing to be flexible to implement GST.

All the decisions related to imposition of new taxes and changes in existing tax rates would be taken by the GST Council consisting of state finance ministers and union cabinet ministers, normally based on consensus and unanimity which again is an example of co-operative federalism.

But implementation of GST also faced many challenges:

- The objective of one country one tax has not been realized because the present GST has 6 different slabs with the highest being 28%. No other country which implemented GST has so many slabs. It complicated the entire tax

regime. For GST to be effective, India must move towards maximum 2 or 3 tax rates.

- GST had also become problematic. Many items were kept out of GST like petroleum products, liquor, electricity charges and registration fee. The combined tax imposed by central & states together on petroleum products is more than 65% over the cost of production. It made GST totally ineffective.
- Liquor and tobacco are not part of GST taxes, and these products are highly taxed by states. In western countries, these products were also part of GST. Ultimately these products should also be included in GST.
- Real estate and registration charges are not included in GST. Different State Governments levy different taxes defeating the vary purposes of GST.
- Electricity charges are also not included in GST. This huge amount of variation in electricity charges in different state governments has come in the way of attracting foreign investment.

But implementation of GST faced many issues in the last few years.

1. Due to decline in GDP, overall tax revenues of the Government had also come down drastically forcing the Central government to delay the compensation to be paid to the States. It was agreed that the State Governments will be paid for any loss of revenues for a period of 5 years. It was calculated that nominal increase in tax revenues per year would be 14%. (8% GDP growth and 6% inflation). But since 2017 onwards, the country went into recession due to demonetization and implementation of GST. Finally the Union Government was forced to pay compensation to the States.
2. Corona crisis has also led to conflict between the Union and State governments regarding compensation to be paid to the Sates. Union government had asked the State Government to take loans to compensate for the loss of revenue. Union Government also differentiated between loss of revenues under normal circumstances and loss due to corona disaster. Attorney General had argued in the meeting that Corona is an act of God and Union Government need not pay any compensation to the States. Finally a solution was found wherein Reserve Bank of India had provided loans to the Central Government to compensate the State Governments for loss of revenues. The Central government in turn will impose cess on products repay the loan the rate of interest. This loan will not become part of the fiscal deficit of the Government.
3. Decision making in the GST council also had come in for criticism. It is decided that the decision by GST council should be unanimous in the true spirit of cooperative federalism. But in

recent times, there were conflicts between the opposition ruled states and the Union Government. Under the existing rules, in case of any conflict decisions should be taken with 75% majority. In GST council, all states combined together have 66% of votes with the Union Government having the rest. It means that even if all States come together, it is not possible for them to get their decision implemented as the Union Government can veto their decisions. In true spirit of Cooperative federalism, it is suggested that States should be given more weightage in the GST council decisions.

Que. Even if all the States combine together, they cannot have their way in the decision-making in the GST Council, unless the Union agrees to it. Analyse this in the perspective of federalism in India. (2020) (10M)

Que. "Implementation of Goods and Services Tax (GST) has led to a paradigm shift in the Centre-State relations, both financially and politically." Analyse with examples (2017) (20M)

Que. "Introduction of G.S.T. (Goods and Services Tax) no doubt has economic benefits, but tends to compromise the States' inherent right to impose taxes." In this context, comment on the changing nature of Union-State financial relations. (2016) (20M)

Sharing of dividends from central PSEs to states:

State governments are demanding that they should be paid 50% of the dividends of central Public Sector Enterprises. At present, the central government decides the share of State Governments. The Central Government is in favour of sharing 50% dividends, provided State Governments are willing to share the losses also.

Disinvestment proceeds:

Every year the central government is raising significant amounts of money through disinvestment in Public Sector Enterprises. State Governments are demanding that Centre should share these proceeds with the State Governments. This demand was rejected by the Central Government. It has argued that under the Finance Commission recommendation the Central Government should share only revenues.

Punchhi Commission on Centre State Relations has recommended that the Central Government can share the disinvestment proceeds with the states in true spirit of co-operative federalism

Sharing of revenues from sale of spectrum, coal and other natural resources:

- After liberalization, the Central Government is earning huge amounts of money through sale of these natural resources. State Governments are demanding that they should be given share in this revenue also.
- The Central Government rejected the demand of State Governments as it is not part of the Finance Commission recommendation.
- Recently, the Central Government has agreed to share the revenues from auctioning of coal mines. Punchhi Commission on Centre State Relations recommended that the Central Government should share these revenues with the State Governments.

Imposition of Cess and Surcharge by Central Government

In the last seven years, central Government has earned around 21 lakh crores of rupees through cess and surcharge on petroleum products. This goes against the spirit of cooperative federalism wherein the Union Government is expected to share all its tax revenues.

Sarkaria Commission on Centre State Relations, Punchhi Commission on Centre State Relations and 2nd Administrative Reforms Commission have strongly recommended that the imposition of surcharge/cess should be immediately stopped by the Central Government as it is against the spirit of federal constitution.

Special category status demanded by various state governments:

The 5th Finance Commission has recommended that special financial assistance should be given to those State Governments which are economically backward, based on the particular conditions prevailing in those states. On the basis of recommendations given by the Finance Commission, the union government introduced Special Category Status to provide additional financial assistance. Planning Commission was expected to recommend SCS which was to be ratified by the National Development Council.

Initially, 7 North-Eastern states were given Special Category Status. Later, it was extended to other states like HP, J&K Sikkim & Uttarakhand. At present, these 11 states enjoy Special Category Status. The Planning Commission had come out with criteria regarding a state to be recognised as Special Category Status.

- Those states where tribal population is very high in terms of total population of states.
- Hilly states and those with difficult terrain.
- Those states which share an international border.

- Those states which are economically unavailable, which have very high fiscal and revenue deficits.

Special Category Status has become a controversial issue in recent times with many states demanding Special Category Status.

- For normal states, financing of centrally sponsored schemes would be 70:30.
- For Special Category Status states, it is 90:10. Special Category Status states are given soft loans by the Central Government.
- They are given loans with a very nominal rate of interest in comparison to other state governments.
- The gestation period is also very long in comparison to other states. In order to attract investments, Special Category Status states are given tax incentives.

In 2014, as part of Andhra Pradesh state Reorganization Bill, the then Prime Minister promised to provide AP with Special Category Status for a period of 5 years. It has led to demands from other states for Special Category Status like Odisha, West Bengal, Bihar, etc. have also demanded Special Category Status.

The Central Government refused the demand of AP State government as 14th Finance Commission removed Special Category Status. The 14th Finance Commission recommended that since state governments are given 42% of overall tax revenues, it is not necessary to provide Special Category Status to them in 2017. The Central Government extended Special Category Status to the existing 11 states for a period of 10 years.

FRBM legislation:

In order to control rising fiscal and revenue deficit, the Central Government introduced FRBM legislation on the floor of the house. Under Article 292, parliament can impose restrictions on borrowings of the Central Government. Similarly, under Article 293, the Central Government can impose restrictions on borrowings of State Governments.

Even though it was passed, it was not implemented. Revenue deficit is very high; fiscal deficit targets remained unachieved. At the central level the target could not be achieved due to various factors:

- As part of political populism after 2005, many flagship schemes were introduced by the Central Government including food security act, Right to Work in MGNREGA, Right to Health in NRHM, Right to Education in Sarva Shiksha Abhiyan. The Central Government had spent huge amounts of money which resulted in an increase in fiscal and revenue deficits.

- After the 2008 global financial crisis, as part of the revival of the economic system the Central Government, had come out with stimulus packages. It had reduced the tax rates and increased spending on welfare schemes to revive the economy, resulting in increased deficits. In recent times, due to economic stagnation and also due to launching of various flagship schemes like PM KISAN and AYUSHMAN BHARAT and other schemes it has been difficult for the Central Government to ensure fiscal discipline.
- State Governments have complained that while the centre did not implement the provisions of FRBM, why they were forced to implement it strictly. State Governments cannot raise loans without the permissions of RBI, if they have outstanding debt with RBI. Whereas, the Central Government can raise any amount of loans. In the 1950s in the overall public debt, the ratio of Central Government & State Governments was 50-50%. At present, the ratio is 80-20%.

Recent developments

Even before Covid-19 hit their finances hard, state governments had faced severe revenue constraints through the second half of the last fiscal. Tax revenues of 14 states – whose budgets were reviewed by FE – grew a measly 1.9% in the first eleven months of FY20, against 13% a year ago. To soften the blow to their balance sheets, these states applied the brakes on capital expenditure (flat growth against 20% growth a year ago), but might still have to report fiscal slippages for FY20. The combined fiscal deficit of all states was budgeted at 2.6% of GDP in FY20, up from 2.4% in FY19. However, the actual combined fiscal deficit of states in FY20 is believed to have risen from the budgeted level.

The states' revenues could suffer massively in FY21 due to lockdown and social distancing to check the spread of coronavirus. At the same time, their expenditure obligations have risen. Officials from over half a dozen states told FE that their states' own tax revenues (OTRs) in April were less than a fourth of the usual (estimated) level, with some putting the figure at even 10%. This had prompted several state chief ministers have demanded that the FRBM-mandated fiscal deficit ceiling be raised from 3% of GSDP to 5% for FY21 to enable them to borrow more funds. While petitioning the Centre for additional funds to combat the pandemic, many states have front-loaded their borrowings. Some even used more than 90% of the Q1 borrowing window, even disregarding high interest costs.

The Centre acceded to a strident demand from states that their market borrowing limit be enhanced to meet the expenditure contingencies of the Covid-19 pandemic amid a glaring revenue deficit. However, the government did a smart thing by linking a considerable part of the extra borrowing freedom

to efforts towards and fulfillment of long-pending reforms, including in the key areas of ease of doing business and the power sector, where free play of market forces continues to be a political anathema. The move is also being seen a sequel to the Centre's recent informal advisories to the states, urging them to undertake labour and land reforms, that are critical to enhancing the global competitiveness of Indian industries.

Finance minister Nirmala Sitharaman raised the net borrowing limit for state governments from 3% of the gross state domestic product (GSDP) to 5% to make available an additional Rs 4.28 lakh crore to all the states combined. While 0.5 percentage point (pps) of the extra borrowing window will be available to all states unconditionally, one pps will be made available in four equal tranches with each to clearly "specified, measurable and feasible reform actions".

The balance 0.5 pps can be accessed if milestones are 'completely achieved' in at least three out of four reform areas. While a specific scheme will be notified by the expenditure department, the reform linkage will be in four areas – universalisation of 'One Nation One Ration card', ease of doing business, power distribution and augmentation of urban local body revenues.

Sitharaman pointed out that the states together have only utilised 14% of Rs 4.8 lakh crore (75% of the FY21 net borrowing limit of Rs 6.41 lakh crore set earlier for the full year) so far this fiscal. Even though the FY21 net borrowing limit is being raised to Rs 10.69 lakh crore, the states may not find it easy to tap market for funds given the recent spike in state development loans (SDLs).

The spike in SDLs forced some states like Andhra Pradesh not to accept bids in recent auctions while Kerala was forced to borrow at a high rate of 8.9%.

To create competition among states on the ease of doing business, the endeavour will likely be to make the processes simpler and transparent, reduce the timelines for various regulatory approvals and eliminate physical interface between the department and the business with the ultimate aim of increasing investments in the states to boost exports. While there may not be any direct reference to land and labour reforms, the Centre could also push states in this regard. The 15th Finance Commission chairman has on several occasions sought reforms in important factors of production such as land and labour to boost private investments.

After failing to get the backing of the opposition parties, who have objected to proposed removal of the mandatory social impact assessment and consent clauses from the land acquisition Act, the first Narendra Modi government had

kept its plan on hold in 2015. Since the land is on the concurrent list, where both the Centre and states have jurisdictions, there is a change in strategy to let the states bring about changes which will later be approved by the Centre.

The states will also likely play a key role in labour reforms as the Centre is amalgamating 44 central labour Acts into four codes. The Industrial Relations Code empowers states to offer flexibility to the investors, employing up to 300 from 100 now, to resort to layoff, retrenchment or closure without government permission. Taking the lead, the Uttar Pradesh government has decided to keep most labour laws in abeyance for the next three years, while Madhya Pradesh chief minister Shivraj Singh Chouhan said his government would seize the current opportunity to bring the much-needed reforms in the state's labour laws to lure investors, including those likely relocating from China.

"States need to get their act together doing discom reforms, ULB revenue, ration card and ease of doing business. These 4 conditions are quite open ended and would have to be defined by the Centre or else there could be ambiguity," CARE Ratings said.

- Punchhi Commission on Centre State Relations has recommended that the center must strictly adhere to FRBM and should allow State Governments to raise money from markets.

Foreign Aid Received:

The Central Government would convert this Aid into Aid and loan. States must pay back with interest. The Central Government argued that it can do so as State Governments get all these loans and Aid due to the sovereign backing of the union government. In case of default by State Governments, the Central Government has to pay back. The Aid is converted to loan by the Central Government to finance repayment of loans taken by State Governments from multilateral institutions.

Centrally Sponsored Schemes:

At present, there are more than 1200 Centrally Sponsored Schemes out of which 150 are active and around 65 of them receive significant revenues from budgets. From 1st Pay Commision to NITI Aayog, all Commissions have strongly recommended reducing the number of Centrally Sponsored Schemes to less than 10.

There Are Different Types Of Centrally Sponsored Schemes:

State Governments are strongly opposing Centrally Sponsored Scheme for various reasons:

- The transfers are conditional transfers. 70% of funding would be provided by the Central Government only when states also provide their share of 30%.
- Most of the Centrally Sponsored Schemes (CSS) have been a failure. One size fits all approaches cannot be successful in India. India has huge geographical, political, economic and cultural diversities. A scheme suitable for one state may be totally irrelevant for another state.

For example, in Assam problems are related to flood management whereas in RJ, GJ, MH, KA and Telangana it is about drought management. The money is allocated for flood management by the Central Government under the Centrally Sponsored Scheme would remain unspent in most of the states.

- Most of these Centrally Sponsored Schemes are named after leaders ruling political parties at centre. State Governments ruled by opposition parties have complained that it is the Central Government that scored political mileage when the scheme was successful even through implementation was under exclusive domain for State Governments.
- Another reason why State Governments have opposed the Centrally Sponsored Scheme is that after implementing these schemes, states are left with very little money to spend for their own welfare and development schemes. Political parties cannot win elections without the help of welfare schemes.

In spite of so many weaknesses in implementation of the Centrally Sponsored Scheme, the number of Centrally Sponsored Schemes are increasing.

- After NDA had come to power at centre in 2014, it had introduced many flagship schemes like Make in India Start up India, Smart cities and smart villages, KISAN, AYUSHMAN BHARAT, UJJWALA and many others.
- These schemes are introduced by the Central Government mostly for political reasons. In India, elections are held separately for Parliament and state Assemblies.
- When political parties are contesting elections for Parliament, they must make nationwide promises to people. These promises are transferred into the Centrally Sponsored Scheme even though they are ineffective ultimately.
- The Central Government must reduce the number of Centrally Sponsored Schemes to less than 10 so that the states have more freedom in determining policies and programs according to local conditions and problems.

Que. “The Centre-State relations have acquired new dimensions in recent times due to several political parties being in power at the Centre and the States.”

(Second Administrative Reforms Commission) Do you agree? Give reasons to support your arguments (2014) (10M)

Disaster Relief:

As and when disaster strikes a state, State Governments demand the Central Government to provide the immediate relief to the state. But State Governments have regularly complained that opposition ruled states are discriminated against by the Central Government in providing disaster relief. For example, in Kerala when the state was severely impacted by floods, the State Government demanded Rs 20,000 cr for financial assistance from the Central Government but the Central Government had given only Rs 500 cr.

The 14th Finance Commission has recommended a scientific mechanism to evaluate the impact of disaster so that the State Governments can receive timely financial assistance from the centre.

NDMA (National Disaster Management Authority) along with other institutions are expected to conduct scientific surveys regarding impact of these disasters so that it does not result in unnecessary conflict between centre and state. Whenever a natural disaster strikes a particular state, the State Governments demand that the disaster to be declared a National calamity so that Central Government would provide more financial assistance along with other administrative scientific support.

The 14th Finance Commission has recommended that NDMA must come up with specific guidelines to declare any disaster as national calamity to reduce discretion on part of the Central Government.

Pay Commission Recommendations:

The Central Government constitutes a pay commission every 10 years, regularly to revise salaries and allowances of Central Government employees. Whenever their salaries are revised, State Governments employees also demand an increase in their salaries. State Governments were forced to increase salaries of their employees which increased their revenue deficit. Punchhi Commission on Centre State Relations recommended that the Central Government can compensate State Governments to implement pay commissions recommendations.

Que. Do you agree that the Seventh Pay Commission's recommendations do not reflect and correlate the need for civil service reforms and accountability with pay increase? Justify your answer. (2016) (20M)

Discretionary Transfers from Union Ministry to State Governments:

After the dissolution of the Planning Commission in 2014 the central ministers and departments have been given power to decide funds to be transferred to State Governments to implement central schemes.

The 14th Finance Commission has suggested criteria for transfer of funds not only to states but also to Local Self Governments. It will reduce scope for leakages in transfer of funds. With the implementation of 73rd & 74th Constitutional Amendment Acts, local bodies are also getting funds directly as part of the Finance Commission recommendations.

The 14th Finance Commission suggested that the 2011 population census should be taken as criteria to devolution of funds to Local Self Government. These grants should be divided into 2 parts. They should be further subdivided into basic grants and performance grants. In case of gram panchayat ratio is 90:10, 90% basic grants and 10% performance grants. In case municipal corporations, grants ratio should be 80:20, 80% basic & 20% performance grants. Objective is to encourage better performance of states in terms of implementation of schemes.

Que. Comment on the recent changes in the approach and methodology of devolution of responsibilities and transfer of funds from the Union to the States. (2015) (10M)

Royalty Paid By Central Government for Use of Mineral Resources of States:

Central Public Sector Enterprises located in the states use the mineral resources of the state. The Central Government will pay royalty to State Governments for use of mineral resources. States like Jharkhand & Odisha are demanding more royalty. It should be revised every 3 years by the Central Government. It is not required within those 3 years that the central government should compensate the State Governments for the use of mineral resources.

In the age of liberalisation & globalisation as rightly pointed out by Punchhi Commission on Centre State Relations, co-operation is no longer a voluntary task. They must come together and co-operate with each other with the objective of achieving overall growth & development of the country. This is the essence of collaborative and cooperative federalism. At present Centre State relations are not about vertical relationships with centre at the top and states at the bottom. It allows horizontal relationships between federal units. Centre and states, therefore are equal partners in the process of development.

It should be in such a manner that union, state and local self-governments coming together and resolving their disputes in a harmonious manner. What is needed is integration between these units rather than confrontation.

The Constitution might be locked heavily in favour of the Central Government due to circumstances at the time of independence but during the present changing scenario it must be willing to sacrifice its power to states. Also, at the same time, State Governments must be more responsible in protecting unity and integrity of the nation.

Que. Examine the efficacy of the measures taken to redefine and execute cooperative federalism in India (2016)(10M)

Que. “Management of intra-governmental relations is as important as that of intergovernmental relations.” Examine the impact upon the performance of the government. (2014) (20M)

Chief Minister and Council of Ministers

As noted already, the CM is formally appointed and removed by the Governor. Besides, all decisions made by the cabinet generally need to be endorsed by the Governor. If the Governor does not agree with a cabinet proposal he can send back the proposals for reconsideration.

But in case the same proposal should be endorsed once again by the state cabinet, the Governor is obliged to accept the decision and endorse it. Under Article 167(1) of the Constitution, the CM has to communicate to the Governor all decisions of the council of ministers (CoMs) related to the administration of the state and proposals for legislation. The Governor cannot, however, interfere in the proceedings of the cabinet.

Relations with Legislature and MLAs

All-important money and non-money bills, before their introduction in the state legislative assembly, are approved by the cabinet headed by the CM. Money Bills, however; also require the consent of the Governor before they can be introduced in the Assembly.

The state budget is prepared by the Finance Minister and his team but, during the whole process, the Chief Minister is taken into confidence and his views given weight. There may be occasions when the CM himself may be the Finance Minister.

Besides, the CM guides the piloting of important bills through the various stages in the legislature. Being the leader of the majority party in the Assembly, the CM is required to help other ministers in case they are unable to satisfy the House with their replies or when a situation goes out of control in the Assembly. In normal times, the texts of the ordinances issued by the Governor are in reality prepared by the CM and the cabinet. But, the Governor has the power under Article 213 to withhold his assent to an ordinance.

Que. "Legislatures have become a place for infighting rather than for proper policy making." Comment in the context of the working of State Governments. (2016) (10M)

Administrative Role

From time to time, a Chief Minister may keep one or more portfolios under his charge. Such departments attain special importance in the government. The CM's leadership provides them with influence, prestige, power and added responsibility. There are no limitations or rules regarding the number of portfolios a CM can or should keep. Herein lies the question of variations in the individual capacity of a CM in managing public affairs.

However, it would be desirable for a CM to have, under his direct control, only as many departments as he can efficiently manage. In administering these departments, the C.M.'s administrative role gains significance. In order to explain the point, a reference may be made to the case of Rajasthan.

The Chief Ministers Secretariat:

Nowadays as CM is facing a growing number of responsibilities, he needs intelligent and intensive administrative assistance. This assistance is provided by the Chief Minister's Secretariat, which is accountable only to him. This organization ensures that the CM's directives are implemented by various state and district agencies.

The CM's Secretariat looks after the functions relating to the tours and correspondence of the CM, redressal of public grievances, management of the CM's benevolent funds, and implementation of the CM's assurances and monitoring.

The State Council of Ministers:

The position of the council of ministers (CoMs) in the states is very much identical to that of the council of ministers (CoMs) at the Central level. The 'real' governance of the state is in the hands of the council of ministers headed

by the Chief Minister. The conventions which apply in a parliamentary model also apply to the state council of ministers.

Functions:

The council of ministers (CoMs) of a state takes all important policy decisions regarding the governance of the state. It also supervises the implementation of those decisions. Every cabinet minister is the head of one or more departments falling under his jurisdiction. Hence, the ministers not only are the political heads but, by virtue of their being responsible for all actions of the department, assume the overall politico-administrative leadership and role.

Ques. "The position of council of ministers in a state is reduced to that of a body of secretaries in the presence of a domineering chief minister." Critically analyse with examples (2017) (20M)

State Secretariat:

To assist the cabinet in the disposal of day-to-day functions, there exists a Cabinet Secretariat at the state level also. It is known as the State Secretariat. The Chief Minister acts as the political head of the Cabinet Secretariat. The Chief Secretary functions as the Secretary to the Council of Ministers. He is assisted by a special secretary generally drawn from the IAS cadre.

The main functions carried out by the State Secretariat are as follows:

- Fixing the place, time and agenda of cabinet meetings.
- Giving secretarial assistance to the cabinet: recording its proceedings, conveying the cabinet decisions to the concerned authorities, supervising their implementation and keeping the cabinet informed with the developments in this respect.
- Dealing with work related to inter-state and Union-state relationships.
- Receiving instructions from the Government of India and giving instructions to the concerned departments of the state to implement them.
- Receiving recommendations from the various departments regarding cash rewards and merit certificates to be given to civil servants.
- Giving secretarial assistance to the conferences of senior administrative officers, Collectors, Superintendents of Police etc.
- Framing rules for regulating discretionary grants of the Governor and the Chief Minister.
- Providing the timely submissions, to the Legislative Assembly, of answers by the concerned departments.

- Acting as a data bank of all important decisions taken in various departments and collecting relevant and important information for ready reference by the Chief Minister and other ministers.
- Taking care of all establishment matters regarding the office staff of the department.

In almost all states, the State Secretariat has helped the cabinet in organizing its meetings, policy-making and ensuring that its decisions are conveyed to the concerned agencies and are implemented-effectively. It also provides feedback to the cabinet on the feasibility of its decisions and thus acts as an instrument of administrative change.

The Chief Secretary and State Secretariat:

The Chief Secretary acts as the administrative head of state administration. He is in many ways the counterpart of the Cabinet Secretary but at the state level. As the head of the civil services and as the chief coordinator of the state secretariat and other administrative departments, he is the pivot of the state governance system. His role in policy formulation, formal and informal, is substantial and so is his supervisory role in the policy implementation apparatus.

Chief Secretary

The success and prestige enjoyed by a Chief Secretary depends, to a large extent, upon his equation and relationship with the varied sets of people and institutions, which form his work-environment. On the one side, there are politicians such as the Chief Minister, ministers, MPs and MLAs, and, on the other, there is a network of administrative functionaries. His position, therefore, depends upon his sagacity, capacity and personality in handling the members of his role-set in an effective manner. The situation is aptly summed up by Mangat Rai: “The Chief Secretary’s job is not technicians’ or even a professional’s, he is not a knowledgeable engineer, nor even a first class magistrate, he is part of the process of government and in a democratic republic, part of the human process.”

Que. “The chief secretary is often termed as the alter ego of the Chief Minister.” Discuss, with examples, the dynamics of their relationship in State administration. (2017) (20M)

State Secretariat

Each state has its own secretariat which is the highest echelon of the state administration, acts as the locus for the exercise of authority by the state

executive. The term “secretariat” is used to refer to the complex of departments whose administrative heads are Secretaries to the Government while the political heads are ministers. The entire administrative system of the state is divided into several departments. The ministers act as the heads of these departments and are answerable to the legislature for the activities. Below the ministers are several career civil servants who follow the orders of ministers, advise them and help them by providing information required for facing the legislature and its committees.

Heads of Departments/Directorates:

Heads of departments are officers who are in charge of the actual administration of specific services or administration and execution of various projects and decisions. The executive exercises control over the functioning of heads of departments through “administrative departments” of the secretariat.

The relation between the Head of Department and Secretary to the Government is based on the following principles:

- The Secretariat is primarily responsible for policy making while the Department is responsible for implementation of these policies, and
- The Head of the Department is subject to the rules governing the conditions of service and he is given full control over the personnel working under him.

The Head of the Department is a specialist and the Secretary who oversees his work is a generalist civil servant, generally an IAS. The Secretaries act as the administrative advisers and provide assistance to the Ministers; on the other hand Heads of Departments are their executive instruments.

The Secretaries are the “eyes and ears” of the Ministers, while the Heads of Departments are their “Hands”.

Functions of the Directorates:

- Framing of Departmental budget;
- Acting as technical adviser to the Ministers;
- Supervision of the execution of work of departmental district staff;
- Allocation of grants according to rules, making budget re-appropriation within prescribed limits;
- Making within approved rules all appointments, confirmations, postings transfers, promotions of all subordinate officers sanctioning of leave and making acting arrangements;
- Exercising disciplinary powers over all subordinate officers according to rules;

- Advising Public Service Commission concerning promotions and disciplinary actions and
- Sanctioning the attendance of officers at conferences other than inter-state or government of India conferences.

Model Answers

Que 1. Briefly discuss the main recommendations of the Punchhi Commission (2010) on Centre-State relations for transforming Indian Federal System (2015) (20M)

Punchhi Commission was a watershed event on the centre-state relations in Indian federalism. The significant recommendations of the report are enlisted below:

- National Integration Council: Taking inspiration from the United States of America, the Punchhi Commission recommended the establishment of a superseding structure for matters relating to internal security (like the Homeland Security Department in the United States).
- Article 355 and 356 of the Constitution: The report also advised that Article 355 and • 356 of the Constitution should be amended. Article 355 has provision regarding the duty of the Centre to protect the state against any external aggression and Article 356 has provision regarding the implementation of President's rule in case of failure of the machinery of the state.
- Subjects in the Concurrent List: The Commission recommended that the States should be consulted through the inter-state council before bills are introduced on subjects which are in the concurrent list. Both State and Centre governments can formulate laws on subjects mentioned in the concurrent list.
- Centre's Power of Making Treaties under Article 253: According to the recommendation of Commission, the treaty-making power of the Centre should be regulated with respect to treaties formulated regarding the matters present in the State list. According to the Commission, the states will get the opportunity to play more roles in their international affairs. The Commission feels that the states need to be more involved in such kinds of treaties which are formulated in reference to their matters. This will ensure a peaceful co-existence between the state government and union.

The Punchhi Commission has given us an insightful report with wonderful recommendations for the flawless working and cooperation between the Centre and the State. It has submitted a detailed report and explores important matters pertaining not only to Centre-State relations but also national security, finances,

socio-economic policies for better development and good governance and planning and decentralization. These recommendations should be implemented in letter and spirit so that maximum benefits can be reaped.

Que. 2 Is there a need to dispense with the office of the Governor? Examine the context of coalition governments. (2013)(10M)

Despite the nationalist movement's bitter experience with Governors over almost three decades during the British era, the Constituent Assembly retained the post, along with the discretionary powers of the office. During Constituent Assembly debates, it was noted that the Articles dealing with the powers of the Governor were almost reproductions of the 1935 Act, with the use of more suitable words. Defenders of the office gave two main arguments: first the competent legislators in the States were absent; and second that a certain amount of centralisation of power was necessary in a nascent state such as India.

Governors play an important role when there is no clear majority in the state. If we consider a recent example, the governor of Maharashtra state, who is appointed by the central ruling party which is not in power in the state. Governor has not even appointed the 12 MLC (Member of Legislative Council) as nominated by the state government. Constitutionally, the governor can withhold the appointment of MLC, however it creates issues with the constitutional head of the state and political head of the state.

It is to decide whether the constitutional "choke point" of the Governor serves any valid purpose today, and if not, whether the office should continue to exist. Would it not be better, let's say, to clearly specify the rules regarding government-formation in the Constitution itself, and reduce swearing-in to a purely ceremonial function, to be performed by the Chief Justice of the concerned High Court? This — or any other probable solution that does away with the "choke point" — is what must now be debated.

Chapter 7 - District Administration since Independence

Syllabus: Changing role of the Collector; Union-state-local relations; Imperatives of development management and law and order administration; District administration and democratic decentralization.

Introduction:

Public Administration carries out functions, which are important to the very existence of the people like maintenance of law and order, supply of essential services and provisions of clothing and housing. Environmental factors, particularly social factors, affect public administration immensely.

In India, efficiency of the administration connotes the efficiency of the district administration, as it is the district administration which comes into direct contact with the public. As the head of the district administration, the collector has to coordinate the different departmental units to prevent duplication, overlapping and waste. The collector of a district should provide good leadership.

Origin and Evolution of District Administration:

The power of the officials under the bureaucratic administration is a threat to the liberties of the people. Harold J. Laski has defined bureaucracy as a “system of government, the control of which is so completely in the hands of officials, that their power jeopardises the liberties of ordinary citizens. The characteristics of such a regime are a passion for routine in administration, the sacrifice of flexibility to rule, delay in making decisions and a refusal to embark upon experiment.”

The district officer comes with immense power for a long time in the past. The officer ruled autocratically and nobody could interfere in his work. The Collector during the British era was accountable only to the board of revenue and government. The main duty of the Collector was the collection of revenue and because of this he is called the ‘collector’.

Ramsay Macdonald has rightly pointed out that “he is the eye of the government and its tongue. He has to keep his finger on the pulse of his district, and nothing of any importance is supposed to happen without his knowledge. A sparrow ought not to fall without the incident coming to his ears”.

Changing role of the Collector:

- During the British days, the pivot of administration was the district and the principal task of the district administration was the maintenance of law and order and collection of revenues. The head of the district, the collector, was very close to the people and used to solve their various problems.
- After independence, the district administration has undergone a radical change and consequently, the structure and task of district administration have also changed.
- The two major factors responsible for the change are democracy and development.
- The goal of the government is bringing about improvement in the standard of living of the people. The collector today is more a servant of the public than a representative of the government as in the past, and the main focus of attention have been shifted from law and order to the welfare of the people.

The office of the District Collector “admirably survived the historic role of change from an alien regime to a national one.” The institution still remains a cherished one. Since independence, its role has become increasingly multi-dimensional.

The main factors influencing the emergent role of the Collector are:

Before describing the functions of the Collector, a brief summary is given relating to the official position of this post.

Que. “District Collector’s role in the development process has been overemphasized.” Comment on the statement. (2015)(10M)

- The Collector belongs to the Indian Administrative Service and is appointed under the Land Revenue Code and vested with powers under the various Central and state laws either by express provisions or by delegation.
- He is allotted to a state in accordance with the existing scheme of IAS. He is known as the **District Collector, District Officer, and District Magistrate** and also as the **Deputy Commissioner** in some states. The IAS consists of direct recruits and promotions from the State Civil Services. Therefore, IAS direct recruits are posted as Collectors in their twenties whereas promotions to the IAS from the state civil services occupy this position generally in their fifties.

Whereas the British Collectors viewed themselves as uncrowned sovereigns of an empire and the people merely as subjects to be governed, the new breed of IAS officers were full of enthusiasm and idealism for the betterment of the people. The social composition also underwent a change.

Earlier the Collectors belonged to the upper strata of society, now, due to the spread of education and reservation of seats, a more egalitarian set-up has emerged. Some of the Collectors belong to the low income group and hence, a greater degree of sympathy and understanding for the underprivileged sections could be expected of them. It is this change in the composition of the IAS, which has the greatest potential for affecting the ultimate power of bureaucracy and its controllability by social forces.

Though the attitudes of the bureaucracy towards the public underwent a change, the promulgation of the new Constitution weakened the position of the Collector. Several factors are responsible for this change.

Besides, the emergence of several technical departments like labour, agriculture, cooperatives etc., together with a host of executive officers who man these departments has led to the reduction of the Collector’s authority.

Some of the technical departments in the district are headed by specialist officers and are relatively independent of the Collector; the sad truth is that democratic decentralization in the form of Panchayati Raj, which preceded this role, has curtailed his powers drastically in some states. The Zilla Parishads, particularly, have emerged as separate centres of power, largely independent of the Collector.

Several other factors such as the Collector being overworked, he is losing touch with the masses, frequent breakdown of law and order machinery, large size of the districts, problems of coordination with the police, the revenue administration and the technical departments etc., also play a role in determining the extent of the Collector is no longer the proverbial tortoise on whose back stood the giant elephant of the government, he still remains the general manager of governmental business at the district level.

As Dwarakadas puts it: “The position of the Collector has remained a classic example of unconsolidated, unclassified, diffused responsibility which seems to be one of the marked features of the Indian administrative system”.

He further quotes Dean Apply who observed: “He [the Collector] was in earlier days and is now somewhat in theory or in most nostalgic yearning more or less responsible for everything done by the government within his geographical area.” It can be said that though his influence is shrinking, his area of functions is as vast as before. He is the most important functionary at the apex of the district administration. However, his functions “change in relative importance as well as in scale from state to state, even from season to season in the same state or district.”

As Collector (Land Revenue):

- This is still the traditional and main task of the Collector. As the head of the revenue administration of the district, his primary task is the **collection and assessment of land revenue**.
- Khera points out two principles.
 - The first is that revenue which is assessed must be collected in full.
 - The second principle predicts timely collection becomes difficult, severe measures may be needed to enforce the collection.
- The irrigation department demands lists of irrigation dues each season and forwards them to the Collector who is tasked with the **recovery of these loans**. Although income tax falls under Central jurisdiction, arrears are yet another responsibility of the Collector.

- Another element comprises **court fees** payable in connection with various judicial proceedings, taxes leviable such as revenue stamps on documents like sale and transfer deeds, agreements of various kinds, receipts etc.
- Excise is also a significant component under his jurisdiction. **Excise duties** on various commodities like petrol, liquor, drugs, etc., are levied by the District Excise Officer, working under the Collector.
- Agricultural loans are disbursed by the Collector and his staff, relief works during famines, camps for famine affected people, seeds distributed, cattle and agricultural implements supplied, land revenue and rents remitted or suspended.
- **Land acquisition** is another important responsibility of the Collector. Due to the number of developmental projects, housing schemes, slum redevelopment etc., and land has to be acquired.
- He is empowered to take actions under the Indian Treasure Trove Act. Under this Act he has to report to the state government the discovery of a treasure, its nature, value, location etc. The district treasury falls under the control of the Collector which means treasury officers of the district function under Collector's supervision.
- The Collector is involved in general supervision, periodic physical verification, checking, certifying and communicating directly to the Accountant General the exact balances as found during his inspection. The reports submitted by him are then checked against the accounts submitted by the treasury officer.
- He is also responsible for the **preparation as well as maintenance of land records**. This includes survey of land and settlement operations, execution of land reform laws and administration of *nazul* lands. Land records consist of the basic village records, village maps showing every single plot of land, nature of land, crops grown etc., a register of holdings which shows the names of the cultivators and a register showing the nature of the crops, soil etc. of the village.

The revenue work is a colossal task in itself and, therefore, the Collector has a whole hierarchy of staff to assist him.

The general pattern in most of the states is that there are:

Besides these officers, few states like Andhra Pradesh have designated another IAS officer as the District Revenue Officer in each district to assist the Collector. In Sikkim, there is one Deputy District Collector, one Revenue Officer and two Revenue Inspectors in each district to assist the Collector.

As District Magistrate:

- The Collector's next function is magisterial in nature.
- In his Capacity of a District Magistrate, he is responsible for the maintenance of law and order in the district. His position in this context assumes greater significance looking at the social, political and communal tensions that threaten the law-and-order situation. Terrorism, smuggling, communalism and other economic offenses have added burdens on him.
- Three elements are involved here - **the police, the jails and the judiciary.**
- The police force in the district, with the Superintendent of Police (SP) at its head, comes under the control and supervision of the District Magistrate. Although the actual internal administration of the police is carried out through its own departmental staff and, for disciplinary and technical supervision, the S.P. is responsible to the Directorate General of Police; the operational control of the police comes under the direct charge of the District Magistrate.
- When a magistrate is present, he assumes charge of the situation and the police must follow his orders. He gives the order to fire or use force. Section 4 of the Police Act also vests the police administration of the district in the S.P. under the control of the District Magistrate.
- The annual police administration report prepared by the S.P. is also submitted through the District Magistrate. He can inspect police stations, police staff and police diaries, and police actions.

There were occasions when the Magistrate disbelieved a case the S.P. thought genuine. And in every district there were some people anxious to play off the S.P. against the Magistrate.

In modern times also, tensions can occur when supervision could be seen as interference. In metropolitan cities like Bombay, Calcutta, Madras and Delhi, since 1978, the responsibility for law and order vested with the Police Commissioner and the District Magistrate has no say in this regard. A similar controversy was debated by the Bihar Police Commission in 1961 but the Commission said that “the present conflict wherever existing is due more to conflict of personalities than a conflict of the system itself.”

- Regarding the powers of the Collector as a judicial magistrate, there has been serious corrosion in the authority of the District Magistrate has no say in this regard.
- The Directive Principles of State Policy (DPSP), under Article 50 of the Constitution, separate the executive from the judiciary. Due to this separation, the whole range of judicial proceedings, civil and criminal, is now the sole responsibility of the judiciary functioning under the control of the High Court of the concerned state. The judges hear appeals against the magistracy, including the district magistrate.
- A judgement or verdict by the district magistrate is in most cases appealable to the district judge. There we have the supremacy of law.
- The District Magistrate acts as an agent of the judiciary in many ways. The execution of writs of the criminal and civil courts, including criminal writs from courts outside the district, is normally done through the magisterial element of the district.
- He can hear cases under the ‘preventive detention’ of the Code of Criminal Procedure (CrPC) and exercise powers under Section 144 in case of disturbance to peace within his jurisdiction. He supervises the subordinate magistracy, orders magisterial postings during festivals and has powers under many acts like Sugar Factories Control Act, Trade Mark Act, Press Act, Entertainment Tax Act, etc., but, the separation has caused a marked decline in his authority. For example, In Bihar, all magistrates and munsif magistrates trying criminal cases are under the control of the High Court through the Sessions Judge.
- The last component is jails. The district jail is under the control of the District Magistrate. He can visit the jail periodically to see that all is well and ensure the expeditious disposal of cases of under trial prisoners. He deals with problems such as the granting of superior classes to prisoners, release of prisoners on parole, mercy petitions of prisoners, premature release of prisoners etc. He, or any other magistrate authorized by him, must be present when a condemned prisoner is executed and has to sign the necessary certificate that the execution has been carried out.

As Coordinator:

Formerly, the District Collector used to be the coordinating agency in overall charge of every important official activity in the district. After independence, several departments were set up at the district level. Some of these are technical

in nature and headed by specialists. Some such departments are public health, public works, agriculture, irrigation, education and cooperation.

The question here is: **Can the Collector and should the Collector be made responsible for integrating the activities of all these departments into a comprehensive whole?**

The problem involved is that, although these departments function in the district, they are not under the supervision of the Collector. They are, administratively and technically, responsible to their respective heads of departments in the state secretariat. That problem becomes serious in view of the fact that several departmental agencies, with their own bureaucratic and specialist hierarchies, have been made in charge of development activities. These departments have their own programmes of development, which they conduct on their own without the interference of the Collector.

This has led to the weakening of the Collector's role as a coordinating agency. The need to strengthen his role in this context is particularly strong because this role depends on the success of the district planning considerably. As all plans take the district as the major operational unit, the coordinating role of the Collector becomes vital in ensuring that the various departments do not work at cross-purposes. Speaking in October 1965, Prime Minister Lal Bahadur Shastri remarked:

The entire team in a district has to work with a sense of dedication in the same manner as a soldier on the battlefield. The district officer should regard himself in all humility as a commander who has to organize this drive and achieve the target, which must be clearly laid down.

For the purpose of coordination, the pattern is that the Collector should hold meetings of the officers posted in the various agencies at the district level at periodic intervals. To emerge as a successful coordinator, the Collector must give each agency breathing space, remove bottlenecks, invoke the trust of the various departments in him and bring out unity of purpose.

As Crisis Administrator:

It is during a crisis that the credibility and effectiveness of the district system is put to test and it is during this period that the Collector's dormant energies are transformed into awakened and vibrant consciousness and his inner potentialities find myriad opportunities to express themselves to the full.

In a district, anything and everything that can possibly happen/ happened enough strengthens excellence and performance assumes crucial significance.

His role as a crisis administrator was emphasized by Woodruff) Confides an interesting case of a District Magistrate sitting in his court: A village chief Secretary that his son has been taken away by a tiger. F.B. Simson, the D.M., leaves the court and shoots the tiger is of crucial consideration.

During emergencies and crises, the Collector was looked upon as some sort of a saviour. The same holds good authority under the Famine Code to undertake relief measures, similarly, during floods, he has to organize rescue operations, take steps to check epidemics, call for the army for help and supply food items. During external aggression, he is armed with several powers under the Defence of India Rules. The Collector enforces civil defence measures, is responsible for the protection of vital installations, prevents panic and performs a host of other crucial functions.

Work during crises, T.N. Chaturvedi warns, it is not to be done as ‘compensation’ but out of a sense of duty. Sometimes, the Collector has to cross the written boundaries also.

Crisis administration is not a fossilised interpretation of rules but a vibrant response to the dynamics of any unforeseen contingency. Consistency is not always a virtue in crisis administration.

As Development Officer: District Collector and Democratic Decentralization

The development role of the Collector became a locus after the initiation of planned development in India. It was felt that the great influence wielded by the Collector in the district should be harnessed for the developmental activities.

Rural development was a crucial precondition for the welfare state and several programmes for the benefit of the downtrodden starting with the Community Development Programme in 1952 were initiated. In the 1960s, numerous schemes of rural development were initiated. These related to education, health, employment, and improvement of housing conditions and some special programmes for rural women, the youth and children. These programmes aimed at eradicating poverty and improving the living standards of the poor, especially people living below poverty line. Along with this, a number of area development programmes, such as DPAP, DDP, CAD, TDP, gained significance in the 1970s.

In this economic development process, the Collector is not just an advisor or observer only. His leadership role in the extension and development activity gained immense importance. In this context, a brief reference to the case of Rajasthan may be made. It may be mentioned here that the situation is not the

same in all states. For instance, in Gujarat and Maharashtra, all development activities have been transferred to the District Development Officer, who also hails from IAS cadre, and the Collector's role in development administration there is only peripheral.

The Rajasthan Panchayat Samiti and Zila Parishad Act, 1959, provided that the Collector, as the District Development Officer, must see that:

- Technical assistance is available with extension officers by the concerned departments of the state government;
- Adequate precautions while advancing loans by the state government to Panchayat Samitis;
- Panchayats and Panchayat Samitis are provided with adequate assistance in the early recovery of their dues, whether in the form of tax or on account of loans; and
- Whether priorities as fixed in the plans are being adhered to and the general pattern of work is in conformity with the policies laid down by the state or Central Government.
- The developmental role of the Collector is evidenced in his position as the *ex-officio* chairman of the District Rural Development Agency (DRDA). This is a society registered under the Indian Societies Registration Act and is responsible for the implementation of rural development programmes.
- This Agency is a fusion of governmental authority and the flexibilities of an autonomous organization. Numbers of schemes are implemented by DRDA under the broad framework of the Integrated Rural Development Programme (IRDP).
- Firstly, there are the area-based schemes like the Drought Prone Area Programme and the Desert Development Programme.
- Secondly, there are individual beneficiary schemes. Some of them aimed to provide the benefit to the poorest of the poor, some like the “National Rural Employment Programme” (NREP) and “Training the Rural Youth for Self-Employment” (TRYSEM) aimed at providing more employment to the rural youth. Some such as “Development of Women and Children in Rural Areas” (DWCRA) aim at the welfare of women alone.
- Lastly, there are schemes such as the Samagra Gram Vikas Programme and various schemes for tribal development, which are a mixture of both.

The Collector, with the assistance from the district-level staff, is responsible for the implementation of these schemes. He also performs developmental roles in his formal capacity as chairman of the City Monitoring Committee, the chairman of the district-level Bankers Coordination Committee, the head of the District Industries Centre, etc. He is also involved in the implementation of the

20-Point Programme and the revenue campaigns launched by the government for the speedy settlement of land and revenue disputes.

The role of the Collector at the district level in rural development has to be viewed from the point of his position in and relationship with Gram Panchayats, Panchayat Samitis and the Zila Parishad. It is suggested that the Collector be made the chairman of the Zila Parishad because the Collector, by virtue of his authority and eminent position in the district, could guide and lead the Zila Parishad. Unfortunately, it did not notice any contradictions that would arise, if the Collector did not notice any contradictions that would arise, if the Collector was to head an elective institutional set-up. This controversy is discussed below.

- The states did not accept the recommendations given by the Mehta Committee totally. There is no uniformity of patterns of relations between the Zila Parishad and the Collector.
- In some states the Collector was a member of the Zila Parishad and chairman of certain committees; in some, he was made the chairman and member of the Zila Parishad;. In Himachal Pradesh, Orissa and Rajasthan, the Collector is a member of the Zila Parishad (in Rajasthan he has no voting right) and chairman of several standing committees in which he exercises considerable authority.
- Lastly, in some states, like in West Bengal and Maharashtra, he is excluded from the Zila Parishads and he only has some powers pertaining to general supervision and control.

Critics, who disapprove of the strong position of the Collector in the Zila Parishad, put forward numerous reasons for keeping him out of the Parishad.

- Firstly, the Parishad is a non-official and purely elective body. In case of a disagreement between the Collector and the chief of the Zila Parishad, the later may argue that, as an elected representative, he knows the pulse of the people better.
- Secondly, the Collector's involvement and affiliation with the Zila Parishad would detract from his performance in the law and order field. Whereas, if he is preoccupied with law and order issues, he becomes suspect in the eyes of the Zila Parishad.
- Lastly, it will pose an embarrassing dilemma for the Collector, if the state government and the Zila Parishad disagree. He might be in a fix due to divided loyalties.

Similarly, there are others who argue for closer links between the Collector and the Parishad.

- He can, by virtue of his eminent position, act as a mediator to solve differences among the Parishad members and see that the targets determined by the government are achieved.
- Secondly, segregating him from the Parishad would mean the virtual removal of the Collector from the development activities in the district and it would mean his alienation from the common man.
- Thirdly, he can best coordinate the development task only if he is actively involved with the Parishad. Last but not the least important is the psychological reason. The idea of a Collector as the father-figure of the district is so firmly entrenched in the minds of Indians that they trust him more than their elected representatives and are reassured by his presence in the Parishad.

As Richard Park observes; the Close observers of district administration seldom report local people pleading for an increase in local responsibility for local affairs. On the contrary, the bulk of opinion favours the retention of strong collectorates as protection against predatory incursions against the powers and purse of local affairs by local politicians.

- The Chief Executive Officer acts as the area specialist, the coordinator and the captain of the team of development officers at the district level. The new Collector would be the ‘eyes and ears’ of the government and if not the ‘friend, philosopher and guide’, at least an ‘ombudsman’ and ‘inspector’ and ‘corrector’ of the Panchayati Raj Institutions.

Practical experience also shows that it is not advisable or totally affordable to keep the Collector out of the Parishad and out of development activities.

A study conducted by Edwin Eames and Parmatma Saran, based on the state of Bihar, shows how the state government tried to dispense with the services of the Collector in the field of development and how he bounced back, time and again, on the developmental screen.

In 1955, the Government of Bihar issued the redefinition circular which gave an eminent position to the Collector. He was made responsible for the execution of all the development programmes. A break from this pattern took place in 1973.

The scheme issued in May 1973 positioned a senior official named the Deputy Development Commissioner to work as the Chief Executive Officer of the Zila Parishad. He was equal in rank to the Collector and it was directed that all the duties of the Collector, related to welfare planning, and development, be entrusted to the DDC.

However, the emergency of 1975-77 brought back the Collector to the forefront. The government ordered that the position of 1955 be restored. The critical situation during the emergency needed a strong bureaucracy and the Collector was also made responsible for the implementation of the 20 - Point Programme.

During the Janata Party era, Narayan Morarji Desai and J.P promised strengthening of the village government. This led to the appointment of the Ashok Mehta Committee in 1977. The committee emphasised on strengthening the Panchayati Raj institutions, J.P. Narayan suggested that the District Collector would disappear eventually or, at most, continue as a representative of the state government.

But, while dreaming of self-reliant villages, the committee completely overlooked an important characteristic of Indian villages. It completely forgot that, if the benefits have to reach the poorest of the poor and downtrodden, adequate safeguards in the form of a guardian governmental functionary have to be established. The Panchayati Raj institutions continued to be dominated by the privileged village masses and those who were really needy were left out of the developmental process.

When the Congress again came to power in 1980 made the Collector pivot of district administration once again. Several key programmes were launched and the Collector was entrusted for their implementation. In Bihar, the District Collector was made responsible for the implementation of 14 out of the 20 points, such as irrigation, IRDP, drinking water supply, civil supplies, family planning, etc.

But, the constitutional amendment and the enactments on Panchayati Raj Institutions by various states in 1993 and early 1994 have reduced the burden of the Collector in regard to development activities.

Miscellaneous Functions of the Collector:

A few other important functions of the Collector are as follow:

- He functions as the District Census Officer responsible for the conduct of the census once in 10 years.
- Acts as the official representative of the government during ceremonial functions in the district.
- Acts as the Chief Returning Officer during elections to Parliamentary and State Legislative Assembly constituencies and coordinates the election work at the district level.
- Supervises the working of the municipalities in the district.
- Handles the protocol work during the visits of VIP dignitaries.

- Ensures that there is no shortage of essential commodities and food supplies.
- Ensures that there is no shortage of essential commodities and food supplies in the district.
- Maintains regular contact with the military authorities in the district.
- He compels and submits the annual administrative report of the district.
- Deals with personnel matters of the district staff.
- He undertakes regular tours of the district, meeting people, listening to their grievances and generally acting as the intermediary between the people and the government.

The saying that the “tent is mightier than the pen” was probably coined to impress upon the Collector the need to mix with the common people and develop sympathy for their problems. In a revenue year, he has to perform 50 to 60 ordinary inspections and 20 special village inspections and one Sub-Divisional Office (SDO) inspection each year.

Changing Patterns of District Administration with Particular Reference to the Role of the Collector in Panchayati Raj

- To make a critical review of the existing system of Panchayati Raj and district administration to bring out a critical assessment of the emerging trends and their impact on the district administration.
- To examine the functional linkages between the political leadership and the executive bureaucracy at the district level with special reference to the role of the District Collector.
- To attempt an overview of the changing role of the District Collector and his functional relationship with the existing and the emerging political leadership; Broadly identify the areas, the issues and the concerns which have an impact on the process of devolution of powers to PRIs.

Andhra Pradesh

- In the Panchayat Administration, the Chief Executive Officer (CEO), assisted by a Deputy CEO, looks after the Development Administration in the district.
- These two officials take the guidance of District Collector in critical situations although they are answerable to the Zilla Parishad.
- Recently, the Government of Andhra Pradesh has developed certain development functions (as mentioned in the 1th Schedule of the Indian Constitution) and financial powers to PRIs (as per the recommendations of the State Finance Commission).

- The collector reviews the implementation of schemes/programs of various departments in the district in various floras and gives suggestions and necessary guidance.
- On the other hand, he heads over 100 committees and convenes numerous meetings in a month or so for supervision, review, control and inter-departmental coordination and to provide guidance in implementation of schemes/programs/works.
- The collector undertakes tours for various purposes like inspection of works/ schemes, to conduct review meetings with various officials during field visits, surprise visits, for attending functions and receiving VIPs and VVIPs.

Gujarat

- In Gujarat, there is a separate equivalent cadre IAS officer post created after development works.
- But, the District Planning Board was set up during 1980 with the minister as the chairman, the collector as the vice-chairman. Day to day administrative reforms have been redefined, naturally the role and responsibilities also would be modified.
- Under the New Panchayat Act of Gujarat 1993 after 73rd Amendment, the collector has been entrusted with powers to village panchayats to recover land revenue. Collector is responsible for monitoring the implementation of development schemes for the welfare of SCs/STs along with the implementation of Scheduled Areas Act.
- He has control over the panchayat employees. As a revenue officer, general administrator and district coordinator always to be kingpin of the district in Gujarat, the collector has no role in DRDA administration.

The role of collector in Gujarat is virtually the same as it was at the introduction of PR in 1961. Even though major sectoral departments have been transferred to PRI'S, the collector gets funds under the plan schemes, scheduled areas and other welfare schemes including MLA LAD, MPLAD funds and he also monitors the schemes administered by the state government directly. Because of these developments, the collector's role in PR administration is extremely limited in the present set-up in Gujarat.

Karnataka

- In Karnataka, the post of District Collector, called the Deputy Commissioner (DC), has undergone a drastic change since the late 1980s.
- He is expected to look after maintenance of land records, administering the land matters, land revenue collection and other government duties in the district.

- On the other hand, as District Magistrate, he is also expected to maintain law and order, Census, conduct of elections, supervisory work on all the State Government Departments in the district.

It is normally believed that the Deputy Commissioner possesses enormous financial powers as the funds flow to the collector's office. With the office of the CEO in the district, major funding from several departments is absolutely negligible.

It was opined that the collector by virtue of his position need not be the CEO of the district and that a separate officer can do the developmental functions that have multiplied over the years. The role of the DC in the fold of PRIs is merely restricted to certain activities such as recruitment of personnel, conduct of free and fair elections, etc.

For effective implementation and supervision of the various developmental activities/programs in PRIs, exclusively a senior officer was favoured. In regard to collector's interaction with other elected representatives and officials it was reported that the DC frequently interacts with the CEO, the local MLAs and MPs more instead of the elected representatives of PRI.

Punjab

- The district bureaucracy and its structures in Punjab were established for a long time. The head of district administration has been the collector/deputy commissioner.
- As the Collector he heads the revenue administration of the district. As the district magistrate, he is responsible for the maintenance of the law and order in the district.
- He has been entrusted with and involved in various developmental and welfare activities.
- As a chief executive of the district, he has become the head of development administration. Thus, he discharges the multifarious functions.
- His role as collector, district magistrate, deputy commissioner and developmental administrator has gained pivotal importance.
- In spite of innumerable responsibilities and functions, it must be said that the collector has done well so far; and has been able to offer coordinating leadership required for the speedy and effective developmental and responsive administration in the district.

Tamil Nadu

- The major change, after the 73rd Amendment, is establishment of district panchayat in the place of district development council.

- The present system abolished the linkages present between the 3-tier panchayats by introducing direct elections to the district panchayats and to the panchayat union councils.
- Still, the district collector continues to be the Inspector of the Panchayats. Out of 3-tier panchayats the village panchayats are being empowered to undertake works related to developmental activities and maintenance.
- But, the panchayats are advised to obtain technical and administrative sanction from the competent authorities. The government has directed that the administrative sanction of the collector/inspector is necessary for a particular scheme or fund above a particular limit.
- The regulatory functions of the district administration have been changed very recently. The post of Divisional Development Officers (DDOs) is being abolished as they did not find a place in the present 3-tier system. The functions handled by the DDOs are transferred to the Block Development Officers (BDOs) as the controlling mechanism below the district level.
- On the other hand, the office of the Chief Executive Officer (CEO) is also being completely delinked from the present system.
- In Tamil Nadu, the opinion of the public on the role of the collector in development function is poor. The role of the collector in the administration of Panchayati Raj Institutions is the subject of great controversy. The underlying mechanism here is that the collector is responsible for a very vast area and has considerable scope for exercising power, control, authority and influence.

West Bengal

- In West Bengal (WB), three roles have been assigned to the District Magistrate.
- One is to assist the Zilla Parishad in formulating policies and programs, and in seeing to their implementation.
- The second is the control over such a body of bureaucracy as is transferred to the Zilla Parishad.
- The third is to assist the Zilla Parishad in the exercise of its general powers, i.e., under section 163, to supervise the Gram Panchayats and Panchayat Samitis in the district.
- In practice, however, very few District Magistrates perform these demanding roles as Executive Officers of Zilla Parishad. Most of them have little time for Zilla Parishad on the plea that their time is consumed by law-and-order functions, protocol duties, committee meetings and all other residual functions that go by the name of 'general administration'.

To sum up, the ambience of the district administration still is the presence of the collector as an institution. The present role of the District Collector revolves around development administration and the more increasing role of Zilla

Parishad in the process of planning and management or rural development programs. The merger of DRDA with Zilla Parishad has strengthened the position of the Zilla Parishad in development administration.

Que. "The separation between regulatory and development functions in many States has not only weakened the District Collector but also development administration." Critically examine the need to relook at this policy. (2016) (20M)

Policy Implications:

Creation of the institution of Collector as an agent of government is an example of outstanding innovation by the British. Although they did with a selfish motive to collect land revenue from the far-flung villages spread over the nook and corner in India, this office was, has been, is and will be a permanent feature of Indian Administration.

As has been documented, only the significance of the Collector's position has eroded due to multifarious functions that s/he has been involved over time. It is the only point of contact both for the officer as well as the general public for understanding the effect of public policy initiated by the government of the day. That said the collector's position becomes more cumbersome due to the government's involvement in several kinds of welfare functions for which he functions as a conduit.

In the post-73^d Amendment phase, the democratic organizations at the lower echelon have been armed with constitutional buttress; and thereby promoting reorientation planning process in a decentralized setup. The point is whether the collector should be allowed to administer development welfare administration. But these functions are not much different from the other functions he performs as the coordinator par excellence.

In fact, welfare and development are intricately interwoven with maintenance or regulatory administration. For example, 'land reforms' comes under the PRIs but anything dealing with this subject has a nexus with regulatory administration too. Hence, this position cannot be seen in total isolation with other aspects of district administration.

For the implementation of externally aided infrastructure projects, especially land development and modernization of irrigation and drainage systems, his presence would ensure speedy progress. However, states like Kerala, Gujarat, and Maharashtra have kept him out of the purview of PR matters. But in states like West Bengal, he has been made the Chief Executive Officer of the Zilla Parishad. The moot question is, when PRIs were introduced throughout the

country in 1994, why the policy makers at the highest level have not thought about the role of Collect under the new set up. This could have made matters clearer with regard to his involvement in PRIs.

It has been noticed that his position has undergone a drastic change during the last four decades because of the introduction of the planning process. When there is a consensus to recognize his supremacy in the district administration for its smooth functioning, aberrations here and there did not stand the test of time as they could not.

One glaring example has been the introduction of the office of the Chief Secretary of the Zilla Panchayat in Karnataka during 1986-92 which was dispensed with, when it was found inconvenient to the powers that be. The interesting point to be noted here is when the same political party (Janata) came back to power, it did not reintroduce the position of chief secretary, for which if claimed credit for the ushering in of district governance for the first time in the country. On this, one can say that either the political leaders do not have a broader vision or the officialdom to legislate themselves out of power.

Another reason for the above development could be the gradual process in the form of assertion of will of people. But in the post-Independence era, as in the past, the approach adopted was paternalistic in nature. The position of the District Magistrate could only be restored in case of its reinforcement of democratic ethos, which paved the way for responsiveness.

Another feature which reinforced this kind of thinking was the need felt for planning from below, in which the institutions at the grassroots have an important place. Hence, it was realized that PRIs would help facilitate the smooth functioning of district administration, under Collector's leadership, or of any official, who may be designated as the Deputy Commissioner of the rank and seniority of the District Collector.

Conclusion:

The multifarious activities performed by the Collector make him almost indispensable but, at the same time, also make him an overburdened functionary of the district. In the wake of functional proliferation, he has been provided with more staff. Yet, his duties are enormous. The office itself is undergoing a lot of strain due to factors some of which have been mentioned earlier. Democracy in India, functioning through its elected representatives, has shattered many myths, including the one that bureaucracy alone is the 'steel frame'.

The plurality of organizations and departments at the district level has also created problems. There is the Collector, rural development agencies, the police, revenue officers, and the judiciary, all of whom should ideally function as a team. District administration, in order to be effective, must have a unity of purpose and singularity of approach which is often found missing.

Though the Collector's role in the development process has been overemphasized, in recent years, we see that, due to the frequent breakdown in the law and order situation in the districts, the Collector has less and less time for development administration. Besides, his role in this sphere is being reduced in a number of states and the Chief Executive Officer of the Zila Parishad is emerging as the predominant functionary in development administration.

As Raian Singh have put it: "Through this process of attrition, the office of the District Officer, it may be conjectured, may sink into oblivion and the executive officer of the Zila Parishad will emerge as the most influential government functionary in the district hierarchy being, in training, administrative experience and status, equivalent to the forgotten District Officer.

The Panchayati Raj Acts of 1993 and 1994 of various states are clearly indicative of the diminishing role of Collector in development administration.

Besides, his judicial functions have been transferred to the judicial officers and, time and again, the police urge that law and order is its prerogative. In some states like Bihar, his revenue functions are being transferred to Panchayats.

Despite the recent measures to reduce the responsibilities of the District Collector, this key actor of Indian administration continues to suffer from role-overload and the attendant inter-role-conflict. His sagacity and acumen, however, help him in striking a balance among his multifarious responsibilities.

There is an unparalleled uniqueness about the post of Collector. He can, by virtue of his position, act as a leader, a motivator and a people's developer. Perhaps the best and the most apt description of an Indian mandarin given by O'Malley holds good even today. He remarked that the Collector "sometimes, when overburdened with work, grumbles that he has the life of a dog, but he knows that he has the work of a man."

The Significance of District Administration in the age of Globalization and decentralization

Since the early 1990's India has witnessed rapid changes in its economic and political spheres. The process of Globalization was initiated from the beginning of the 90's to overcome the financial crisis facing the country during that period.

At the same time, to ensure effective participation by people especially at the local level in governance, the government has implemented the two radical amendments to the constitution (73rd and 74th Constitutional Amendments Acts). These two important developments have had a greater impact on the administration especially at the grassroot level.

The process of globalization cannot be successful unless it is accompanied by decentralization and delegation of financial powers. Most of the developmental programmes implemented by the Government immediately after independence have failed to achieve the desired outcomes because of over centralization and lack of effective people participation.

The District Collector's position has also undergone many changes after the advent of Globalization and decentralization. They are as follows,

- In the age of Globalization and decentration, civil servants have become agents of change, of good governance and development administration at the very base of our democratic setup.
- Revenue collection is less significant compared to development functions performed by DC.
- In the redefined role of the Government, the cutting edge of a government function is at the district and lower levels and the efficiency of district administration determines the effectiveness of the policies of the Government. For example, NREGA initiated by the Central Government has become successful in some states whereas it has failed to achieve the desired outcomes in most of the states. This is because of lack of effective implementation and corruption at the local level.
- In the age of Globalization, distances are shrinking and markets are merging. Competition in the name of the game and the role of the state is being redefined in many centres. In many manufacturing and service sectors the government is moving from being a provider of goods and services to being a regulator and facilitator ensuring fair play and adherence to standards of integrity and efficiency.
- Government attention has shifted from providing physical and human infrastructure to enabling individual players to compete in the global markets. The objective of welfare administration has also shifted from welfare maximization to people empowerment. At the district level, DC is expected to act as a facilitator in the developmental process rather than being a director and regulator as was during the previous regime.
- Globalization results in increasing disparities between the rich and the poor and the distinct administration has to make sure that the gap is not widened.
- Provision of basic minimum facilities assumes greater importance at the grassroot level as it has a direct impact on the developmental process.

Educated youth can be easily absorbed by industries coming up in the district as part of Globalization.

- Globalization demands good governance at the grass roots and this can be achieved by promoting innovation at the grassroot level and by improving service delivery to ensure effective implementation of schemes.
- Globalization also would lead to public private partnership and it has to be implemented at the grassroot level to ensure active people participation in the developmental schemes. This would result in turning outlays into outcomes.
- The collector is an intersectoral functionary who is the source of strength for local administration and where objectives have changed in the wake of passage of 73rd and 74th amendments. The role of collector has been transformed into a more powerful one of facilitator, coordinator and a person who is responsible for intersectoral coordination of various activities.
- The test of a good administrator is his ability to work with the people and not above them, to inspire people and not regulate their affairs, to release their potential and their creativity and not restricting their freedom.
- In the changing role DC has to be an expert in human resource management, strategic planning and thinking and financial management.
- Decentralization is not merely a political imperative but as much a managerial necessity given the large size of population in our states. Even a district in our country is similar to a province in other countries. It is therefore a managerial imperative to strengthen the middle management level in our country system for effective delivery of public services and this has to be at the level of collector.
- India is a country that is characterized by uneven development between the regions and between people. The major challenge for the district administration is to ensure a general equality of opportunity to all people, removal of mass illiteracy, disease and faster economic growth and development. In order to be ethically neutral in the context of inequality, district administration has to be partisan - partisan towards the poor, towards the weaker sections, towards women, minorities, SC's & ST's who need the support of administration.
- Decentralization and democracy demands that the administration has to respect dissent within the society and the District Collector is needed to build a consensus between warring factions.
- As part of decentralization the structures of Panchayat Raj are in place but they need to be infused with new reality. The organizations enable the district administrator to mobilize collective action for development. India's great strategic resource is its people. A collector can provide leadership to the task of nation building. He has to create an environment conducive to creativity and enterprise for the overall department.

- For the powers of Globalization to be successful, it has to be inclusive. This will mean every section of society must be able to benefit from the process of reform. It requires immediate attention to issues of agriculture, rural development, health, and education, infrastructure, focusing in particular, on the weaker sections and ensuring communal harmony at all costs.
- To benefit from the process of Globalization, DC has to modernize the administrative set up at the local level; computerization of these records would help in acquiring land for industrial purposes.
- Globalization has also resulted in the spread of terrorism and as a District Magistrate; the collector is responsible for maintenance of law and order within the district. He has to be proactive in busting terror modules within the district ensuring close cooperation between the law and order agencies at the local, state and central levels.
- Infrastructural development is a key concern in the age of Globalization as industrialization will take place in only those regions which have better infrastructural facilities. District administration has to emphasize on this aspect in order to exploit the forces of globalization.
- Because of decentralization, the traditional forms of administrative structures at the local level have been expanded to include civil societies, NGOs, pressure groups, markets and the people themselves. In this changing scenario, the district collector has to be a coordinator and facilitator between these agencies to ensure overall development.
- Globalization has opened up new opportunities for the people and the district administrator has to identify the areas of strength in the district and market them effectively to benefit out the Globalization advances. District administration can reduce the influence of intermediaries between consumers and local producers and the international market through the use of computers and the internet.

Conclusion:

The multifarious activities performed by the collector make him almost indispensable but at the same time make him an overburdened functionary of the district. The plurality of organs at the district level has also created problems of coordination. District administration, in the age of globalization, decentralization, in order to be effective must have a unity of purpose and singularity of approach. The District Collector by virtue of his position has to act as a leader, motivator and a people's developer.

Que. “Reducing the size (geographical area) of the district will provide relief to the overburdened and overworked collector.” Comment. (2013) (10M)

Que. District administration is the most important unit in governance. Most of

the Central and State Government schemes and programmes are directed towards the district administration. In this context, discuss the challenges and problems posed to the district administration. (2020) (20M)

Role and Functions of Sub-Divisional Officer

The district is geographically divided into a number of units known as sub-divisions in Madhya Pradesh and Uttar Pradesh, Prants in Maharashtra and revenue divisions in Tamil Nadu. The official-in-charge of this unit bears a variety of names; he is called Sub-Divisional Officer (SDO) or Sub-Divisional Magistrate (SDM) in U.P., Revenue Divisional Officer or Sub-Collector in Tamil Nadu, Prant Officer in Maharashtra.

This helps in further decentralisation of authority as well as to provide field training to recruits to the IAS. The SDO is either a newly recruited member of the IAS or a member of the State Civil Service. The former, it has been observed, generally does not take any marked interest in the administration of the sub-division, as he regards this as a mere training post, and a stopgap arrangement.

Like the District Collector, with the voice of the government in his own sub-division. He is a link between the Tahsildar and the District Collector in revenue matters and the Station Officer and the District Magistrate in matters relating to law and order.

The Subdivisions may be classified into two broad types—an ‘office’ type sub-division, and a ‘touring’ type sub-division. In the former, the SDO maintains the office just as a Collector or a tahsildar does. Here, the headquarters of the sub-division is usually located within the sub-division itself. This type came into existence during the earliest phase of British rule in India and has since continued. Bihar, Bengal, Orissa, Tamil Nadu, Maharashtra, Gujarat, Andhra Pradesh, Karnataka, Rajasthan and Assam represent this type.

There is also a touring type sub-division in which the SDO does not maintain an office. He is a touring officer gathering information, transmitting it to this district chief, contacting people, execution of government activities in his sub-division, and supervising subordinate officials. His ‘core’ role in both the types is the same. He is primarily ... an inspecting, testing, and supervising officer, hearing appeals and trying cases. He moves about the villages and ascertains the villagers’ grievances and wants and gains experience.’

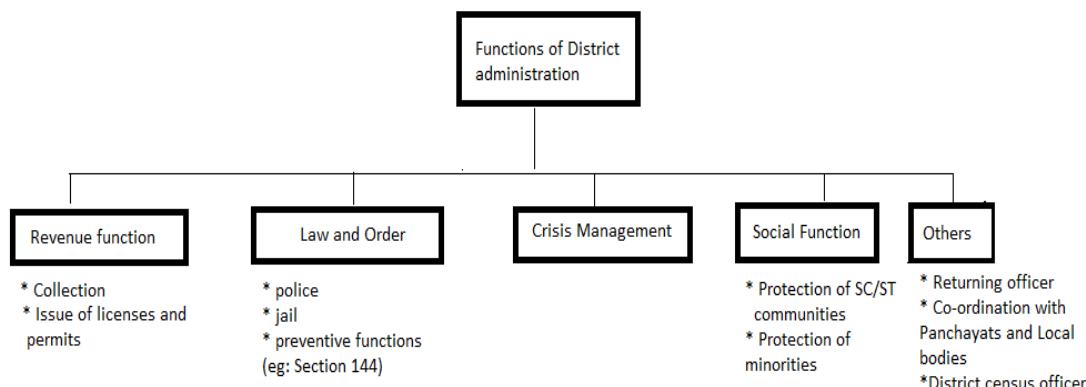
The SDO is thus a valuable field aide to the District Collector and is an integral part of the district administration. The SDOs in many states do not live within their subdivisions. They reside at the district headquarters. Naturally, they cannot be quite effective in their work, and the public too is put to considerable

inconvenience by having to come to district headquarters for even small items of work. As a matter of policy, the SDO and other sub-divisional level officers must reside at the sub-divisional headquarters.

Model Answers

Que 1. “Digitization of land records is a necessary but not sufficient precondition for ensuring transparent district administration.” Explain (2017)(10M)

The District administration refers to the administration headed by a District officer, variously called district collector, district magistrate or deputy commissioner. The district administration represents both the state and union at the district.



Of these functions, the revenue administration has been historically the most important function of the district administration. The district collector is the chief revenue officer, responsible for the collection of taxes- land revenue, income tax dues, agricultural dues, irrigation and panel dues and stamp duties.

The District administration is responsible for maintaining land records which includes the survey of land and also updating of land records. Though land reforms had been effected in most states following independence, land records have not been completely updated. These have resulted in issues such as:

- Ownership disputes and litigation
- Low tax collection as ownership is not conclusive.
- Lack of Social Justice: In LWE areas, lack of land records in the hands of cultivators has led to Naxalite issues.

Digitization of land records is thus necessary as:

- Digitization of land records brings transparency in the land records, as it improves accessibility of information, provides authoritative ownership records.

- Digitalization reduces scope for manipulation and fudging of data under the pressure of influential elements.
- Digitalization also ensures that tax assessment can be done transparently by District administration, so that tax coverage is enhanced.

However digitization of land records is not a sufficient precondition for ensuring transparent District administration as it would also require –

- Proper record keeping and voluntary disclosure under Section 4 of RTI Act.
- Enhancing public participation in policy formulation and implementation– via consultation with gram panchayats, NGOs, etc.
- Allowing greater access to social audits.
- Enhancing Public participation in drawing of citizen's charters.
- Improved grievance redressal via use of ICT.
- Ensuring transparency in other functions of district administration as well, such as- Law and order administration and social functions.

Digitization of land records will go a long way in enhancing transparency in District administration as well as reducing resources lost in litigation and disputes. It is currently being pursued by most states under the umbrella of central schemes like NRLMP and should be completed in mission mode priority to set the foundation for a "Digital India".

Attempts at Digitization of Land records in India:

- National Land records modernization Programme:

Objective: to develop a modern, comprehensive and transparent land records management system in the country with the aim to implement the conclusive land-titling system with title guarantee

4 basic principles:

- (i) a single window to handle land records (including the maintenance and updating of textual records, maps, survey and settlement operations and registration of immovable property)
- (ii) mirror principle, which refers to the fact that cadastral records mirror the ground reality
- (iii) curtain principle which indicates that the record of title is a true depiction of the ownership status, mutation is automated and automatic following registration and the reference to past records is not necessary
- (iv) Title insurance, which guarantees the title for its correctness and indemnifies the title holder against loss arising on account of any defect therein.

Components of the scheme:

- Computerization of all land records including mutations.
- Digitization of maps and integration of textual and spatial data.

- Survey/resurvey and updation of all survey and settlement records including creation of original cadastral records wherever necessary.
 - computerization of registration and its integration with the land records maintenance system
 - Development of core Geospatial Information System (GIS) and capacity building.
 - Swamitva scheme (Survey of villages and mapping with improvised technology in village areas)
- An initiative of the Ministry of Panchayati Raj. The scheme is for surveying the land parcels in rural inhabited areas using Drone technology and finally giving citizens e-property cards which establish their ownership of lands.

Objectives:

- To bring financial stability to the citizens in rural India by enabling them to use their property as a financial asset for taking loans and other financial benefits.
- Creation of accurate land records for rural planning.
- Determination of property tax, which would accrue to the GPs directly in States where it is devolved or else, add to the State exchequer.
- Creation of survey infrastructure and GIS maps that can be leveraged by any department for their use.
- To support the preparation of a better-quality Gram Panchayat Development Plan (GPDP) by making use of GIS maps.
- To reduce property related disputes and legal cases.

Que 2. “Reducing the size (geographical area) of the district will provide relief to the overburdened and overworked collector.” Comment. (2013) (10M)

The District Collector is virtually responsible for everything happening under the government powers in the district. The role is overburdened but also over-worked. No wonder, the collector has office even in official residence.

Reducing geographical area will help collectors to meet the people more frequently. This will help reduce the number of files on the collector's table, since the population will be lower as compared to large districts. This will help proper headquarter-field agencies communication.

However, the number and variety of the function a collector does is humongous. As a district collector, she heads more than 60 departments in the district. Also, political interference is going to be there, irrespective of the size of the district.

There should be streamlining of the functions performed by the district collector. There should be rationalization of the sizes of some of the very large districts like Barner in Rajasthan or Ahmednagar in Maharashtra, to have better accessibility to collector's offices. There can be multiple posts to support the load of collectors in the district, like CEO, Development Officer etc.

Chapter 8 - Civil Services

Syllabus: Constitutional position; Structure, recruitment, training and capacity-building; Good governance initiatives; Code of conduct and discipline; Staff associations; Political rights; Grievance redressal mechanism; Civil service neutrality; Civil service activism.

Civil Services:

Bureaucracy in India is a highly complex one that has evolved over nearly two centuries and is involved in tasks of astounding breadth and variety. It assumed

many of the functions that private enterprise performs in Western developed countries. This occurred as a result of the private sector's inability or unwillingness to take action. As a result, the historical situation compelled it to act. However, there are other forces at work that are pushing it in the same direction.

Even in the period when laissez faire provided the ideological base to decision-making in the West, the bureaucracy in colonial India found itself compelled to assume welfare's role in certain areas.

India is a country of continental extents, with a wide range of geographical differences and diversities. It has a population of nearly 1350 million which is expanding very fast.

The people speak different languages, profess various religions and differ in their habit, manner, etiquette and culture and moreover are at different levels of development, social, economic and political. Not only is the society not homogeneous but there are many fissiparous tendencies also at work, which pose a threat to the country's independence and integrity and to prevent which is understandably the foremost challenge to the nation's leadership. Besides, the country's public administration is relatively new or novel in relation to development.

Above all, these functions are obliged to be carried out within the ordering framework of parliamentary democracy whose hallmark is the executive's continuous accountability to the legislature elected for a five year term on universal suffrage and which is founded on rule of law.

Bureaucracy at the time of Independence:

Even when the rulership of the land changes hands, bureaucracy has an uncanny habit of obstinate persistence. At the very least, this appears to be the case with the British colonial system in the Indian subcontinent. The bureaucratic system devised by the British to meet their own needs was inherited by Independent India in 1947, which justifies a brief mention here. The colonial bureaucracy was designed primarily to carry out a narrow range of functions, most of which were regulatory in nature.

Legally, India attained independence through constitutional means, namely the Indian Independence Act of 1947, which fostered a climate of continuity in most spheres. Independence was accompanied by the country's partition, which resulted in the reshuffling of a sizable population, law and order issues, and the depletion of administrative cadres due to the premature retirement of a large number of British and Muslim officers. The Indian Civil Service – the 'steel

frame' – had a total strength of 932 shortly before independence in August 1947, but its membership dwindled to 422 immediately after independence.

Similar depletions occurred in other services as well, but the fact remains that independent India inherited an ongoing administrative system to deal with the new functions inherent in or incidental to statehood. The country's widespread backwardness, the result of centuries of neglect, was to be eliminated as soon as possible, and the state was the only instrument of development, with institutions and processes outside the realm of the state generally found in western countries simply not existing or being insufficient in size and strength. As a result, even while dealing with the effects of partition, the government's responsibilities grew significantly.

A feature worthy of note of the Indian constitution is its set of provisions relating to the civil service, particularly covering matters like recruitment and conditions of service including termination and demotion as well as the institutions of all India services and public service commissions.

The principal constitutional stipulations may briefly be summarized here. Parliament is empowered to regulate the recruitment of civil servants and conditions of their service, subject of course, to the stipulations of the constitution. A civil servant holds office during the 'pleasure' of the President of India but he cannot be removed or dismissed by an authority subordinate to that by which he was appointed and, moreover, before such an action is taken, he must have been given a 'reasonable opportunity' of showing cause against the action proposed against him. The constitution, moreover, contains provisions for the all India services as well as the public service commissions.

The Government of India, today, employs 3.7 million personnel, an overwhelming number of these being in lower levels of jobs, with only 2.6 percent of them being engaged in positions entailing supervisory and policy-making responsibilities. The civil service is divided into the following categories, which correspond to the differences in the level of responsibility of the work performed and the qualifications required, in descending order:

- Group A, Group B, Group C, Group D (earlier known as Class I, II, III, IV).
- Group A constituting the service of higher civil servants in India includes the all-India service and the central services, numbering 3 and 33 respectively.

The non-technical all India and central services are recruited from the common competitive examination but once servicefication is completed the officers

remain in their respective services for the rest of their career with little interservice communication and mobility.

The emolument patterns, career prospects and other terms of service also differ from service to service, and are the most favourable for and jealously protected by the Indian Administrative Service.

A member of the IAS reaches the rank of Joint Secretary in his sixteenth year of service whereas a member of the Indian Police Service would take more than twenty years to reach this level.

Group B is basically a class of first line supervisor, and includes, like Group A, a number of services, each separate and distinct with little inter-communication.

The all-India service, which is common to both the central and state government with ultimate control vesting with the center, is an administrative innovation of a most remarkable nature in Indian federalism. An arrangement made by the British colonial government in India in the early period of its rule, the all-India service was retained by Independent India, and its place is recognized by the constitution.

The Constitution mentions the Indian Administrative Service and the Indian Police Service as two all India services, and furthermore, lays down a procedure also for the creation of additional such services. In 1965, the Indian Forest Service, a technical service, was added to the list, but the most important are the I.A.S. and the I.P.S. especially the former.

Recruitment to the all India and (non-technical) central services is through a combined competitive examination which the Union Public Service Commission, the independent recruiting body set up under the constitution, holds every year for the university graduates between twenty-one and twenty-six (twenty-eight till the year 1987) years of age to fill nearly 700 vacancies.

The top-ranking candidates are put in the services of their preference, and services like the I.A.S. has always stood at the top but the relative attractiveness of other services has not remained steady. For instance, the Indian Foreign Service is no longer the first or second choice of most competing graduates. Services like income-tax, central excise, railways, audit and accounting etc. have improved their attractiveness and are more sought after than many others. Each candidate gets three chances to complete, and some of the successful candidates placed in other services are seen to re-appear at the competitive examination to improve their performance and thus to qualify for the I.A.S., the successor – service to the world – renowned Indian Civil Services.

The newly recruited candidates to the various non-technical services, both all-India and central, are required to undergo **sixteen week ‘foundational’ training** at the government run National Academy of Administration at Mussoorie where all of them are given an understanding of the constitutional, economic and social framework within which they all, irrespective of their separate services, have to function. As the various services function in a highly compartmentalized manner with no inter-service mobility or communication, the stay of all the recruits under a common roof seeks to promote a measure of bonhomie among them which in their subsequent career facilitates coordination efforts and to curb departmentalism.

The residential arrangements and course pattern are so aimed as to provide opportunities for making cross – service friendships. This, too, encourages interservice coordination in future. In the hostels the rooms are so allotted that no two officers from the same service are put together. This fraternity, however, may be epithermal and may not survive the training period at Mussoorie. This is because in the Academy the probationers are trained on the basis of equality whereas in the official world outside a relationship of superior-subordinate exists. The disparity is real and life-long and extends from the pay-structure to service conditions.

At the end of sixteen weeks, the members of other services leave the Academy to undergo further specialized training at their functional respective training institutions, but members of the IAS continue to there for what is known as **professional training of eight month’s duration** being followed by **one year-long on-the-job training** in the district at the end of which they re-assemble at Mussoorie to attend the second phase of training for three months where emphasis is laid on the practical problems and difficulties which they encountered or observed in the field.

On completion of the institutional training the new recruit goes to the state of his allotment, which he is to serve for the rest of his life, punctuated by a period of service at the Centre. The emphasis in the earlier years of his career is on postings in the district where he is put on a variety of jobs to prepare him for the post of district collector, which he comes to occupy in the fifth year or so of his service. His first posting is as the sub-division officer (S.D.P.) and he spends nearly two years in this post. At the end of two years, he is brought to the state secretary as deputy secretary and here he learns how policies and programmes are prepared not often in consultation with the Centre.

The most prestigious Group A service is the generalist administrative service, a portion of whose members are promoted into the IAS each year. However,

because their pay scales are not very competitive and promotion opportunities are limited, state services are generally rated as inferior to central services. The following table shows the number of civil servants employed by the various state governments in 1980.

While a large percentage of IAS members are in the higher pay bands, the opposite is true for medical doctors and engineers in India, with a large number of them failing in the lower income bands of their respective pay scales. Inevitably, this has an impact on their motivation and morale, which has an impact on development; one manifestation of this is the 'brain-drain.'

The Indian civil service, it should be noted, is made up of a number of unequal services with little inter-service communication and even less mobility. Because administration is an integrated process, the resulting inter-service disharmony creates a barrier to synchronised action. Many people recognise this, but there is no serious effort to stop it. The Administrative Reforms Commission (1966-70) recommended a unified grading structure to open the road to the top to all with merit, but the recommendation was rejected.

Despite the fact that recruitment is based on objectively tested merit by the Union Public Service Commission, the country's civil service has become politicised over time. The executive decides on matters such as postings, transfers, and promotions, and as a result, politically appointed ministers increasingly look to these as convenient tools of reward and punishment. Careerism in the civil service makes its members receptive to the unholy signals of the ministers.

There is, as a result, growing political interference in administration and, as often as not, both the civil servant and the politician have learnt by now to accommodate each other in a wide variety of matters. Civil Service ethics in India is consequently under heavy stress, and one manifestation of this is rather widespread corruption.

Union Public Service Commission

Historical Background:

One of the major demands of the political movement was the Indianisation of the superior Civil Services, which compelled the British Indian Government to consider the establishment of a Public Service Commission for recruitment to its services in the territory. On October 1, 1926, the first Public Service Commission was established. However, its limited advisory functions did not meet the people's aspirations, and the continued emphasis on this aspect by our freedom movement leaders resulted in the establishment of the Federal Public Service Commission under the Government of India Act 1935. For the first time, provision was made in this Act for the formation of Public Service Commissions at the provincial level.

Following independence, the Constituent Assembly recognised the importance of providing secure and autonomous status to Public Service Commissions at both the Federal and Provincial levels in order to ensure unbiased recruitment to Civil Services as well as the protection of service interests. The Federal Public Service Commission was given constitutional status as an autonomous entity and given the title, Union Public Service Commission, with the promulgation of the new Constitution for independent India on January 26, 1950.

Constitutional Provisions:

- The Union Public Service Commission was established by Article 315 of the Indian Constitution. The Commission is comprises the ten members and a Chairman.
- The Union Public Service Commission (Members) Regulations, 1969 govern the terms and conditions of service for the Chairman and Members of the Commission.
- The Commission is supported by a Secretariat led by a Secretary, who is assisted by two Additional Secretaries, a number of Joint Secretaries, Deputy Secretaries, and other support staff.

According to the Constitution, the Union Public Service Commission is entrusted with the following duties and roles:

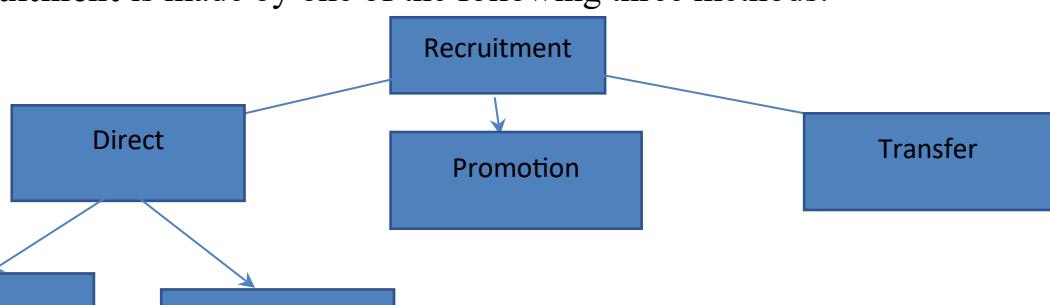
1. Recruitment to Union services and posts through competitive examinations;
2. Recruitment to services & posts under the Central Government by Selection through Interviews;
3. Advising on the suitability of officers for appointment on promotion as well as transfer-on-deputation;
4. Advising the Government on all matters relating to methods of Recruitment to various services and posts;
5. Disciplinary cases relating to different civil services; and
6. Miscellaneous matters relating to grant of extraordinary pensions, reimbursement of legal expenses etc.

The Commission's primary function is to select individuals to staff the various Central Civil Services and Posts, as well as the Services shared by the Union and States (viz. All-India Services).

Recruitment to Various Services and Posts

Under Article 320 of the Constitution of India, the Commission are, inter-alia, required to be consulted on all matters relating to recruitment to civil services and posts.

Recruitment is made by one of the following three methods:



Recruitment by Competitive Examination:

- According to the Constitution, one of the Commission's functions is to conduct examinations for appointment to Civil Services/Posts of the Union.
- Furthermore, under arrangements with the Ministry of Defence, the Commission holds competitive examinations for entry into certain Defence Services via the National Defence Academy, Indian Military Academy, Naval Academy, Air Force Academy, and Officers Training Academy.
- Every year, the Commission conducts over a dozen examinations throughout India. Examinations for recruitment to various services/posts, such as Civil Services, Engineering, Medical, and Forest Service, are examples of these.
- At present the Union Public Service Commission conducts their examinations at numerous venues spread over 42 regular centers throughout the country.

Recruitment by Selection:

By the following methods, recruitment by Selection is made:

1. By Interview Only
2. By Recruitment Test Followed By Interview

By Interview Only:

When there are a large number of applicants, it is impractical to call for interviews for all of those who meet the minimum eligibility requirements. As a result, the Commission shortlisted candidates to be called for interviews based on predetermined job-related criteria. The Commission handles a large number of recruitment cases using method (1) above.

By Written Test Followed By Interview:

In this category, there are two types of procedure followed:

- a. An objective-type written and/or practical test to assess the candidates' abilities, followed by an interview, with the final selection determined by the interview, aided by the candidates' performance in the written and/or practical tests.

- b. An objective-type written and/or practical test to screen candidates for interviews, with the final selection determined solely by interview.

Appointment by Promotion and Transfer on Deputation/Transfer:

According to the procedure decided by the Government in consultation with the Commission, the Chairman or a Member of the Commission presides over the Departmental Promotion Committee Meetings to consider promotions from Group B to Group A and from one grade to another within Group A, where promotion is to be made by Selection.

Deputation:

Transfer on Deputation (including short-term contract) and Transfer are provisions in the Recruitment Rules for a number of positions. When the field of consideration includes both Central Government and State Government officers, prior consultation with the Commission is required before appointing an officer. When the file for consideration is expanded to include not only Central/State Government officers but also officers from Non-Government Institutions, the selection must be made in consultation with the Union Public Service Commission.

All India Services

All India Services comprises the Indian Administrative Service (IAS), Indian Police Service (IPS) and Indian Forest Service (IFS). The All India Services Act, 1951, and the Rules and Regulations enacted under it govern recruitment and service conditions in the All India Services.

Direct recruitment to the Indian Administrative Service and Indian Police Service Examination is done through the Civil Services Examination, and direct recruitment to the Indian Forest Service is done through the Commission's Indian Forest Service Examination.

The relevant Rules and Regulations state that in consultation with the Commission, 33 percent of the vacancies in the IAS/IPS/IFS should be filled by promotion from among the officers of the State Service. The Selection Committee, presided over by the Chairman/Member of the Commission, is made up of senior government representatives from both the Central and State governments.

The Civil Services

- The Indian Constitution is unique in its detailed provisions relating to civil services, covering topics such as recruitment and conditions of service, including termination and demotion, as well as the establishment of all-India services and public service commissions.

- Parliament has the authority to regulate the recruitment and conditions of service of civil servants, subject to the provisions of the constitution, of course.
- Civil servants hold the office at the president of India's "pleasure," but they cannot be removed or dismissed by an authority subordinate to the one that appointed them. Furthermore, before such action is taken, they must have been given a "reasonable opportunity" to show cause against the proposed action.
- The civil service in India consists of a complex network of All-India Services, Central Services, and State Services.
- The Government of India employs nearly 4 million people, the vast majority of whom are in lower-level positions: only 2.6% are in positions requiring supervisory and policy-making authority. The civil service is divided into four groups based on the level of responsibility of the work performed and the qualifications required. These groups are designated as Group A, Group B, Group C, and Group D. (earlier known as Class I, II, III and IV). Group A is the service of higher civil servants in India, and it includes the all-India and central services, which have three and more than thirty employees, respectively.
- The generalist all-India and (non-technical) central services are recruited through a common competitive examination, but once service allocation is complete, officers remain in their respective services for the rest of their careers, with little inter-service mobility.
- The emoluments patterns, career prospects, and other terms of service differ from service to service, with the Indian Administration Service having the most favourable terms (IAS).
- A member of the IAS can reach the rank of joint secretary in his or her sixteenth year of service, whereas a member of the Indian Police Service needs more than twenty years. Group B is essentially a class of first-line supervisors and, like Group A, includes a number of services, each separate and distinct with little inter-communication. Group C includes clerical jobs, whereas Group D includes messengers, peons, cyclostyle machine operators, and others performing lower-level jobs.
- The layer of supervisory and managerial personnel is thin: roughly 1.30 central employees are in Group A, 2.20 in Group B, 54 in Group C, and the remainder in Group D for every one hundred central employees.

The all-India service, which is shared by the central and state governments but is ultimately controlled by the central government, is a remarkable administrative innovation of Indian federalism. It was originally a plan devised by the British colonial government in India during its early years of rule. It was consciously retained by independent India and recognised in its constitution,

which mentions the Indian Administrative Service and the Indian Police Service as two all-India services and lays out a procedure for establishing additional all-India services.

Although other federal systems around the world practise administrative dualism, with the centre and the states recruiting their own civil servants independently, India constitutionally adopts the practise of central recruitment of all-India services and places them in charge of district administration and the top ranks of administration with state secretariats. As previously stated, India's public administration is integrated.

A system should be established to ensure that recruitment is based on merit in order to maintain or improve the quality of government employees. A progressive recruitment policy is built around reducing, if not eliminating, favouritism, nepotism, and incompetence in the selection process.

A development oriented recruitment policy should include:

- (a) a provision for conducting a positive search for qualified candidates, including extensive publicising of the open positions and their requirements.
- (b) lateral entry and controlled mobility within the system flexibility
- (c) provisions for a systematic personnel policy and career development programmes that encourage a rewarding and productive career.

It is important to remember that the political and administrative arms of governments are closely linked. It would be a grave error to regard political and administrative development as diametrically opposed activities, or to assume that progress in one necessarily implies a deterioration in the other.

On the contrary, there can be no political development without administrative development, and administrative development can only succeed when political leadership is strong enough to afford a meritocracy rather than a spoils system.

It would also be a mistake to believe that a spoils system can strengthen any political authority. It is true that if a government's political arm is too weak, government employees, particularly the military, may seize political power.

There is also concern that the government's experts or technocrats, who are those with knowledge, will turn the government into a technocracy. In either case, the solution is to strengthen the political arm rather than to hire less qualified people into public service. Filling government positions with incompetent individuals will not save a weak government, but will increase the likelihood of an incompetent group taking over the government.

Training is necessary because no matter how well qualified a person may be at the time of recruitment (whether carried out through competitive examination or through other means), he still has certain inadequacies and therefore much to learn before becoming a really effective civil servant.

In personnel education and training, both traditional and modern innovative techniques are used. Conventional training methods include information presentation techniques such as instructional talks and lectures, the Socratic question and answer method, discussion, conference, seminars, and study syndicates, and the case method "programme learning or correspondence course, training with audio-visual aids, and so on".

There are numerous training methods. One important category includes simulation exercises, in which the trainee is expected to act as if he were in a real-life situation. Management games, role-playing in basket exercises, certain new case methods, and other similar activities fall into this category. These entail more than just a sample of real life, as in the traditional case and discussion methods. Such simulation exercises are especially beneficial for developing decision-making and problem-solving abilities.

The major need of simulation exercise for developing countries is that their usefulness relates directly to the relevance of their content to the realities of the jobs of the trainees, their roles and their environment. They must be tailored to fit the particular training situation. Experience shows that simulation exercises are prepared in a highly developed country and use materials irrelevant to the developing environment are no good for developing countries.

Pay is the most fundamental component of a system of material incentives for government employees. Pay scales are normally governed by the principle that the remuneration offered to government employees should be sufficient to attract and retain persons who are qualified for the tasks entrusted to them in a country where people are free to choose their jobs and move from one job to another. Conditions of service are closely related to salary and pay. Working hours, holidays and leave, working methods, discipline and punishment, and the right of government employees to form associations, to bargain or be consulted on salary and related problems, to appeal, on certain personnel actions and the like are among the conditions of service which form part of the system of material incentives for government employees.

Another important aspect of a system of material incentives is the issue of security. The security of an office is frequently as important, if not more important, than its remuneration, particularly in developing countries where employment opportunities are scarce. The most important security feature of the civil services in the western industrialised countries is career service with tenure until retirement.

Promotion or advancement is another important component of a material incentive system in all civil services, particularly those with a career system. There must be a system of promotion or advancements in rank, pay, and responsibilities in all civil services. The most important intangible incentive, perhaps, is to make the job challenging and stimulating by connecting it to broad national objectives and goals.

This fosters a strong sense of commitment and enthusiasm, as well as a sense of mission, which often enables men and women to accomplish the "impossible." To put it another way, one important way to motivate government employees is to align their personal goals with national goals, allowing them to find great personal satisfaction in going above and beyond the call of duty and normal expectations.

A system to improve the efficiency and productivity of government employees would be insufficient without adequate measures for evaluation and control, as well as for rewarding those who make exceptional contributions. Punishing those whose overall performance and behaviour fall significantly short of the established standard, as well as disciplining those who fail to follow rules and instructions. Motivation via a negative form of inducement (i.e., inducement to avoid being punished or disciplined) is frequently as important as motivation via a positive form of inducement (i.e., rewards).

It should be noted, however, that dealing with manual workers is easier to evaluate and control than dealing with those whose work requires a more abstract type of knowledge and ability, such as public administrators. A machine's performance and efficiency can be easily evaluated, and controls can be built into it. For manual labour, quantitative standards for measuring performance can be established, and control can be exercised objectively, meaningfully, economically, and efficiently.

However, in public administration, one must frequently rely on qualitative rather than quantitative, subjective and complicated methods of evaluation and control. However, there is considerable disagreement about the methods and policies that will provide effective performance evaluation. Some countries rely on a confidential system consisting of numerous abstract judgments. Others have found more concrete results from an appraisal system based on encouragement of two-way communication between supervisor and supervisor and on linkage of aggregate judgment of appraisal with a system of reward and or penalties concerning the level and quality of actual performances related to specific official duties.

Organisation and Management (O&M)

The administrative machinery in developing countries, such as India, has not been adequate to handle the tasks of economic and social development. The administrative shortcomings of a national government have a significant impact on economic and social development. The development of Public administration remains an essential pre-requisite for successful economic development of the country. Therefore, far reaching improvements in public Administration are required if the objectives of planned economic development are to be realized.

Organization and Methods Division

In order to improve the efficiency of Public Administration in India, the Organization and Methods Division was set up in March 1954 in the Central Government. This division is located in the Cabinet Secretariat to secure better cooperation and collaboration from ministries and departments. This organization was set-up with the idea that the main sort for administrative improvements would flow from each ministry, the function of the central O & M Division being:

- To supply the leadership and drive
- By a Co-operative effort to build up a common fund of information, experience and competence in O & M work.

The O&M division continued functioning till 1964. It had performed some useful sanctions. According to S. R. Maheshwari, it kindled an awareness which was absent there to need for administrative improvements in the machinery of government, and this need paved the way for the creation, in 1964, of the Department of Administrative Reforms merging itself in the latter. Under its leadership O&M divisions were also set-up in the states. Thus, the O&M division marked an important stage in the country's administrative reform history. On the top layer, it appears to have progressed.

Proper procedure for disposal of work (e.g. Manuals of Office Procedures):
Aids for quickers and proper disposal of work (e.g. Manuals of Office Procedures):

Control mechanism-Control Chart, level jumping, weekly arrears statement monthly list of pending cases for keeping watch over the disposal of receipts and reducing delay:

- Regular system of inspections
- Simplified and effective reporting;
- Training of the lower grades of staff;
- Monthly reviews of progress at O & M staff meeting.

Despite its accomplishments, this Division was never able to see a long-term plan, and actions at the division's top management were constantly changing. Furthermore, its scope was so limited because there were two other organisations that performed similar tasks – the Special Reorganization Unit in the Finance Ministry and the Committee on Plans Projects in the Planning Commission. All these three organizations functioned more or less in isolation, the division also neglected the organisational aspect and concerned only with methods and procedures.

The case of effectiveness of parliamentary control lies in reviewing and examining the performance of the executive departments in terms of efficient administration and not in terms of its legality, propriety and political motives of

certain expenditure. The introduction technique of performance budgeting, which is based upon functions, activities and projects, can provide an opportunity to facilitate intensive and comprehensive parliamentary control over finances. These are some of the suggestions advanced by various authorities to improve the effectiveness and impact of parliamentary control over finances.

Role of Civil Service in developing society

Before discussing the role of civil service in developing countries. It will be better to know what sort of role ‘Public Administration’ played in both developing and developed countries.

Public Administration	
Developing Countries	Developed Countries
<ul style="list-style-type: none"> *Public administration played a major role to create & manage the social infrastructure. ▪ *Quantitative ▪ *It occupies a central position in the schemes of ordering social activities. ▪ *Waxing and warning potentialities of activities are much more. ▪ *Public administration is ill prepared & ill motivated for the tasks lying before it. 	<ul style="list-style-type: none"> *Public administration played a very limited role *Qualitative *No such position *No such waxing and warning. *Public administration is well prepared.

After the decolonisation of Asia, Africa, Latin America and the Middle East – the states are caught up in the process of transformation, facing acute social problems, economic depression and administrative disharmony. In policy undertakings these nations are moving. These nations are moving from ‘Agraria’ towards ‘Industria’. Despite political, and cultural differences the Third World nations are united in terms of social development, nation building and socio-economic progress. Though the goals of these nations are social development, the way they are trying is diverse and experimental in nature.

In a Sharkansky puts following common traits which are found in the developing societies:

- A relatively widespread consensus on developmental goals.
- A great degree of reliance on the State (leadership) and bureaucracy for achieving developmental goals.
- Social disorganization, economic backwardness and political inability,

- Gap between modernisation and traditional elites, who frequently differ in social background, orientation toward change, and links to the mass of the population.
- Imbalance in the development of various political features is the dominant role of bureaucracy, corruption, nepotism and formalism etc. Ferrel Heady have pointed out the following five points of general administrative patterns found in developing countries:

The basic pattern of administration is initiative rather than indigenous:

- The bureaucracies are deficient in the requisite skills necessary for developmental programmes,
- The bureaucracies emphasise non-productive orientations,
- Wide spread discrepancy between form and reality,
- The bureaucracy is apt to have a generous measure of operational autonomy, which can be accounted for by the coincidence independent nation.

Heady also categorized administrative types found in developing countries as traditional autocratic found in Saudi Arabia, Morocco etc. bureaucratic elite found in Thailand, Pakistan, Brazil etc; polyarchal competitive found in Malaysia, Costa Rica, Greece etc; and dominant party mobilization found in Algeria, Bolivia, Egypt etc.

Que. “Autonomy of civil servants is crucial for responsive and effective administration.” Examine the statement (2018) (10M)

In the absence of other strong institutions, the role of bureaucracy in developing countries has been critical. They are aimed at nation building and economic growth, the establishment of democracy, the maintenance of a unified policy framework, and the ability to absorb diverse demands and regulate them efficiently, perform the function of political socialisation, and through bureaucracy political struggle continue to achieve different interests. The relative predominance of bureaucracy over other public institutions in these societies is a natural by-product of this imbalance of development between the bureaucratic and other non-governmental institutions.

In India

Part XIV of the constitution outlines the broad dimensions of policy regarding recruitment to public positions. Competitive examinations are used for direct recruitment to administrative and most executive positions. Following the recommendations of the Kothari Committee the recruitment to the All-India and Central Services (class-I) is made on the basis of a combined Civil Services examination common to all services in three stages:

1. Civil Services preliminary examination (objective type)
2. Civil Services main examination (written) and
3. Interviews of those candidates who have qualified in the written test at the final stage of recruitment.

Union Public Service Commission:

- Article 315 of the Indian constitution provides for the establishment of a Union Public Service Commission (UPSC) and State Public Service Commission. Two or more states may agree to have a common commission.
- The number of members of the UPSC and state PSC depend on the discretion of the President/governor because the constitution does not fix the number of members. The Chairman and other members of the UPSC are appointed by the President.
- The tenure of office is fixed for six years or until they attain 65 years of age in case of UPSC. The President of India determines the salary and other conditions of service of the members of the UPSC through regulations.
- The entire expenses of the UPSC are charged to the consolidated fund of India. Under Article 145 the President shall refer the matter of 'misbehaviour' of the member of the UPSC to the Supreme Court and the court shall conduct an enquiry.

Under the Article 320 the functions of the UPSC may be summarised as follows:

- To advise the govt. on all matters relating to the method of recruitment and principles to be followed in making appointments to the Civil Services either directly or by promotion.
- To conduct examinations for appointment to the All India and Union Services.
- To interview candidates for direct recruitment.
- To advise the govt. on the suitability of candidates or promotion and transfer.
- The commission is also consulted on matters like temporary appointments for periods exceeding one year but not three years, grant of extension of services and reappointment of certain retired civil servants.
- The commission is also consulted on matters like regularization of appointments, claims for pension, claims for reimbursement of legal expenses incurred by govt. servants.
- The Commission is consulted in the following circumstances: censure, withholding of increments or promotion; reduction to a lower service, grade or post; compulsory retirement; removal or dismissal from service.

- To advise the govt. on any other matter specifically referred to it by the President or the governor.

Major concerns of training in civil services:

- (1) Responsiveness
- (2) Civil servants should be responding to challenging democratic needs of citizens and organization and technological development.
- (3) Awareness: Awareness of technological, social, political and economical development.
- (4) Infusion of scientific temper.
- (5) Accountability: To ensure high performance in every professional field and cost effective methods of delivery.

Objective of Training in Civil service:

- Keeping up to date and enhancing professional knowledge and skills needed for better performance of individuals and organizations.
- Promoting better understanding of requirements as well as sensitization to the professional, socio-economic and political environment in which they perform.
- Bringing about right attitudinal orientation

Training of IAS and IPS

Young IAS recruits begin their on-probation training at the National Academy in Mussoorie before moving on to other specialised institutions. The following subjects are covered in the on-probation fundamental course:

- Basic economics for administrators.
- History and Indian culture and law.
- Political concepts and constitutional law.
- Public administration, management and behavioural sciences.

At the end of this course there is an exam and marks secured are added to the recruitment examination.

After completing the foundational course, IAS probationers further undergo professional training of eight months. After completing the first phase of professional training, the probationers go to their allotted district. During district training they learn the language of the state. They undertake socio-economic surveys of villages.

In 1969, the National Academy introduced sandwich training for IAS probationers. The training is largely based on the observations and experiences of probationary IAS officers in the field of district administration during practical training in the states. At the end of the sandwich training, the UPSC

administers an examination, which a probationer must pass before becoming an officer and being assigned to a state.

Since 1986, IPS probationers have received two courses of in-service training. The 16-week foundational course is now offered at the National Police Academy in Hyderabad as well as the NADT in Nagpur. The basic course for IPS probationers lasts eleven and a half months. The training syllabus includes studies of crime, methods of combating corruption, fire and emergency relief, and so on. Drill, weapon handling, and other skills are also taught. After completing a year of training, IPS probationers must pass an examination administered by the UPSC. After this IPS probationer becomes a full-fledged police officer and is posted as Assistant Superintendent of Police in the states allotted earlier:

Promotion System in India:

In India, the seniority-cum-merit principle governs promotion. The relative importance of the two factors varies by jurisdiction, but on the whole, seniority is firmly entrenched, and deviations from it are made only rarely, unless the senior person is declared unfit.

The Central Pay Commission recommended that for many situations especially those in which long familiarity with office work is itself adequate training, the rule of seniority may generally be followed in the higher grades of service, considerations of fitness must have precedence over the claim of seniority.

In terms of promotion machinery, Promotion Boards or Committees are used in a few departments. Thus grade-to-grade promotions in the Central Secretariat Service are made “initially by a departmental promotion committee consisting of a member of the Union Public Service Commission as Chairman and senior officers of the Department who generally have personal knowledge of the work of the officers but of whom selection has to be made.

The recommendations of the Departmental Promotion Committee are placed before the Union Public Service Commission for ratification. Selection Service is made by a Committee constituted for each state, which consists of the Chairman or a member of the Union Public Service Commission and other members drawn from the senior most officers of the State cadre or Indian Administrative Service.

They compile a list of State Civil Service officers who are candidates for promotion to the I.A.S. The list is compiled on the basis of merit and suitability in all aspects, with seniority taken into account.” A minimum of eight years of service is required for selection, but a junior officer may be prioritised over a senior officer if he demonstrates exceptional merit. The State Government sends the list to the Union Public Service Commission for approval. As vacancies

arise, promotions are made from this approved list. The Committee meets no more than once a year.

Selection Method:

Zone of Consideration: The number of officers, who will be considered for promotion from out of those who are eligible in the feeder grades, is called zone of consideration. It is restricted as under:

No. of vacancies

Assessment of officers: The assessment of each officer is made on a fair, just and non-discriminatory evaluation of the confidential reports of the officers for the preceding five years or years equal to the required qualifying service. The Departmental Promotion Committee (DPC) makes its own assessment of the officers without being merely guided by the grading recorded in the confidential records. It categorises the candidates for promotion as under:

- Outstanding
- Very good
- Good
- Average
- Unfit

The D.P.C. prepares a panel according to seniority of selected officers provided they must have received at least ‘Good’ ranking. For promotions to the posts in the pre-revised salary scale of Rs. 3700-5000 and above, the minimum requirement is “Very Good” ranking. But those who secure “Outstanding” ranking are placed higher in seniority.

Some of the points of criticism of the promotion system are:

In some jurisdictions, the occurrence of vacancies for promotion is not made known to the employees. Seniority is too firmly entrenched, precluding promotions on the basis of merit.

In the absence of systematic machinery like promotion boards, promotion is haphazard and arbitrary. There is no effective system of appeals from candidates aggrieved by being passed over, as the higher officers do not like to reverse the judgment of those lower down.

It is impossible to remove wholly the suspicion of arbitrariness and injustice from the operation of any promotion system worked by human beings. Those passed over find it difficult to admit the justice of the verdict against them. By suitable machinery and procedure it is possible, however, to minimize, in the eyes of fair-minded persons, a suspicion of a promotion system. The essentials

of such an arrangement have already been discussed in connection with the practice in Britain.

Pay Structure in India:

The traditional practice in India, coming down at least from the days of the Mughal rule was to keep a large staff of public employees on comparatively low salaries but leaving them otherwise more or less free to make whatever they could out of their position and power. As a result bribery and corruption were rife among the services. The ill-gotten gains and the estates of public servants were not often confiscated by the employers after their death or even during their life if they incurred their wrath.

The salaries paid by the East India Company to its factors and servants also were very low even after its assumption of ruling powers in Bengal but they were left free to make large fortunes by private trade and acceptance of gifts and presents from the Indian rulers and potentates under their control. This historical fact has left a legacy of bribery and corruption, which still persists in the ranks of the Indian public services.

To the salaries is added also an allowance known variously as the dearness or compensatory cost of living allowance, which is linked up with a scale based on index figures or cost of living prevailing at a given time.

Regional Variations in Remuneration:

The cost of living varies from place to place. A large city like Bombay or Calcutta is more expensive to live in than smaller ones; even smaller cities are more expensive than the rural areas. Certain regions or places may be costly because of their bad climate, or remoteness and inaccessibility. It would not, therefore, be fair to pay the employees at uniform rate regardless of the place where they have to serve.

In Britain a differentiation is made between the remuneration of the staff within the London Area and outside, the former being higher. Regional differentiation may be made either by different scales of salaries or by a scheme of allowances. The latter course is simpler to administer, and is usually adopted.

In India local or regional allowances are given to public servants in five kinds of circumstances, namely, (a) to meet the high cost of living in certain cities or areas, (b) to compensate for the hardship of service in remote or difficult areas, (e.g. frontier tracts), (d) to meet the higher cost of living and special requirements in full stations like warm clothing, quilt etc., and (e) to compensate for the rigours of the field service. These allowances vary according to the pay of the public servant concerned.

Certain other Benefits and Allowances:

A number of other benefits and allowances are also allowed to public servants generally or to certain classes of them. So far as India is concerned, the dearness allowances and the local allowances have already been mentioned. Besides these, there are also the following allowances and benefits:-

Housing or House-rent Allowance:

Free quarters are granted in India to such public servants as are required to reside on the office premises for proper discharge of their duty e.g., postmasters, telegraphists, doctors in charge of hospitals and dispensaries, etc. In certain cases free accommodation is granted because the pay has been fixed with this concession taken into consideration, or because in the absence of such concession a higher scale of pay or allowance would have to be granted. The inordinately high rents prevailing during the wartime led to the adoption of a general scheme of house-rent allowances.

India

Superannuation system for Civil Service in India started in the middle of the 19th century on the lines of the British system. Until 1919 it was contributory. The civil servant contributed to the Lee Commission, the pension became non-contributory since 1919 and 4% started getting paid to the provident fund which became available to the civil servant at the time of retirement. The basic features have continued ever since although there have been changes in scale and other details. At present there are different pension rules for different $\frac{1}{2}$ categories and classes of employees.

Types of Retirement Benefits:

The retirement benefits can be given to the employees mainly in four forms:

- Some kind of annuity (Pension) for the retired employees for life and in some cases also to his dependents. This is in the nature of monthly bills.
- A lump sum payment at retirement, to the accumulation of which the employee contributes partially or fully.

The first system is called pension and the second provident fund.

In addition to pension and provident funds some Governments also provide death-cum retirement gratuity to their employees on retirement. This is also a lump sum payment related to the number of years of service rendered by the employees.

A recent innovation for providing retirement benefits to the employees is the provision of group insurance for which employees contribute partly or fully.

This is done by the Government in collaboration with the Life Insurance Corporation and is based on actuarial principles. The contributions to the insurance made by the employee and sometimes partially by the Government also.

Que. Immediate post-retirement appointments of high officers of government have become a new trend. Discuss its pros and cons.(2020) (10M)

Relative merits of pension over provident fund

Assuming that pensionary and provident fund benefits are equivalent as to the amount in the long run, the advantages of pension are:

- It is paid in fixed monthly amounts while provident fund accumulations are subject to variation due to fluctuations in the prevailing rate of interest, even though the contribution from the employers remains constant.
- When the rate of interest is low the returns on provident funds are low and pension becomes financially more advantageous.
- The pension does not involve any risk or trouble to the employees after retirement. They keep on getting their monthly pension. The lump sum amount received by way of provident fund is subject to some risks. It may be wrongly invested and lost. If this happens, the family of the employee will suffer.

The advantages of provident fund over pension are:

- When the rate of interest is high the provident fund multiplies very fast. In such situations, it is financially more profitable than pension.
- Unless the pension has been specially designed to take care of the death of the employees during or soon after service, his family will suffer due to such an eventuality. However, his provident fund would be available to support his family.
- Pension is given in recognition of services. An employee cannot retire before putting in a qualifying period of service. There is no such limitation in respect of the provident fund which would be available to the employees whenever he wishes to leave.

With these points in view, it appears that a sound retirement system should be a combination of both, a lump sum payment (provident fund) and an annuity (pension). This is sometimes done by converting a part of the pension into a lump sum amount. Very often the Government or the organizations have both the systems operating simultaneously.

In addition, provision is also made for payment of gratuity as well as insurance scheme. If all the four can be combined, it can provide an excellent retirement system for the employees. Of course, the guiding principle has to be the costs to be insured by the Government and the paying capacity of the employees in respect of their contribution.

Types of annuity (Pension)

According to the conditions of payment, the annuity (pension) can be classified into the following:

- Annuity (pension) for retirement from the service by virtue of age. This can happen in any of the following circumstances:

Optional retirement: after satisfying conditions of minimum age and minimum service, or

Flexible retirement: A combination of the two depending on the circumstances.

- Annuity (pension) on retirement due to retrenchment of the staff.
- Annuity (pension) to survivors or dependents upon the death of an employee in service or during retirement. We discuss below some salient features of these pension plans.

Conduct Rules in India:

By way of illustrations, we discuss below some of the salient features of the Conduct Rules in India.

Private trade or Employment: No Government employee can engage in private trade or take up private employment without the previous trade or take up private employment without the previous sanction of the Govt. Except for literary, scientific, artistic, social, or charitable work. Even so, this should be done on an as-needed basis and should not interfere with government work.

Investment, Lending and Borrowing: No Government employee should make investments of a highly speculative nature. He should make investments of a highly speculative nature. He should not lend or borrow from any one without the sanction of the Government, except for small interest-free loans from his relatives and personal friends. Lending or borrowing with any person having official dealing with the Government employee are completely prohibited.

Insolvency or habitual indebtedness Every Government employee is expected to conduct his financial affairs in such a manner as to avoid habitual indebtedness or insolvency.

Acquisition or disposal of property: No Government employee can purchase or sell any movable or immovable property above a particular value without the sanction of the Govt. In some cases the Government has only to be informed.

Subscriptions: No government employee should ask for subscriptions for any organizations.

Gifts: No Government servant is expected to accept any gift which is not of trifling value without the previous sanction of the Govt. The only exception is about receiving the gifts of reasonable value on some customary occasions from close relations or friends.

Restrictions on freedom of expression: No government employee can give radio, television, or press interviews, or make public statements, except in the case of literary, scientific, or artistic matters. He should not say anything which is likely to embarrass the Government.

Political activities: The only political activity in which a govt. servant can take part is to exercise his right of vote too in a confidential manner. He can neither seek elections to any legislature or a local body nor can he take part in any election activities like canvassing, distribution of pamphlets etc.

Integrity: Every Government servant has to maintain absolute integrity and devotion to duty at all times.

Ethics: No government employee is permitted to engage in any act unbecoming of a government employee. This is an all-encompassing rule that governs the official, private, and domestic conduct of government employees.

Que. Discuss the major highlights of the reforms introduced from time-to-time in Central Civil Services Conduct Rules and add your own comments.
(2015)(10M)

Disciplinary Action

When conduct rules are violated disciplinary action is to be taken. It usually means some kind of punishment meted out to Govt. servant for the violation of these conduct rules. Punishment may be of two types:-

Informal

This type of punishment action is writing. It is more in the nature of reprimand and counselling. This type of punishment is resorted to increases where the violation of conduct rules is of a very minor nature and when it is difficult to prove the guilt of the employee.

Formal Punishment

This is a harsher form of punishment. This must be in writing, and the employee's guilt must be established. Any kind of formal punishment must be supported by documentary or oral evidence.

Formal punishment is also of two kinds:

- Minor Punishment
 - Censure
 - Withholding of increments
 - Withholding of promotions
 - Recovery of loss of Govt. properties
- Major Punishment
 - Reduction in rank
 - Removal
 - Dismissal
 - Compulsory retirement

Purpose of Punishment

In the case of a government employee, the punishment could serve one of the following functions:

- **Reformatory:** The punishment is intended to teach the employee not to make the same mistake again in the future. When other than punishment, an employee's performance does not improve, this becomes necessary. For example, when counselling does not work; Censure or stoppage of increment, which comes on record, may improve the performance.
- **Deterrent:** If an employee is not punished for his mistakes, others may follow suit. Misconduct punishment serves as a deterrent to other employees in the organisation.
- **Retributory:** If the government suffers a loss, it is ultimately the loss of the tax-paper. For genuine errors, the government may disregard the loss. However, in the event of gross negligence, the government may demand that the loss be made good. To that extent, the punishment is retributive.

Procedure

The punishment procedure should be designed in such a way that it is incompatible with the existing laws, rules, and regulations. The fundamental provisions for dealing with disciplinary issues involving government employees are derived from Article 311 of the Constitution, which states that:

- No member of the Civil Service will be removed or dismissed by a higher authority than the one that appointed him.
- The reason for the action must be documented in writing by the officer in charge.

- No one shall be dismissed, removed, or reduced in rank until he has been given a reasonable opportunity to show cause against the proposed action against him.

Taking into account the Law Court's interpretations of the reasonable opportunity to show cause, a detailed procedure has been laid out for conducting the investigations and punishing the delinquent government officials. Some of the most important features are listed below.

Que. Emerging developmental aspirations of the society necessitate the constitutional amendment to change the present safeguards available to the civil servants. Evaluate the pros and cons of such an amendment. (2019) (10M)

Procedure for major penalties

In such cases the procedure is a more detailed and comprehensive on and in many stages:

- The employee must be served with a charge sheet as well as a statement of allegations. This must include detailed statements with explanations for each charge, as well as a list of documents and witnesses to be used to prove the charges.
- The employee has the option of providing an explanation on the charge-sheet. To that end, he must be shown all relevant documents and files pertaining to all of the articles of the changes.
- After reviewing the charge-sheet, statement of allegations, and employee explanation, the disciplinary authority must determine whether there is a *prima facie* case to open an investigation or whether the case should be dropped.
- If the disciplinary authority determines that an investigation is necessary, it appoints an investigation authority and directs the delinquent officer to present his case before that investigation officer. He may also appoint a presenting officer to represent him in front of the Enquiry Officers.
- The Enquiry Officers record the employee's statement of defence as well as the evidence of the prosecution witnesses. These witnesses have the right to be cross-examined by the delinquent official.
- The delinquent officer can then present his witnesses, who can then be cross-examined by the Enquiry Officer or the presenting officer.
- The enquiry officer hears the delinquent official and allows him to file a written statement of account.

- The Enquiry Officer prepares his report after taking into account all of the evidence on file. He must keep a record of his findings on each article of charge, whether they are proven or not.
- The disciplinary authority then considers the report of the Enquiry Officers and then records his own finding on each article of charge then moves available to the delinquent official a copy of the report of the Enquiry Officer, and the statement of his own findings asking him to show cause against the proposed penalty.
- If consultation with the Public Service Commission is necessary the disciplinary authority makes such a consultation.
- After reviewing all of the evidence, including the delinquent official's response and the Public Service Commission's advice, the Disciplinary Authority issues an order imposing the penalty he deems appropriate.

The preceding discussion makes it abundantly clear that the procedure of the inquiry affords the delinquent official full opportunity to present and argue his case, and that this constitutes a reasonable opportunity to show cause.

Right of appeal

All officers appointed in the Central Government by an authority subordinate to the President have the right to appeal to a specific authority. Those appointed by the President have no right of appeal, and the same is true for state governments. Officers appointed by a subordinate authority to the Governor have the right to appeal to a specified authority. The Governor's appointees have no right of appeal. The appellate authority may uphold, set aside, or modify the Disciplinary Authority's order, or remand the case for further investigation.

An appeal can be withheld by the disciplinary authority for following reasons:

- If it is time barred;
- If it is against the rules;
- If it is not in the proper format and lacks the necessary information and documents and
- If it is a repetition of previous appeals which have been rejected.

Employees complain about disciplinary proceedings, claiming that: the disciplinary proceedings are weighted against them because they are always handled by departmental officers; Even the right to appeal has little value because it is handled by officers from the same department. Appeals are frequently denied for insufficient reasons. There is a significant delay in the proceedings at all levels.

Important Issues Regarding Discipline

We discuss below some of the important issues concerning discipline in public administration

i) Authority to take disciplinary action

One of the major issues in regard to the disciplinary matters is as to which authority should take disciplinary action. Usually the power to appoint the official lies with the Government, with the Head of the Department or somewhere below him in the organization. The authority to take disciplinary action naturally lies there. There are two views about this matter.

According to one point of view, the authority to take disciplinary action should be retained by the Head of the Department of the appointing authority below him. The benefit of this system is that it gives the Head of the Department effective control over his employees. In fact, it is he who is responsible for achieving the organization's goals through his employees. As a result, he should have complete control over them.

This system's disadvantage is that it does not instil trust in employees. It places the Department Head in the role of both a prosecutor and a judge. The opposing viewpoint holds that the authority to impose disciplinary action should reside outside of the organisation. The Civil Service Commissioner, an independent Board, or a Tribunal may be involved. It is argued that it will instil trust in employees. The independent body will be able to examine the case objectively and will be expected to make a fair decision.

The disadvantages of the system are,

- It undermines the authority of the Head of the Department
 - The circumstances that drive the Board/Commission/etc primary goal also distance them from the scene. They could be human principles of abstract justice rather than an organisational problem.
 - When employees see that their disciplinary cases are being handled by an outside organisation, they are encouraged to file more and more lawsuits.

Proponents of this viewpoint argue that even if disciplinary authority is delegated to the Head of the Department, he should retain control. The appellate authority could be located outside of the organisation. However, this system suffers from the same drawbacks as the previous one. It may also have the additional disadvantage of putting the Head of the Department in a highly embarrassing situation if his orders are overturned by the outside commission.

ii) Employees Interest V/s Public Interest

Another critical issue in disciplinary proceedings is the conflict between the delinquent employee's interests and the public interest. True, an employee must be given a reasonable opportunity to demonstrate cause for the proposed action against him.

However, the various provisions of laws and procedures have been interpreted in such a way that the employees have escaped punishment for minor technical flaws in conducting the inquiries. In India as well as in Western countries like USA and UK terms like "innocent until proven guilty" tend to creep in when disciplinary proceedings are supposed to match those required for criminal proceedings. In such a situation the doubts and consequently the disciplinary authority tends to give precedence to technicalities over the equality.

The main principle should normally be that only those technicalities should taint the proceedings that could have influenced the inquiries and thus misled the delinquent official in his defence. In fact, a proper balance should be struck between the recognition of the need to protect workers from arbitrary action and the risk that an overprotective philosophy will result in an undisciplined and mediocre workforce.

Civil Services Code of Conduct in India:

A strict, enforceable code of conduct that measures efficiency in tangible terms, rewards and punishes, a transparent transfer system, the ability to stand up and say no to a superior if his order violates the code, shielding the officer from political interference, and protecting whistleblowers. These are just a few of the far-reaching reforms proposed in what could be the first legal attempt to ensure a merit-based and apolitical bureaucracy.

The Department of Personnel and Training has created a draught Public Services Bill, 2006, and has sent it to the Administrative Reforms Commission for feedback. When passed, the new law will apply to the IAS, IPS, IFS, and all Central services. This code will spell out the dos and don'ts for public servants to follow in order to work "with due regard for diversity...without discrimination of caste, community, religion, gender, or class." It will put in place a mechanism to track performance and efficiency.

"The Code will clearly establish the interface between the political executive and the public service based on the principles of political neutrality, professional excellence, and integrity." Any violation would result in a reprimand, a reduction in classification or salary, or termination of service.

The Central Authority, which will play a critical role under the Act, will be free of political interference. The President will appoint the Chairperson and members of the Authority based on the recommendations of a Committee comprised of the Prime Minister, a Supreme Court judge, and the Leader of the Opposition in the Lok Sabha. The Chairperson and members, however, will not be MPs or MLAs, nor will they hold any political party office.

Another significant aspect of the law is the emphasis on merit-based public service. According to the draft, a Performance Management System for all employees will be developed, with performance indicators and measurement of the outcome and impact with regard to development priorities.

Grades in this category will be considered when allocating budgets to departments and other entitlements. There is also a provision to address civil servants' concerns about job security. The bill directs the Central Authority to ensure that "transfers and postings of public servants are undertaken in a fair and objective manner, and that the tenure of the Public Servant in a post is appropriately determined and maintained consistent with the need to maintain continuity and the requirements of good governance."

It even goes so far as to allow a public servant to choose whether or not to carry out an order from a superior if such an order violates the Code. In such cases, the Central Authority will give the officer the opportunity to raise the issue at an appropriate forum without fear of victimization.

The draft Bill also requests that the government implement a scheme to protect whistleblower public servants who report suspected improper governance and actions in the workplace. Meanwhile, the Administrative Reforms Commission has sent questions about the draught Bill to members of society and civil servants. Going a step further, the ARC wishes to determine whether only career-based civil servants are always best suited to occupy top governmental positions or whether lateral entry is possible.

Carrying forward the question of merit, it has also sought to know if the system of weeding out as existing in the armed forces could be extended to civil services too. Though the ARC was to give its report by August end, sources said this was unlikely as many states had not yet responded.

Que. The office of the District Collector has merely become a bureau for funneling government schemes, collecting statistics and an officer on attendance for unending VIP duties. Critically examine its role in the light of the recommendations of the Second Administrative Reforms Commission. (2019) (20M)

Neutrality & Anonymity:

By acknowledging and adopting neutrality, bureaucracy serves as a permanent instrument of government under conditions of changing party control.

The concept of neutrality has three implications: (i) public confidence in the non-political nature of public service; (ii) confidence of ministers from any political party in the loyalty of their permanent subordinates; and (iii) high morale of public servants based on the belief that promotions would be made on merit rather than political considerations. This was developed in the United Kingdom, Switzerland, and other countries that follow the British administrative model.

A neutral model of bureaucracy cannot be practiced arbitrarily. Moreover, neutrality is a state of mind and there can be no effective law to ensure it. Neutrality of bureaucracy is a characteristic feature of Weberian ideal type. This is not a universal phenomenon. The neutrality has been accepted by them because their ultimate principles of action have not been in conflict with the policies of the political parties in power, nor the governments have sought to adopt from these principles in action. However, this concept has been outdated.

The principle of anonymity flows from:

- (i) the Civil Servants work as instrument of political masters
- (ii) in a parliamentary democracy they work under the cover of ministerial responsibility.

The minister assumes responsibility for their good or bad conduct and defends them against public criticism. They must act in their person's name. As a result, they should refrain from making any press or public statements so as not to violate the principle of anonymity. The only possible exception is providing factual information to the press on behalf of the government.

Que. Political neutrality of civil servants has been regarded as one of the cardinal principles in democratic governments. Is its sanctity being maintained in practice in India? Elucidate. (2020) (10M)

Que. Discuss the need for civil services neutrality in development administration. Suggest some measure for achieving and strengthening it in practice. (2014)(20M)

Que. "Civil services neutrality is founded on the application of the principles of Rule of Law". Comment. (2013)(12M)

Generalist and Specialist:

A 'generalist' is a self-taught administrator who has studied linguistics or classics and is a highly intelligent man with certain personality traits. A generalist officer, according to the Indian Institute of Public Administration conference on Public Administration, is a bright young man who has received a liberal college education in any subject.

He is appointed to a middle-level supervisory position that requires no formal education in technical or professional subjects. Regardless of his prior experience and training, he receives some initial field training and is eventually appointed to higher administrative positions.

A 'specialist' is an expert who has dedicated time and studies to a specific field of study and has gained specialised experience in dealing with problems in specific subjects or areas. He is not permitted to post in areas where his specialised knowledge or training has no direct application.

The current administrative system in India, as in the United Kingdom, is largely generalist in nature, with generalist administrators from the Indian Administrative Service (IAS) and state administrators in states holding policy-making and top administrative positions. The specialists work in their specialised area or department, and they staff the technical positions. They give the technical advice to the generalist administrators at the top.

The major arguments in favour of generalists are:

- The philosophy of Macaulay Report (1854) and Northcote-Trevelyan Report (1853) states that a person with liberal education and varied multifunctional experience is much better than the specialist who has deep knowledge of a very narrow field.
- It comes in direct contact with grass-root administration.
- Administration in India is organized on an area basis and it requires a generalist administrator to coordinate the activities of various departments.
- Generalists have a broad view of society's problems due to their education, training, and experience, which specialists do not have.
- In a parliamentary democracy, ministers require a generalist to advise them on policy matters because they are accountable to parliament and must work for the party.
- In the United States, specialists in administration are facing a shortage of generalist coordinators.
- At a higher level of administration, very little technical knowledge is required.
- When specialists are required to perform the duties of a generalist, they lose the best of both worlds. They neither remain specialists nor become good generalists, because technical inputs are only a small part of any decision-making process. Other issues, such as finances, administration, politics, and the law, are more important. Generalists working in a broad

background of working in various departments are better suited to these jobs.

- In India, generalists are woven in the entire fabric of administration and provide the necessary extension to its working.

The arguments in favour of specialists are:

- (i) In the colonial period or even during the early post-independence period the administrative tasks were relatively simple. But now it becomes very complex and cannot be comprehended by generalists.
- (ii) Specialists feel that generalist subjects are not required to intervene between them and ministers. In fact specialists have better knowledge of their subjects and can explain it better to the minister.
- (iii) Generalists always depend on the advice of the specialists.
- (iv) The ARC of India (1969) recommended that the senior posts in functional areas should be held by specialists and non-functional posts should be thrown to all the cadres including specialists and generalists.

Way out

The most important question is the way out of this situation. No country can afford such a war between generalists and specialists. Some solutions are may be as follows:

(i) Better status may be ensured for specialists by creating more All India Services and Class-I central services; (ii) Appointment to top posts should to be denied to specialists, (iii) creation of parallel hierarchy (as in Australia) where both enjoy similar pay scales and status, (iv) creation of unified civil service. In this system, at a lower level the services should be organized on technical lines. Entry to the top position should be opened for everyone by the process of selection. Such a change has already been effected in Pakistan.

Que. "Competency mapping is important for effective allocation of responsibilities to administrators." Do you think that a generalist administrator can handle all issues as effectively as a specialist Discuss.(2018) (20M)

Relations with Political Executive:

The primary functions of political executives are planning, policy formulation, important decision making, supervision and evaluation of policy implementation, organisational structuring, direction, budgeting, and public relations. They also appoint people to high-level positions. In a nutshell, they bear the burden of the government and carry out the duties of the chief executive. The Minister is a member of Parliament and is jointly and individually accountable to the legislature, but not to the bureaucrats.

Political executives are assisted in these functions by a permanent executive (bureaucracy) led by the secretary. The secretary provides the information and analysis required for the minister to formulate policy. As a result, policy formulation is a collaborative process between these two. The minister is a seasoned politician who understands what the public expects from the government and what they will not tolerate. The secretary, on the other hand, is a Civil Servant with extensive administrative experience.

There are three significant differences between the Indian and Western models of ministerial responsibility.

- (i) Unlike in the United Kingdom, India's civil service at the highest levels is not open to all, regardless of factors other than merit.
- (ii) In Britain, the responsibility for both the formulation and implementation of policy is vested in the hands of the political executive, which "decides, orders, and authenticates," whereas in India, bureaucrats reign supreme.
- (iii) In Britain, the responsibility for both the formulation and implementation of policy is vested in the hands of the political executive, which "decides, orders, and authenticates," but there is a dichotomy in the matter. In the United Kingdom, a minister cannot blame his civil servants for the failure of policy implementation; and the minister carefully considers the advice of civil servants. However, there is a growing trend in India to discourage or ignore civil servants from providing advice.

The Weberian model established by the British government in India has broken down in actual practice and there is hardly any use in chanting the virtue of this model now.

Reason

The most important reason for such conflict is that either one or both of them wish to transgress their limits. Minister being a political figure cannot give detailed attention to the government work and on the other hand, did not give full freedom to the secretary on policy and decision making matters. The secretary should ideally be left free to express. The final decision has to be taken by the minister, as he is responsible to the Parliament but not the secretary. Another reason is ministers lack the technical knowledge or mind to accept the reality of the matter.

Que. "Autonomy granted to higher civil servants tends to increase their creativity and productivity." Argue the case to make the civil service more accountable as well as innovative. (2016) (10M)

The minister wishes to intervene in the day-to-day operations of the department, even in petty transfers and postings, leaving the secretary and head of the department alone. Today, ministers want the secretary's advice to be tailored to

their needs so that they can be held accountable for every decision.

Many ministers, being political figures, expect their secretaries to make decisions that are contrary to rules, regulations, and laws. Many secretaries do not coordinate with their ministers and do not follow his lawfully issued orders. Some secretaries in coalition governments or even one-party governments where factionalism prevails tend to play one minister against the other, and some secretaries frequently adopt a very rigid attitude and do not take a human view of various situations. They have a tendency to strictly adhere to rules and regulations.

Civil Service Reforms:

The term "civil service" refers to the body of government officials who work in civil occupations that are not political or judicial in nature. The civil service is an integral part of administration, and administrative structures determine how the civil service functions. Civil Service Reform is a deliberate change effort by the government to improve its capacity to implement policies effectively and efficiently. Civil service reforms have been ongoing since the Chinese invented bureaucracy; they are a never-ending process with no clear beginning or end point.

The following factors contribute to the importance of the Civil Service in governance:

- The presence of the service throughout the country, as well as its strong binding character.
- The administrative and managerial capabilities of the services.
- Efficient policy formulation and implementation.
- Coordination between governance institutions that is effective.
- Administration leadership at various levels.
- Service delivery that is cutting-edge.
- Give the administration 'continuity and change.'

Globally, change has been accelerated in recent years as a result of technological advancements, greater decentralisation, and social activism. The government is feeling the effects of these changes in the form of increased expectations for better governance through effective service delivery, transparency, accountability, and the rule of law. In order to meet the people's aspirations, the civil service, as the primary arm of government, must adapt to changing times.

Que. "Information Communication Technology (ICT) improves the quality of public service delivery, but fails to check bribery." Comment. (2015)(10M)
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Prior to developing the contents of Civil Service Reform, an open, objective inventory of the current situation is required.

The massive bureaucracy in India is kept running at a high cost by the country's taxpayers, whose average income is among the lowest in the world. However, the public perception of civil servants who work at cutting-edge and higher coordinating and policy-making levels is that they are burdensome low-performers in charge of a highly bloated bureaucracy that is frequently perceived to be corrupt and inefficient in governing the country.

The ailments afflicting Indian civil services are:

- Professionalism and capacity building are lacking.
- Inefficient incentive systems that reward the corrupt and incompetent rather than the upright and outstanding civil servants.
- Outdated rules and procedures that make it difficult for the civil servant to perform effectively.
- Inconsistencies in promotion and implementation are widespread.
- There is a lack of adequate transparency and accountability procedures, as well as no protection for whistleblowers.
- Arbitrary and haphazard transfers – tenure insecurity stymies institutionalisation
- Political intervention and administrative acquiescence
- Values and ethics are gradually eroding.
- Patrimonialism (World Bank, 1994).

Civil Service Reform is widely acknowledged to be not only necessary, but also unavoidable. It is equally valuable in governance as it is in socioeconomic development.

Civil Service Reforms and Good Governance

A well-functioning civil service promotes good policymaking, effective service delivery, accountability, and responsibility in the use of public resources, all of which are hallmarks of good governance. "Good Governance" is being used not only as an all-encompassing framework for administrative and civil service reform, but also as a link between Civil Service Reform and an all-encompassing framework for making effective policy decisions within viable systems of accountability and citizen participation.

Administrative reform focuses on rationalising government structures. Governance reform is commonly used to refer to the improvement of legal and policy frameworks in order to create a proper decision-making environment; participatory systems for elements of civil society to become actively involved in policy and programme formulation and implementation; and an effective and transparent system and process for controlling and accounting for government activities. Civil service reform cannot be viewed in isolation and must be implemented in tandem with administrative reforms for effective results.

Although comprehensive reform involving governance, the civil service, and civil society is ideal, it will necessitate long-term commitment from political and administrative leaders. It's also too complicated to put in place all at once. Few countries have implemented comprehensive reforms, and the results have been mixed. The difficulty lies in identifying and connecting the components of governance, civil service, and civil society, and determining which require priority attention.

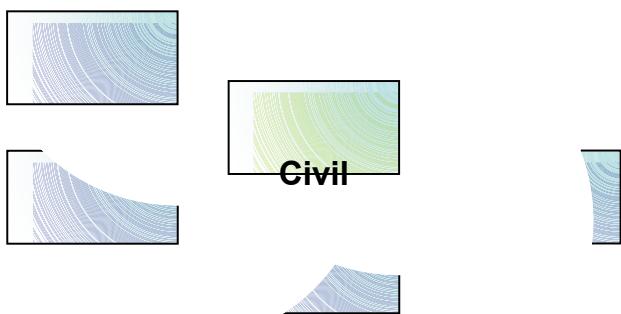
Que. "Most Civil Servants in India are competent administrators, but they pay little attention to encouraging people's participation in decision-making." Comment on the statement. (2015) (10M)

Civil Service Reforms and Socio-Economic Development

Civil Service Reform aims to improve administrative capacity to carry out core government functions. These reforms improve the quality of services provided to citizens, which is critical to the promotion of long-term economic and social development. CSR can help to stabilise the economy by restoring budgetary stability, increasing revenue collection, effectively managing aid, and improving development performance through proper implementation of investment frameworks and management of public expenditure plans and programmes. The reform has the potential to aid in the design and implementation of an equitable social development programme. Improving civil servants' capacity and morale is critical to all of these functions.

Components of Civil Service Reform

Reforms must take into account the Civil Service's role in today's governance needs, as well as the expectations that come with it. The following should be the primary components of Civil Service Reform:



1. Size and Structure of Government

Since independence, the government has increased the number of ministries, departments, and officials, even doubling them in some cases. This growth has been fuelled in part by political considerations; it has accommodated more and more intra-party groups by offering more ministerial positions. It also created positions for senior civil servants, as well as other jobs at lower levels, expanding the patronage capabilities of a number of political and bureaucratic leaders.

Furthermore, it has created vested interest groups at all levels that have obstructed reform and rationalisation efforts. It is difficult to abolish a ministry, department, division, or unit once it has been established, even if its function has been transferred or no longer exists. Similarly, dismissing a government employee with tenure guarantees is difficult.

Although these forms of expansion have a significant impact on civil servant performance, they are difficult to compare systematically in terms of either fiscal or service quality. Despite the fact that the cost of running the government as a percentage of GDP is roughly the same in many countries, taxpayers receive vastly different values in return.

Rightsizing civil services

The issue of civil service efficiency in relation to size is critical. Although the global reduction in the size of civil services is frequently driven by budgetary constraints and/or threats from donors and lenders, fundamental issues such as the number of ministries, internal cohesion, and the integration of functions within each ministry are not addressed.

Although there are few guidelines on the appropriate size and structure of a ministerial administration, some recommendations can be made. The number of ministries should be kept to a minimum. Even if political considerations necessitate the appointment of new ministers, these should be retained as ministers with a major portfolio within an existing ministry.

The key point is to keep a ministry's viability and integrity by keeping all closely related activities within the context of a government's priorities within one administrative structure. This enables ministry officials to carry out their duties effectively while also being held accountable for their performance. Administrative reforms must address role clarification and core governance issues so that an optimal number of functionaries are available for effective service delivery with no spillage or leakage.

(iv) Recruitment

Several factors influence civil service recruitment and promotion, including patronage versus merit, as well as the relative importance of ethnic, religious, regional, and gender preferences. Even when a country adopts a merit-based system, various practises contribute to these biases. Not only at the highest levels of policy and programme formulation, but also at the lowest levels of regulatory and control activities, does an explicit political dimension emerge.

Such political pressures are most visible in countries with a diverse ethnic, religious, and cultural population. When economic growth does not create job opportunities for the employable, whether educated or unskilled, and the government becomes the employer of last resort, these stresses on recruitment and promotion become severe. However, as economies grow, public employment tends to loosen bias restrictions and even use private sector practises to attract qualified candidates.

Of course, the recruitment examination for Indian Civil Services is one of the most rigorous in the world. The changing trends in society and the economy necessitate a greater emphasis on technological knowledge and areas such as

human rights. In addition, there is little emphasis in the examination on testing managerial skills.

Our changing economy necessitates the hiring of specialists in a variety of fields. With rapidly advancing technology and high levels of specialisation in every field, the country can no longer afford to place generalists in positions that require specialised skills. The movement of civil servants from the public to the private sector, and vice versa, will make civil service jobs more appealing, thereby creating a new economy job. This increases the risk of competition infiltrating the civil services even more subtly than it already does. However, this will at the very least help to enforce accountability and will be beneficial in the long run.

Que. "There is a need for greater inclusion of technocrats in bureaucracy to ensure effective governance in India." Do you agree" Elucidate (2017)(10M)

A final dimension is the mobility of senior civil servants between the public and private sectors in order to gain experience by working for short or long periods of time in the private and voluntary sectors. Aside from provisions for deputation to state enterprises and external aid agencies, the rules of AIS and a number of state services allow for senior officials to be deputised to work in the private sector or NGOs.

The challenges that come with increased use of lateral recruitment are significant, but not decisive. The issue must be addressed carefully and methodically, allowing governments to reap the full benefits of improved skills and motivation while mitigating some of the costs associated with political favouritism and demoralisation.

Que. It is apprehended that lateral entry will lead to politicisation of bureaucracy. Do you agree? Justify (2018)(10M)

Que. "The idea of lateral entry into the Civil Services would energize Indian administration." What are its possible advantages and limitations? (2017)(20M)

(v) Capacity Building & Human Resources Development

One of the most comprehensive training systems is available to civil service recruits. Gaps in training facilities that are out of step with new trends must be identified on a regular basis so that training can begin at the induction level. The imperative for reforms in civil services is dictated as much by global developments as by the forces of new technology and communication, which

are shrinking distance and commerce, rendering conventional administrative approaches and practises obsolete and dysfunctional. To that end, a number of measures must be taken, including the simplification of rules and procedures, the delegation of expanded powers, improved enforcement and accountability, and the prompt redress of public grievances.

National Training Policy 2012: Training to employees to improve performance

- (i) All civil servants will receive training to equip them with the skills necessary for their current or future jobs. Such instruction will be given.
- (ii) This type of training will be available to all civil servants, from the lowest level functionaries to the highest levels.
- (iii) Training opportunities will not be limited to mandated points in a career, but will be available to meet needs as they arise through a combination of traditional courses, distance and e-learning.
- (iv) Front-line staff training, including soft skills training, will be prioritised in order to improve customer orientation and the quality of service delivery to citizens.

Que. Capacity issues relating to employees have hampered the implementation of several government programmes. Trace the reasons in the context of the provisions of the National Training Policy, 2012 (2019) (20M)

Reforming and Restructuring Human Resource Management

Building a motivated and capable civil service necessitates merit-based and non-discriminatory recruitment based on the absence of political favouritism, open competition, and selection by an independent agency. As a result, opportunities for advancement, recognition and reward for performance, inter-sector mobility, placement in appropriate jobs, and the opportunity for skill upgrading and self-improvement are critical components of meritocracy and employee motivation. Demotivating factors such as frequent and arbitrary transfers, a poor work environment, dilapidated housing and health facilities, as well as special factors affecting women in office and field jobs, must all be addressed.

Strengthening Meritocracy in Promotion

In the final assessment, promotion—with its higher emoluments and enhanced status—remains a key element of motivation. There are differing approaches to the use of seniority and merit as criteria for promotion in countries following a similar hierarchical, “mandarin” structure of civil service management. Singapore consistently promotes people entirely according to merit and it is

common to see younger officers supersede more senior, but less competent, officers. Malaysia follows a system of promotion and annual salary progression based upon a new performance appraisal and remuneration system.

(vi) Performance & Promotion

Reforming the Annual Confidential Report Process

The framework for performance appraisal has significant implications for employee motivation because of its impact on salary, career prospects, and decisions on early retirement. The Annual Confidential Report process is also intended to be used in training and human resource development, confirmation, and efficiency bar crossing.

The issue of how employee performance should be systematically evaluated in a fair and reliable manner while avoiding unnecessary conflict is complicated. Although supervisors have the authority to provide continuous feedback and guidance to employees, Annual Confidential Reports (or ACRs) are the primary means of formal appraisal on a regular basis. However, the non-transparent, subjective, and unilateral nature of ACRs in all states has reduced their utility for government agencies and disgruntled employees. In most states, regardless of the nature of the functions, the formats are uniform for all employees. Discussions between the evaluator and the employee being evaluated are rare and usually take place only when an adverse remark is entered.

Civil Services Performance Systems

'Those who do not consume goods and increase them in just ways, on the other hand, should be made permanent in their offices, devoted to what is agreeable and permanent to the king.' – **Arthashastra.**

The current civil service promotion system is based on time and is accompanied by tenure security. These elements in our civil services are causing complacency among our dynamic civil servants, and many promotions are based on a patronage system. The absence of performance incentives or disincentives is a major disadvantage for civil services, rendering Indian civil services largely unaccountable to the state.

Civil servants are not only recruited through open competitive examinations, but certain state government officials are also promoted. When other state officers are promoted to civil services and work in the state, the entire concept of All India Civil Services is lost. This is, indeed, a step backward. To keep the idea of creating an All India Civil Service alive, officers who are promoted to civil service should be required to serve in other states.

These promotions should be merit-based, and the respective authorities must benchmark best practises and evaluate civil servants' performance qualitatively and quantitatively using a variety of parameters. The performance appraisal of civil servants must be based on these benchmarks, and the authorities can implement the necessary placement rewards and punishments.

The recent reform in Hong Kong Civil Services mandated that civil servants be hired on a permanent basis, but their continued employment would be subject to periodic verification of performance indicators. This model is also replicable in India.

(vii) Professionalism & Modernity

The founding fathers of the Constitution wisely provided for apolitical and independent civil services, with the necessary protection for service matters, in Part XIV of the Constitution. These provisions apply not only to the union, but also to the states. One of the provisions of the Constitution (Article 312) that was hotly debated and met with significant opposition, particularly from provincial governments, concerned the establishment of All India Services (AIS), with recruitment based on all India competitive examinations and dual control by the centre and the states. This constitutional safeguard was intended to allow the AIS to operate independently, freely, objectively, and fearlessly. Unfortunately, political interference and administrative acquiescence have severely weakened the service's professional tenacity.

The neutrality of civil servants, particularly at the highest levels of policy-making and programme formulation, is critical to maintain, especially in democracies where leaders change on a regular basis. Even if it becomes a mechanism for creating a privileged, self-centered group within the state, bureaucratic continuity is required. It is worth noting that the principle of bureaucratic neutrality as an instrument for the preservation of democracy has never been rejected outright.

Civil servants must bring a new perspective to the rules that govern the day-to-day conduct of public affairs. Civil servants have a lot to say about policy development, not just implementation. (Beteillie, 1999)

Que. Civil servants are trained to follow rules and procedures so much that they become a bureaucracy. Do you agree? Justify. (2020) (10M)

Professional Skills

Officers' professional skills can be classified into three functional categories: implementation, program/project preparation, and policy formulation, as well as specific themes (domain areas or specializations). A concerted effort should be

made to encourage civil servants to develop professional skills through direct work experience or research. Participation in training and study courses, as well as peer-reviewed published research, must be reflected in the ACR.

Modernity: Reforms and e-governance

The concept of e-governance is certain to play a significant role in the civil service reform process. Civil servants will be more accountable and transparent in the performance of their duties as literacy rates rise and technology becomes more widely available. Any modern civil service reform that ignores the role of information and communication technology is incomplete.

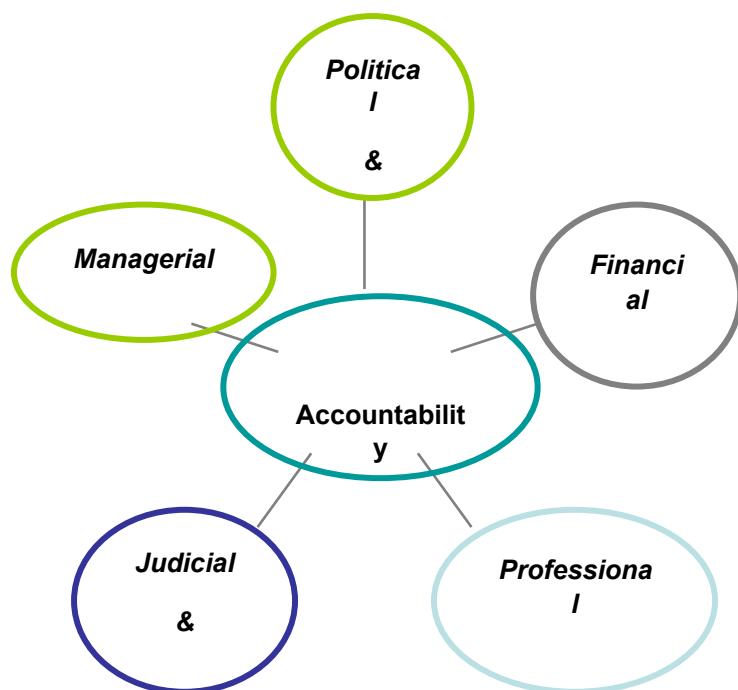
As we have stressed the importance of reform in light of changing circumstances, there is a need to reform civil services and make civil servants pro-active in the development process. Civil servants should not be cynical about reforms, but should actively participate in the reform process. To create a pro-active, vibrant, and accountable civil service, the sense of reform should come from within the civil service.

(viii) Civil Service Accountability

The Civil Servant has always played a critical role in ensuring administrative continuity and change. The rules and procedures are imposed on civil servants. The 'rule of law,' not the 'rule of man,' is blamed for widespread abuse of power and corruption among government officials. The proliferation of media has also made civil servants more vulnerable to external scrutiny.

The chart on the left depicts a civil servant's accountability at various levels.

Que. "Civil servants should avoid airing grievances in the media." In the context, discuss the grievance redressal mechanisms available to the Civil Servants in India. (2017) (10M)



Though they are two distinct concepts, transparency and accountability are both required. To hold a civil servant accountable, information about the civil servant's decisions and actions must be obtained. This highlights the critical need for legislation such as the Right to Information and protection for citizens who want to blow the whistle.

Some of the measures proposed for greater accountability are as follows:

- Improving and streamlining reporting mechanisms.
- Streamlining and expediting departmental inquiries.
- Creating a link between performance and incentives.
- Revision of employee grievance procedures.
- Follow-up on audit findings.
- Monitoring service delivery through the implementation of Citizens Charters.
- The Freedom of Information Act and its implementation.
- Drafting exhaustive Code of Conduct for civil servants.

Change in Mindset

To address evolving demands and changes in society and the economy, a paradigm shift in the nature of civil service/servants is required.

Que. “The 'enablers' and 'facilitators' are yet to replace the “inspectors” and “controllers” in the civil service in India. Do you agree? Justify. (2018)(10M)

Securing Leadership for change

It was identified as critical to secure the highest level of political authority, namely the commitment of ministers and senior officials, to an administrative reform programme. Equally important is the institutionalisation of the skills required for the continuation and development of good government management within the government machinery.

Policy Development and Strategic Planning

Strategic planning is concerned with strengthening the government's core policy development, management, and coordination capacity. In many developing countries, a lack of policy analysis skills has been identified as a major weakness in the civil service. Strategic planning also addresses civil service improvement programmes, particularly the development of priorities with accountability through clear delegation systems.

Making the most of Staff: Human Resource Management

Human resource management systems in the public sector should be improved to encourage and reward both team and individual performance. Increasing managerial autonomy over departmental and agency human resource management practises enables new approaches to producing, measuring, and rewarding individual performance.

Tailored Training:

Current reform programmes take a very pragmatic approach to increasing the effectiveness of all levels of staff. Individual needs are increasingly being met by training programmes designed to ensure competency. Performance appraisal techniques that identify the strengths and weaknesses of individual contributions, as well as personal career planning to ensure that personal ambitions and aspirations are channelled towards overall government service, are also being introduced.

Rewarding Achievements:

Incentive packages that ensure that skills and, especially, personal achievements are recognised and rewarded are also becoming more common. Open recruitment procedures, with broader recruitment for senior positions, aid in ensuring that vacancies are filled based on skills and competence.

Establishing Fast Track: As the emphasis shifts away from high-security careers defined by length of service and seniority and toward shorter-term employment contracts and achievement-based promotion. In many settings, a new cadre of responsive managers is emerging.

Managing the Political/Administrative Boundary: Reform programmes are increasingly attempting to draw a clearer line between the political and administrative spheres. Senior officials are explicitly delegated authority in exchange for accountability and performance. Power is provided on the condition that its use and, more specifically, the results obtained with it will be monitored.

Clarifying Public Service Accountability: All current reform programmes place a premium on personal and institutional accountability. Personal contracts and public reporting of service planning and delivery are practical mechanisms for highlighting accountability. This allows for the public to be made aware of poor performance by senior officials, agencies, departments, or other institutions, including that caused by corrupt practises.

Anti-Corruption measures: Current reforms are transforming broad calls for government transparency and accountability into operational systems that

specify the expected performance of employees and institutions. Tighter employment frameworks for senior officials will be used to support anti-corruption measures.

Redundancy Management: It was emphasised that redundancy management is a reform component of last resort. Whether ideal or not, it is a pressing issue within many Civil/Public Service bodies, particularly in the aftermath of structural adjustment programmes. Major redundancy management programmes in the public sector must be linked to more systematic approaches to controlling workforce size, with procedural mechanisms based on a "culture of realism".

Making Government more efficient: Another common component was the need to review and re-examine structures of government, including the potential for decentralisation and disinvestment, and to establish efficiency and market testing programmes.

Structuring for Efficiency: The height and breadth of departmental bureaucratic pyramids have traditionally been the primary structural choices confronting government. Accountability is assumed to flow upwards, with administrative accountability flowing smoothly to the Permanent or Chief Secretary and political accountability flowing smoothly to the Minister. Recent experience, on the other hand, shows that governments are now able to choose from a much broader range of structural options. This development has weakened previous consistency across government machinery. The civil service maintains its unity, but uniformity is becoming less relevant.

Establishing an Efficiency Programme: Efficiency programmes comprise both cost reduction and performance improvement. They question whether a task should be done at all, whether it should be done by the government directly or by contractors paid by the government, or done by the private sector. Since government resources are always under pressure there is an on-going requirement to review activities to ensure that resources are used to best effect and that the government can demonstrate sound stewardship.

<ul style="list-style-type: none"> ● Commitment: To the Civil Service. ● Core values: Integrity and neutrality. ● Precedent: Follower. ● Work: Exclusively in policy and ministerial support roles. ● Aims: To lead the development of a major policy area. ● Experience: widens experience by brief tenures in the public sector. ● Training: Fast stream. ● Orientation: Status Quo. ● Monopolistic. 	<ul style="list-style-type: none"> ● Commitment: To public service. ● Core values: Integrity, Impartiality, Compassion and Service delivery. ● Precedent: Creator. ● Work: varies roles between operations, policy, specialist skills and ministerial support. ● Aims: To deliver the outcomes of a major policy area. ● Experience: widens experience by taking a private sector role. ● Training: Career-long development and learning. ● Orientation: Change. ● Competitive.
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Challenges to Civil Service Reform

Finally, it is critical to recognise that the reform mandate will present new challenges. To meet the challenges, the following actions would be required:

- Political will and support.
- Capacity of management to implement reforms.
- Obtaining support from civil servants themselves.
- People who have been adversely affected must have 'safety nets' in place.
- Reforms must reflect a country's political and institutional environment.
- Attempting to increase communication among all stakeholders.

Long Term Impact of These Personnel Reforms: An Evaluation

Personnel reforms in India's civil services had the same diffuse and unsatisfactory impact as organisational reforms discussed in previous paragraphs.

Training and succession plans would be unable to attract highly talented personnel unless the civil service was restructured. It is no secret that, despite quantitative efforts to train civil servants in India and other Third World countries, the qualitative content and impact of this training has remained negligible.

In evaluating long term impact of personnel reforms in post-independent India, it is necessary to mention the neglect of democratic decentralisation efforts in

consists of (i) the central government at New Delhi (ii) 32 state government including union territories (iii) 430 districts (iv) 5092 blocks, consisting of (v) 500,000 villages, prior to 1947, district was the focal point of colonial administration with all emphasis on law and order and governance of the country.

Model Answers

Que 1. “The Prime Minister's awards for Excellence in Public Administration encourage good governance initiatives”. Discuss some such initiatives by the Civil Servants in this context. (2017) (20M)

The “Prime Minister's Awards for Excellence in Public Administration” were established in 2006 to acknowledge, recognise, and reward the extraordinary and innovative work done by Central and State Government Districts/Organizations.

The Scheme was restructured in 2014 to recognise District Collectors' performance in Priority Programs, Innovations, and Aspirational Districts. The Scheme was restructured again in 2020 to recognise District Collectors' contributions to the District's economic development.

The scheme for the Prime Minister's Awards for Excellence in Public Administration has been completely restructured for the year 2020 to recognise civil servants' contributions to the strengthening of:

- Promoting people's movements – "Jan Bhagidari" – in the district through the Swachh Bharat Mission (Urban and Gramin).
- Improving Service Delivery and Resolving Public Dissatisfaction.

These awards promote good governance as:

- They incentivize outcome-based performance rather than rule-orientation.
- They provide greater motivation for civil servants to move towards innovation as well as boost morale of the cadre. This is in line with the behavioral views of motivation given by scholars such as Barnard, Victor Vroom, etc.
- Specific categories are instituted to promote certain aspects of good governance.

- The awards criteria focus on “making public delivery systems responsive, transparent and efficient particularly by leveraging technology.”
- in 2020 restructuring of the scheme, the following have been included to incentivize good governance-
- “Inclusive Development through Credit Flow to the Priority Sector” and “Improving Service Delivery and Redressal of Public Grievances” promote governance that is responsive, efficient and equitable.
- “Promoting people’s movements – Jan Bhagidari” promotes participatory governance and consensus orientation in governance.

Some initiatives by Civil servants

[Taken from awards citation of 2018 available in DARPG website (latest available at time of writing)]:

1. PM- Fasal Bima Yojana

- Administration of Beed, Maharashtra was awarded because of exemplary work done in ensuring publicity of the scheme via awareness campaigns, via digital /social media, electronic media and conventional channels.
- Banks were opened on Sundays and public holidays for farmers to submit applications
- Senior officers of the administration like Divisional commissioner and agricultural commissioner were involved in district level discussion groups, along with Farmer producers’ organizations, NGOs, ideal farmers in the district, etc.
- 100% of claims submitted were cleared in a given time and payment was done directly into claimants’ accounts due to complete Aadhar linkage and authentication.

2. Promoting Digital Payments

- The administration of Bishnupur district, Manipur was awarded for making Karang into India’s first cashless island. The remote island was cut off from the insurgency for a long time.
- Door to door campaign was organized for financial literacy and educating people about digital payments.
- Incentives for training in digital payments were provided and five POS machines were installed on the island.
- Cash outflow from banks reduced by 33%, all Gram panchayats and municipal councils are enabled with Public Finance Management System.

The officials of Daman (under Union Territory category) and Haryana's Sonipat district (under Other States category) were also awarded for popularising digital payments in Daman and Haryana's Sonipat too.

3. Reinventing Education Via Technology

- The award for Innovation was given to the Banka district administration in Bihar for reinventing education via technology.
- The district uses mobile phones and smart TVs to deliver quality education to students even in remote areas.
- Nearly 40 government schools of Banka district have been provided Smart TVs which enable students to attend virtual classes conducted by teachers and experts. For mobile users, the Unnayan Banka project has come up with a mobile App ECKOVATION, which can be downloaded from Google Play store free of cost.

4. Affordable Housing under Pradhan Mantri Awas Yojana

- Himachal Pradesh's Kangra district was recognized for the district administration which conducted various sessions for creating earthquake resilient houses. Further local masons were trained with construction techniques and house designs for the scheme were made using local designs and as much local material as possible.
- Madhya Pradesh's Neemuch district – which focused on various hygiene and sanitation drives for popularizing toilets in houses, as well as use of ICT in the form of geo-tagging assets.
- Puducherry's administration – took a comprehensive view of housing by inviting applications to ascertain demand for housing, spot verification and converging the central scheme with state housing scheme to ensure maximum fund availability for beneficiaries.

5. Skilling and Placement

- In Dhemaji, Assam- officials created a "Youth database survey" to identify eligible youths. The use of technology such as "kaushal Panjee" for registration of youth and use of smartphones to relay information related to the scheme. Convergence of the scheme with MGNREGA to create awareness. These efforts led to placement of various candidates in employment.
- In Karimnagar Telangana, awareness programmes were carried out through panchayats. Close involvement of SHGs and NGOs at every step to improve involvement of candidates was done. Use of innovative technology such as SMS alerts, interaction with employers via video-conferencing, etc were undertaken.

6. Tax administration

- Team GST, Department of Revenue (GoI) was awarded for ‘GST – One Nation, One Tax, One Market’, which subsumed various indirect taxes and created a unified tax regime in India. The use of technology has increased the tax net, improved times in tax returns as well as increased transparency in the system.

7. Ease of doing business

- IAS officers Shailendra Singh and Ravinder of Department of Industrial Policy & Promotion (Ministry of Commerce) were awarded for helping improve the Ease of Doing Business in India. DIPP was involved in identifying over 372 reforms that were needed, as well as for guiding States’ Business Reform Action plans.

The awards for excellence in public administration highlight best practices and promote cross-pollination of ideas, so that bureaucracy can break free of the iron cage of rationality and contribute to national transformation.

Que 2. Elaborate the features of the grievances redressal mechanism of the civil services in India. Does this mechanism satisfy the objective of its creation? (2014)(10M)

In a democracy the government has to be “for the people”. Grievance redressal mechanisms are the vehicles which ensure that the governmental machinery is responsive, accountable and user-friendly and truly “for the people”.

Grievance redressal mechanism in India is done via various mechanisms –

1. Executive: here the grievances are mainly handled by 2 nodal departments:

- a. Department of Administrative Reforms and Public grievances (DARPG) under Ministry of Personnel, Public Grievances and Pensions: This department's primary role is to plan and implement citizen-centric measures in the domain of public grievances, as well as to carry out administrative reforms, so that the government can deliver quality public services without hindrance. On the basis of the grievances received, the Department identifies the problem areas in Government which are complaint-prone. These problem areas are then subjected to studies and remedial measures are suggested to the Department/Organization concerned.
- b. Directorate of Public Grievances under Cabinet Secretariat: set up in 1988. They handle complaints related to 16 Central Government Organizations.

These 2 departments in partnership with other ministries and departments have led to the creation of various e-governance solutions and platforms such as:

- CPGRAMS: an integrated online grievance redressal and monitoring system developed by National Informatics Centre (NIC) (in 2007) in collaboration with DARPG and DPG. Citizens can lodge complaints and monitor the status of their complaints through CPGRAMS.
- PRAAGATI: refer to answer on PRAAGATI
- E- Nivaran: portal by CBDT for grievance redressal of taxpayers
- MyGov: digital platform for government to directly disseminate information regarding various schemes as well as to interact with citizens
- Integrated Grievance Redressal Mechanism (INGRAM): a grievance redressal portal by Ministry of Consumer Affairs for when citizens have grievances on buying goods/services.

2. Legislative:

- a. Directly done by debate on the floor of the parliament against policies
- b. Committee on petitions – a parliamentary committee that works on redressing grievances of the public. A citizen can submit petitions to get relief against grievance.

3. Independent Mechanisms

- a. Ombudsmen
 - i. Lok Ayukta/Lok Pal, statutory bodies setup under the 2013 act. They are meant to redress grievances against government officials, relating to corruption.
 - ii. Banking ombudsman, digital payments ombudsman – under RBI for grievance redressal in banking sector
 - iii. Insurance ombudsman
- b. Tribunals
 - i. Tax appellate tribunals: We have Income tax appellate tribunal, Customs Excise and Service Tax Appellate Tribunal and so on, for citizens to secure grievance redressal if the first layer of grievance redressal in executive method is not done.
 - ii. Labour Tribunals
 - iii. Appellate tribunal for electricity

4. Other mechanisms:

- a. Using RTI, social audit and citizen charters to identify shortcomings or inefficiencies
- b. Use of social media / media by citizens to vent out their grievances

Extra information

In case Civil servants have any grievances, they have the following options:

1. Joint Consultancy mechanism: based on the Whitley council method of the UK. For constructive dialogue between civil servants (only lower grade) and the state.
 - a. 3 tier structure – national, departmental and district levels
 - b. Has members from both employer and employee sides (65 from employee side and 20 from employer side)
2. Tribunals: Central Administrative tribunal and State Administrative tribunals (under Article 323A) for redressing grievances of Civil servants against the governments.
3. Civil service associations, to register collective grievances. For example, When civil servants were attacked and abused in Delhi, the IAS association lodged protests in various ways.
4. Social media /media, though highly frowned upon, since it goes against the ideas of bureaucratic anonymity and also the conduct rules, various civil servants have taken to social media/digital media to vent their grievances and mobilize public opinion in their support.

Does the mechanism satisfy the objective of its creation?

Past experience suggests that the grievance redressal mechanism has not entirely satisfied the objective of its creation due to:

- Lack of awareness of people.
- Lack of training and capacity building of officers- leads to poor file keeping, delays and red tape.
- Due to multiple responsibilities, grievance redressal has lower priority. For example, Internal grievance redressal inside a department also usually has other responsibilities.
- Accountability is not fixed.
- Low monitoring of outcomes, lack of citizen-centric culture means that outcome of grievance redressal is not given importance. Thus, while complaints committees may be set up, they are marred by delays.

Ways to Improve:

- Capacity building of all officials – to ensure that best practices in grievance redressal are followed. Performance of grievance redressal should also be considered in performance appraisal.
- Streamlining of procedures via work study to introduce innovations such as a single window system for grievances. Implementation of the Sevottam model as suggested by II – ARC can also help.

- Raising widespread public awareness of Grievance redressal mechanisms by use of awareness campaigns.
- Increase oversight by civil society via social audit.

Chapter 9- Financial Administration

Syllabus: Budget as a political instrument; Parliamentary control of public expenditure; Role of finance ministry in monetary and fiscal area; Accounting techniques; Audit; Role of Controller General of Accounts and Comptroller and Auditor General of India.

Budget as a Political Instrument:

- All budgets are about politics. All politics are ultimately about who controls budgets. The budget is the ultimate tool for governments in implementing their policies. The political agenda will, therefore, dominate the Budget in terms of both rhetoric and financial allocations. Concerns about giving in to temptations for populism have been voiced.
- For example, the reluctance to revise petroleum product prices upwards is causing the government's liabilities to the oil-marketing companies to build up.
- While the budgetary implications are only in terms of interest payments, everybody knows that expanding liabilities without matching assets being created will come back to haunt the government at some point in time.
- If the budget is an implementation instrument of policy, then how can we bring the budget closer to the people it is intended to serve?
- Co-operative governance and Intergovernmental Fiscal Relations Good governance and fiscal decentralization are attuned in our country through co-operative governance. The unitary state with its system of fiscal decentralization has been institutionalized in the Intergovernmental Fiscal Relations. A fiscal decentralized framework addresses the question of the appropriate level of centralization by assigning competency to tax, spending and regulatory responsibility to the various spheres of government and the interface with the private sector and civil society.

This framework assigns responsibility to that sphere of government at the coalface of delivery. However fiscal decentralization is not automatically better than fiscal centralization.

- Sub-national governments often pursue "self-interest" policies and strategies seeking a "free-ride with no accountability and undermining national unity". The principle of co-operative governance is an essential catalyst to overcoming this problem. Of course any system of good governance requires not only political will and well-functioning accounting and financial management systems but also information systems of integrity and accessibility. An information system is a set of people, procedures & resources that collects, transforms and disseminates information in an organization.
- For example, the National Rural Employment Guarantee Scheme is a good example of the budget being used as a political instrument.
- It is important for the governments, and not just from the perspective of elections, to anticipate potentially adverse outcomes and offer some credible contingency plans in the budget.
- To put it in a nutshell, the Budget is all about finding a balance between political objectives and economic uncertainties, between instant fiscal gratification and consolidation of the very real gains that have been achieved over a period of time. How the finance minister deals with these issues, and some others, will determine both how the Budget is received as economic policy and its effectiveness as a political instrument.

Que. Budget is an indicator of financial health of a polity which is reflected in the statement of income & expenditure. Discuss. (2020) (10M)

Que. Explain how the budget can be used as a political instrument. (2015)(10M)

- A **gender-responsive budget** is a budget that works for everyone (women and men, girls and boys) by ensuring gender-equitable distribution of resources and by contributing to equal opportunities for all.
- Gender-responsive budgeting is necessary both for fiscal justice and for gender justice. It also involves analysing government budgets for their effect on genders and the norms & roles associated with them. It also involves transforming these budgets to make sure that gender equality commitments are realized.
- These resources are planned to show how different actors can influence the budget cycle to promote gender-responsive budgeting at its different stages. It is intended to help groups develop strategies to think through the actions to take at each stage of the government budget process.

Que. "Gender budgeting requires rethinking beyond allocations to become a powerful tool of gender mainstreaming." Discuss. (2018) (10M)

Que. "Gender Responsive Budgeting has infused greater accountability of planning departments towards women empowerment programs." Examine the statement. (2014) (20M)

Parliamentary Control

Introduction:

- The government administration today is called upon to manage the entire affairs of the socio-economic life of the people. The massive expansion of public services has led to the expansion of bureaucracy or 'bureaucratisation'. After independence, the Government opted for planned economic development with the public sector playing a vital role in the development of the country.
- The importance given to the public sector and planning led to rapid increase in the expenditure of the government. In a democracy, it is imperative for the institutions like the Parliament & State Legislatures to control the expenditure by the executive for the benefit of the people. The enormous increase in government expenditure led to formation of an effective control mechanism by the Parliament.
- The Constitution has provided a mechanism for effective parliamentary control over public finances.

Parliamentary Control over Financial System:

- Legislative control is the most effective and real instrument of control, defining the broad objectives of administration and providing the funds essential to achieve them.
- Regular activities of bureaucracy are also open to legislative scrutiny through different methods.
- The notice of legislative control has been subject to 2 different interpretations. It may mean a general political control or in depth examination of governmental activities.
- The common political control implies that the legislature has a right to express its agreement or disagreement with the way the government intends to orient or has oriented its activities. In this model, parliament exercises control through the cabinet.

- The 2nd interpretation involves the detailed examination of government activities and ex-post facto scrutiny i.e. before a policy has been implemented. It is the second type of control which is worth consideration and true or effective control.

The financial system consists of two branches, **revenue and expenditure**:

- (1) As regards revenue
 - ❖ It is explicitly laid down by our Constitution (Art 265) that no tax shall be levied or collected except by authority of law.
 - ❖ The result is that the Executive cannot impose any tax without legislative sanction.
 - ❖ If any tax is imposed without legislative authority, the aggrieved person can obtain his relief from the courts of law.
- (2) As regards expenditure
 - ❖ The pivot of parliamentary control is the Consolidated Fund of India.
 - ❖ This is the reservoir into which all the revenues received by the Government of India as well as all loans raised by it are paid and the constitution provides that no money shall be appropriated out of the Consolidated Fund of India except in accordance with law (Art 266(3)).
 - ❖ This law means an Act of Appropriation passed in conformity with Art. 114.

While an Act of appropriation ensures that there cannot be any expenditure of the public revenues without the sanction of Parliament, Parliament's control over the expenditure cannot be complete unless it is able to ensure economy in the volume of expenditure. On this point, however, reconciliation has to be made between two conflicting principles, namely, the need for parliamentary control and the responsibility of the Government in power for the administration and its policies.

Control through Parliamentary Committees:

Effective parliamentary control over the administration of the country involves scrutiny into the details of accounts & operations, but the parliament itself may not be a suitable organisation to probe into such minute points of detail, for it generally lacks the time as well as facilities for such detailed examination.

The Parliament of India, in order to exercise effective control over the general and financial administration of the country has set up a number of committees of the House.

- (1) The Public Accounts Committee
- (2) The Estimates Committee
- (3) The Committee on Public Undertakings

Public Accounts Committee:

- The Public Accounts Committee (PAC), constituted by both the Houses of parliament, is without doubt, a powerful organ to complete the accountability of the executive government in the matter of finance.
- While scrutinising the Appropriation Accounts and the Audit Report thereon by the C&AG, the Committee has to satisfy itself: that due economy has been exercised in the financial transactions of executive government; and, that high standards of public morality have been observed in all matters of finance.
- It consists of 15 members from the Lok Sabha and 7 members from the Rajya Sabha.
- The members of the Public Accounts Committee are elected by the Parliament every year from amongst its members as per the principle of proportional representation by means of single transferable vote so that all parties may find de representation on it.
- The selection of members of the committee is made with great care, usually from amongst those having a financial & business background.
- The Chairman of the Public Accounts Committee generally belongs to the ruling party although on two occasions opposition members in the Lok Sabha have also been elected to this office.

Functions of the Committee :

- That the money shown in the accounts as having been disbursed were legally available for & applicable to the service or purpose to which they have applied or charged.
- That the expenditure confirms to the authority which governs it; &
- That every re-appropriation has been made as per the provision made in this behalf under rules framed by competent authority.

It shall be the duty of the PAC to examine:

- In the light of the report of the CAG, the statement of accounts showing the income and expenditure of State Corporations, trading and manufacturing schemes and projects together with the balance sheet and statements of profit and loss accounts, whit the President may have required to be prepared or are prepared under the provisions of the Statutory rules regulating financing of a particular corporation, trading concern or project.
- To examine the statement of accounts showing the income & expenditure of autonomous bodies that audit of which may be conducted by the CAG, either under the directions of the President or by a statute of Parliament; and

- To consider the report of the CAG in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores & stocks.

The main function of the PAC is to examine the report of the CAG in order to determine whether the money granted by the Parliament has been spent by the Government within the scope of the demands.

The examination of the PAC extends beyond the formalities of the expenditure to its ‘wisdom, faithfulness and economy; It is the duty of the Committee among other things, to draw the attention of the Parliament to cases of improper, wasteful expenditure. It is thus to detect malpractices, frauds or irregularities, misappropriation, etc.

The Committee may send for persons, papers & records. The conclusion of the Committee are submitted to Parliament in the form of a report to enable intensive examination; the committee is nowadays taking resort to the practice of consulting study groups, dealing with specified departments such as, Defence, Railways, etc. These study groups submit their reports to the Committee.

The Committee in turn considers them and makes recommendations to the government in anticipation of the final report, which is placed before the House. This arrangement is in response to the general criticism that by the time the public accounts are scrutinized, the issues become old and stale. A convention has evolved that the recommendations of the Committee are accepted by the Government.

Recently, the PAC headed by Mr. Buta Singh expressed its inability to submit the report on Defence purchases by the Government, saying that the Government has withheld some vital information from the Committee. This led to criticism by the Opposition Parties and the Government was forced to reply to the charges of the opposition.

Criticism against PAC:

- At best, the PAC probe relates to transactions completed and damage done.
- It conducts post-mortem examinations of public accounts. According to experts, it led to decline in the importance of the PAC as auditing is done after the work is completed and nothing can be changed at that point of time. Some say it is also a useless exercise.

- But the above criticism is not valid because the recommendations by the Committee are used as a guide for both the future estimates and future policies.
- However, regular recurrence and ever changing pattern of official neglect or default brought to light, year after year, does suggest that the value of the PAC's deliberations is limited.

The Estimates committee:

Parliamentary control over financial administration is further strengthened by the Estimates Committee. Although the parliament discusses the estimates for a fairly adequate period, it has neither the time nor the flexibility to probe into the details and technical aspects of the estimates. Therefore, before the estimates are presented to the parliament, they were projected to scrutiny by this independent financial committee.

The idea of an Estimates Committee in India was first urged in 1937, but the proposal could not materialise. There had been the Standing Finance Committee, first created in 1921 and attached to the Finance Department of the government of India. The Estimates Committee was first created after the inauguration of our Constitution on the suggestion of Dr. John Mathai the then Finance Minister in April 1950.

Members of the Committee:

- The Estimates Committee is a **standing committee**; as it is set up every year from amongst the members of the Lok Sabha according to the principle of proportional representation by means of single transferable vote.
- Its functions are laid down in the Rules of Procedure and Conduct of Business in the Lok Sabha. It consists of members **from Lok Sabha only**.
- The Chairman is appointed by the speaker and if the Deputy Speaker happens to be a member of the committee, he automatically becomes the chairman.
- A Minister cannot be a member of the committee. Though the term is one year, it is renewed every year with only one third of its members retiring every year and usually the same members are re-elected year after year.

Functions of the Committee:

- The most significant function of the committee is to suggest economies in expenditure. The Committee is strictly not concerned with the policy of the government.
- Its business is to ensure that within the framework of the policy laid down by the government & the House, only the minimum expenditure needed for the purpose of fulfilling the objectives of the government would be incurred.

Other functions include:

- To report what economics, efficiency or administrative reform, improvements in organisation, consistent with the policies underlying the estimates may be effected.
- To recommend alternative policies in order to bring about efficiency and economy in administration;
- To examine whether the money is well laid out within the limits of the policy implied in the estimates;
- To suggest the form in which the estimates can be presented to the parliament.
- If the committee finds that a particular policy laid down by parliament is not leading to the expected or desired results or is leading to waste, it has a duty to bring it to the notice of the Lok Sabha that a change in policy is called for.

Que. Parliamentary committees are at the deliberative core of parliamentary work which is crucial for refining legislation. Elucidate. (2020) (10M)

Working of the Committee:

The Committee is constituted in June and its work starts from July. The year plan is prepared by selecting such of the estimates as may seem fit to it. Then the office of the committee collects & collates the relevant material. It may constitute sub committees, each of them having the powers of the undivided committee, to examine any matters that may be referred to it, & the reports of these sub-committees are deemed to be the reports of the whole committee, if they are approved at a sitting of the whole committee.

A copy of the report will be submitted to the Lok Sabha. There is no formal debate on the reports of the Estimates Committee.

The report contains three types of recommendations:

- (1) for improving the organisation.
- (2) for securing the economy.
- (3) for providing guidance in the presentation of estimates.

Evaluation of the Committee:

The performance of the Estimates Committee is to the satisfaction of Lok Sabha. It is performing valuable work in spotlighting the various acts of omission & commission of the government. In its various reports submitted from time to time, the committee recommended various reforms in financial as well as administrative systems.

The control exercised by the Estimates Committee consists of:

- (1) it being judicial in approach
- (2) in representing the peoples' approach

- (3) in preventing the executive from being apprehensive
- (4) in creating a training ground for the legislators
- (5) in influencing the policies of government
- (6) in acting as a link between the people & the government.

But of late, the Estimates Committees are bypassing their mandate by giving recommendations on the policies & on the structure of departmental organisation to the relevant exclusion of a detailed examination of the estimates for which they are primarily meant.

But the Estimates Committee is performing a valuable role in the Indian administrative system. It keeps the machinery of administration under parliamentary control, which is a very healthy characteristic. It acts as a standing committee on administrative improvement by highlighting the mistakes and shortcomings of public organisations. Its role is quite important as the Government accepts almost all its recommendations.

Committee on Public Undertakings:

Since 1964, the Committee on Public Undertakings has taken the work relating to autonomous public Enterprises from the two financial committees. The Committee's most important functions include: the examination of reports and accounts of public undertakings; examination of reports, if any, of the C&AG on the public undertakings; to examine in the context of autonomy and efficiency, if the public undertakings are being managed in accordance with sound business principles & prudent commercial practices; and to discharge other functions assigned to it by the speaker from time to time. The Committee undertakes its studies of individual public undertaking by rotation.

Control over Finances:

Parliament gets innumerable opportunities to examine and review the public administration through the institution of parliamentary debates and questions, but it does not get a chance of close and continuous examination of the detailed functioning of the executive government.

However, administration comes under close scrutiny of parliament when the budget is under discussion. This is really a crucial time for the government. During the general discussion and voting on demands for grants, the members of parliament get an opportunity to discuss and criticise the working of each ministry, department or other agencies of government.

There is no matter which can't be raised during the debate. Questions of policy economy, complaints, grievances, adequacy or inadequacy of projects, schemes and outlays can always be raised and the minister has to give satisfactory reply be let off.

Audit Reports:

- As the examination of intricate government accounts and the scrutiny of the technical soundness of the financial transactions is a specialised task, in the first instance this job is commonly entrusted to an independent organisation whose reports are placed before the legislature for consideration.
- This organisation is the Audit Department. “Audit, like the judiciary, the executive & the legislature, is one of the important ingredients of democracy.”
- Its primary purpose is to ensure that in the process of spending governments funds all canons of official proprietary have been observed, that the rules and regulations which govern expenditures are adhered to, that the expenditure has been incurred by the authority which is empowered to incur it, and that it has been incurred for the purpose for which it has been appropriated by the parliament.
- The Comptroller and Auditor General annually reports about these aspects of government transactions to the legislature. The audit is, thus, one of the most important instruments of parliamentary control over administration.

Effectiveness of Parliamentary Control:

The system of parliamentary control as provided in India for control over administration is quite elaborate and seems impressive. If the institutions are effective, misuse of power by the bureaucracy is much less possible. But an institutional arrangement, however rational and elaborate it may be, does not itself achieve the purposes of taming and toning up the bureaucracy.

The effectiveness of parliamentary control depends upon at least three important conditions.

- Firstly, as a matter of principle the legislature can be effective for its control over the executive only in proportion to the strength of the opposition, which by virtue of its strength and appeal to the electorate, expects that someday it would have a chance to form the government.
- Second conditions are the strength and equality of public opinion. Representative legislatures backed by a strong public opinion can effectively contain executive and administrative actions.
- Thirdly, the effectiveness of legislative control over the executive depends on the devices and procedures instituted by the legislature in carrying out its functions to meet the changing needs of modern society.

However, legislative procedures are only a means to an end, the end being responsible and democratic discussion of public issues in Parliament and the protection of the right of democratic and uninhibited debate. A lot depends upon

the leadership provided by the cabinet and the Prime Minister, and their effectiveness, in turn depends on the party system operating in the country.

If cabinets are unstable, and if the parties in Parliament are busy in manoeuvring and manipulating the rise or fall of cabinets, bureaucracy is left free to accomplish whatever as it sees fit. At the same time, the lack of strong opposition to the single dominant party in India has weakened the effectiveness of parliamentary control, as the ruling party doesn't see any challenge to its power by the weak and fragmented opposition political parties.

Apart from the above conditions, studies and experience has indicated certain factors leading to somewhat ineffectiveness of the instrumentality of Parliamentary control.

These are:

- insufficiency of time at the disposal of Houses
- unwillingness of members to sit longer in the Houses
- lack of adequate interest on member's part in the proceedings of the Houses' quality of members
- inadequacy of expert knowledge and specialisation and want of the sense of independence in them
- wastage of time in sensations or political colourful matters at the cost of constructive issues
- Indifference of the public.

Towards the end it can be suggested that to make the control more effective specialised knowledge, information and capacity of members will have to be increased; while at the same time this point should be taken care of that administration is no enemy of the people or their representatives and whatever control is exercised should be positive one, towards the promotion of general welfare.

Role of Ministry of Finance in control over Public Expenditure:

The financial control by the executive could be exercised when estimates are prepared & expenditure is incurred. The heads of subordinate agencies scrutinise expenditure proposals enacting from within in terms of their need & spending capacity. This process moves upward to the heads of the departments who are expected to moderate the estimates in the light of accepted policies of the government & needs of programmes.

Under the cabinet system, the central financial agency is entrusted with the responsibility of consolidating the estimates of the different departments. While discharging this function, the central budget may be able to modify departmental estimates through scrutiny and advice in terms of national policies

& priorities, norms of expenditure and constraints of resources. The powers & influence of the central budget agency may vary from country to country. In India, the central budget agency is the ministry of finance while in Britain it is the treasury.

The control exercised by the finance ministry of India may be divided into 3 stages: approval of policies and programmes in principle, acceptance of provisions in the budget estimates and prior sanction to incurring of expenditure subject to such powers as have been delegated to the administrative ministries. It is the control at the 3^d stage that generally impinges on the day to day working of the administrative agencies.

This control is exercised through 3 instrumentalities namely, rules of business, a system of internal financial advisers & internal audit. The existing rules of business provide that, with the exception of particular orders issued by the ministry, no department can, without the previous concurrence of the finance ministry, issue any orders involving;

- any abandonment of revenue or incurred any expenditure for which no provision has been made in the Appropriation Act;
- any grant of land or assignment of concession or revenue, grant, lease or license if mineral or forests, right to water, power or any casement or privileged respecting such concession,
- the number of grades of posts or the strength of a service of the pay or allowances of government servant or to any other conditions of their service having financial implications; and
- any other financial aspect. In addition the financial code provides that no public servant can spend a single 'paisa' out of the public funds unless the expenditure has been sanctioned by the competent authority & the expenditure to be incurred is within the limit of the appropriations granted by parliament for the current year.

Besides, the finance ministry sends its own finance officers to each ministry (except railway and defence), who exercises the control over expenditure through scrutiny and examination of the legality, accuracy & propriety of expenditure. They also advise the departmental heads on the financial implications of their schemes & plans and furnish to the finance ministry reports on the financial administration of the ministry to which they are attached.

The departmental control of expenditure takes place through a detailed system of returns and reports frequently submitted by officers at various levels to their superior officers and ultimately to the head of the department. The accounts are to be maintained in a prescribed manner. Vouchers are to be certified as per the

rules. Payment is to be made in accordance with the prescribed procedure. The disbursing officers maintain the record of all accounts & which are examined by the controlling Officer.

The controlling officer prepares a statement and sends it to the head of the department. On the basis of the return received by him, the head of the department prepares an account showing the complete expenditure out of the grant at his disposal upto the end of the preceding month and submits the same to the office of the accountant-General.

Que. Parliamentary Committees bring about accountability in public expenditure. Discuss. (2014) (10M)

Comptroller and Auditor General of India

Introduction:

Public audit is a crucial instrument of ensuring supremacy of Parliament over executive & enforcing public accountability. Public audit institutions developed over time to help legislatures to implement the power of the purse.

This power had 2 essential elements:

- granting of the money
- Supervision of expenditure.

State audit in its present form was introduced for the first time in Great Britain as an integral part of parliamentary control over national finance with the enactment of the Exchequer & Audit Department Act in 1866.

- The Act required all departments for the first time to produce annual accounts known as appropriation accounts.
- The act also established the position of Comptroller and Auditor General (CAG) and an Exchequer and Audit department to provide the supportive staff from within the civil service. The results of CAG's investigations were considered by a dedicated parliamentary committee called the Committee on Public Accounts thus establishing a circle of parliamentary financial control.

The system of Government accounting and auditing and the organisational structure of the Indian Audit & Accounts department (IAAD) as it exists today in our country is the legacy of British Raj and is more or less patterned on the British model. The Indian Audit & Accounts department (IAAD) has a history dating back to 1858 when the East India Company administration was taken over by the British Government and an Auditor General of India, who looked after both audit & accounts functions, was appointed. The introduction of

constitutional reforms in 1919 brought about statutory recognition to the Auditor General. The Government of India Act 1935, gave further recognition to the importance & status of the Auditor General.

Constitutional and Statutory Mandate:

The Constitution of India gave special status to Comptroller and Auditor General (CAG) as laid down in Articles 148 to 152. The CAG's Act, 1971 regulates the powers, duties and condition of service of the Comptroller and Auditor General.

Section 13, 16 & 17 of the Act gives authority to CAG to audit all expenditure from and receipt into the consolidated fund of India and the State. Section 14, 15, & 20 of the Act authorises CAG to audit the receipts & expenditure of bodies or authorities substantially financed by loans or grants from Union or State or Union Territory. Article 151 of the Indian Constitution prescribes that Audit Reports on the accounts of Union and the States be submitted to Parliament /State Legislature.

Organisational Structure:

The CAG is the head of the Indian Audit and Accounts Department. The office of the CAG directs, controls and monitors the activities of the various offices of the department and is responsible for development of organisational objectives and policies, auditing standards & systems, laying down policies for management of manpower and final approval of the Audit reports. For carrying on these responsibilities field formations exist for each specific area of auditing & accounting.

The offices of Indian Audit & Accounts department (IAAD) are spread all over the country. There are 34 Union Government Audit Offices headed by Director General or Principal Director of Audit and 60 State Accounts and Audit offices headed by Principal Accountant General and Accountant General. There are 60000 personnel in the Indian Audit & Accounts department (IAAD) with about 500 Group A officers belonging to the Indian Audit & Accounts Service (IA&AS).The total budget of the Indian Audit & Accounts department (IAAD) is around Rs 846 crs bulk of which constitutes expenditure on pay & allowances of the staff.

Appointment of Comptroller and Auditor General:

- The most significant instrument of accountability, the Comptroller and Auditor General of India (CAG) has a dual role to perform.

- Firstly, as an agency to function on behalf of the Legislature to ensure that the Executive complies with the various laws, passed by the Legislature in letter & spirit.
- Secondly, on behalf of the Executive to ensure compliance by subordinate authorities with the rules and orders issued by it.
- The Comptroller & Auditor General (CAG), as the head of the Indian Audit and Accounts Department, is thus neither a part of the Legislature nor the Executive but is an officer created by the Constitution of India to see that diverse authorities act in regard to all financial matters in accordance with the Constitution and the laws and rules framed thereunder.

There are numerous provisions enshrined in the Constitution to safeguard his independent function,

- The President of India appoints him by warrant under his hand & seal and his oath of office requires him to uphold the Constitution of India and the laws made thereunder.
- He can be removed from office only on the grounds of proved misbehaviour or incapacity after an address by both Houses of Parliament supported by a two-third majority.
- His salary and conditions of service can't be varied to his disadvantage after his appointment.
- He shall not be eligible for further office under the Government of India or any of the State after retirement.
- His administrative powers & the conditions of service of persons serving in the Indian Audit and Accounts Department (IAAD) shall be prescribed by rules made by the President only after consulting him.
- The administrative expenses of his office are charged upon the Consolidated Fund of India and are not subject to being voted by Parliament.

The legal basis for the auditory functions of the Comptroller & Auditor General of India(CAG) is provided by the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. Although India has a federal setup, the Constitution provides for a unitary audit by the Comptroller & Auditor General (CAG), who conducts audit of the accounts of both the Union and State Governments.

Que. Justify the constitutional provision to treat certain expenditure as charged upon the Consolidated Fund of India. (2013) (10M)

Extracts from the Constitution of India (Articles 148 to 151)

148. Comptroller and Auditor-General of India - (1) There shall be a Comptroller and Auditor-General of India(CAG) who shall be appointed by the

President by warrant under his hand & seal and shall only be removed from office in like manner and on like grounds as a Judge of the Supreme Court.

(2) Every person appointed to be the Comptroller & Auditor-General of India (CAG) shall, before he enters upon his office, make and subscribe before the President or some As person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the 3rd Schedule.

(3) The salary and other conditions of service of the Comptroller & Auditor-General (CAG) shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the 2nd Schedule, provided that neither the salary of a Comptroller and Auditor-General (CAG) nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General (CAG) shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department (IAAD) and the administrative powers of the Comptroller & Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the CAG.

(6) The administrative expenses of the office of the Comptroller & Auditor-General including all salaries, allowances & pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

149. Duties & Powers of the Comptroller and Auditor-General (CAG) - The Comptroller and Auditor-General (CAG) shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States & of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties & exercise such powers in relation to the accounts of the Union & of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of the Constitution in relation to the accounts of the Dominion of India and of the provinces respectively.

150. Form of accounts of the Union and of the States - The accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the Comptroller and Auditor-General of India, prescribe.

151. Audit Reports - (1) The reports of the Comptroller and Auditor-General of India (CAG) related to the accounts of the Union shall be submitted to the president, who shall cause them to be laid before each House of the Parliament.

(2) The reports of the Comptroller and Auditor-General of India related to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

During the last 3 decades the appointment of CAG has always been mired with controversy. From the time the Constitution came into being in 1950, the four CAG's appointed to the post, were senior members of the Indian Audit & Accounts Service. However, from 1978 onwards the last 4 incumbents are from the Indian Administrative Service (IAS). The appointment of CAG who does not possess the requisite background of auditing and accounting has been subject of severe criticism by Chairman of the Public Accounts Committee, public spirited men, press, Officers & Staff association of the Audit department. The Indian Constitution does not lay down qualification for the post of CAG nor the manner of his selection. However, the matter was discussed during the Constituent Assembly debates held in May 1949. From the debates, it seems that framers of the Constitution's intention was that a person who had sufficient knowledge of finance & accounting systems and had practical experience of the work of the Finance department and had worked as Accountant General would only be appointed. However, in practice this assurance has not been honoured by successive governments.

Que. The office of the Comptroller & Auditor General of India stands on the pillar of autonomy. Discuss the major lacunae in the functioning of this constitutional body and also suggest measures for its strengthening. (2020)(20m)

Que. "Social auditing of flagship programmes of the Central government facilitates the performance of the Comptroller and Auditor-General(CAG)." Elaborate the statement with appropriate examples. (2014) (20M)

Evolution of Audit since Independence:

The traditional audit conducted by the supreme audit institutions (SAI) is known as **Regularity audit** which means checking upon the legality of an action taken by a public official or a person using public fund and whether the decision or its implementation is according to the law, rules or regulations governing that activity. Gradually its dimension was extended to **Financial audit** and now to **Value for Money audit**.

Financial Audit basically means audit of financial statements and whether they provide reasonable assurance that they present fairly the financial position, results of operations, & cash flows of an audited entity in accordance with normally accepted accounting principles. In Financial audit, State auditors do

almost the same kind of job which the Chartered Accountants do while auditing a public limited company.

Value for Money or 3 E's Audit: also known as Performance audit is an independent assessment of the performance of an organisation, programme, project or an activity in terms of its goals & objectives- how far expected results have been achieved from the use of available resources of money, men & material. Put it differently, an examination is made regarding **economy, efficiency & effectiveness** of public spending, which has come to be known as 3E's audit.

- Economy: minimising the cost of resources used or required - *spending less*;
- Efficiency: the relationship between the output of goods & services and the resources to produce them- *spending well*;
- Effectiveness: the relationship between the intended & actual results of public spending - *spending wisely*.

The concept and techniques of audit have undergone a major change during the last fifty years. Before Independence, the government audit was mostly confined to check against provision of funds, rules & orders and competence of authority concerned to sanction expenditure.

With the introduction of the Five Year plans (FYP) for economic and social development there has been change in the pattern of government expenditure necessitating a shift in the emphasis, concept & practice of audit as scrutiny of individual transactions became inadequate as it tended to mistake wood for the tree. The Parliament and the public are more interested to know whether various welfare and development programmes are being executed efficiently and whether they are producing the expected results. This led the Audit department to enter in the area of *Performance Evaluation and Value for Money Audit*. The Audit department is now producing a large number of performance reviews every year covering almost every facet of government's working.

Audit of Revenue: CAG after some initial resistance on the part of the revenue department were able to extend its dimension to audit of revenues which includes audit of tax assessment such as Income tax, Central Excise and Customs, Sales tax etc. The audit of receipts has helped bring considerable revenue for the government by pointing out cases of under assessment of tax, and also assisted in better functioning of tax administration machinery by pointing out lacunae or loopholes in the Act or Rules and deficiencies in the functioning of tax administration.

Audit of Commercial Enterprises: The audit of government companies was brought within the purview of CAG's audit at the insistence of then CAG by introducing an appropriate provision in the Companies Act 1956, although there were initial attempts to exclude his jurisdiction. Thus, while Chartered Accountants (CA) are required to certify Annual Accounts of government companies, CAG has been granted the right to conduct supplementary audits.

Weakness of the Existing System:

- No Powers to Enforce Audit Findings Violation of Rules.

One of the primary functions of audit is to see that provisions of law, rules & regulation are properly applied while incurring expenditure or collecting revenue. In order to regulate usage of money, elaborate rules and regulations have been drawn by the government. While the audit notices systematic violation of law, rules & regulations by departmental officers it is unable to take an effective action to prevent them.

- ✓ The Bihar fodder scam will illustrate the point.
- Serious financial misappropriation and irregularities of government funds were being committed by senior government functionaries and the Treasury officials all acting together in collusion.
- The Accountant General (AG) Bihar couldn't detect the irregularity in time as Treasury officers suppressed the vouchers through which money was drawn and did not transmit them to AG thus preventing its audit.
- CAG has been making mention of excess withdrawal over voted provision in its Audit Report presented to Bihar Legislature but the Public Accounts Committee, it is said did not even meet to discuss the report leave apart take preventive action.
- After the scam became public knowledge, CAG has produced a well-documented Audit Report but it is more a case of getting wise after the event—after crores of public money has been looted and shutting the stable door after the steed has been stolen.

The account keeping of State government companies is in a chaotic state. Out of about 900 State government companies the Annual Accounts of about 700 companies is in arrears sometimes for periods as long as 10 to 12 years.

The Companies Act stipulates that the Annual Accounts of these companies should be audited by Statutory auditors (Chartered Accountants) and C&AG within six months of the close of the financial year i.e. 30th September. Should a situation where management of these companies violate with impunity the legal provision laid down in the Companies Act be allowed? Similar is the situation with a large number of autonomous bodies, which receive substantial grants from the government every year.

Many of them don't submit their Annual Accounts in time for audit. In many cases, accounts when prepared don't follow the accounting standards, contain serious mistakes & when pointed out, the concerned organisations refuse to rectify the errors. And yet they continue to get government grants every year. Should not CAG be empowered to take legal action against management of such defaulting organisations, so that taxpayers are assured that no misuse and misappropriation of public funds has taken place?

Que. "Accounting is the essence of producing promptly and clearly the facts relating to financial condition & operations that are required as a basis of management." Substantiate the statement in the context of accounting methods and techniques in government. (2013) (20M)

Legal position:

- Section 13 of the Comptroller and Auditor General's Act (CAG's Act), lays down that it is the duty of audit: to ascertain that the money, which has been disbursed was legally available for the service/ purpose on which it has been applied and there is a proper authority to spend the money. What happens when a public official spends money, which is not legally available viz., it is in violation of laid down rules & regulations.
- The Act is silent about it – all that the last sentence of Section 13 says, "In each case to report on the expenditure, transaction or accounts so audited by him."
- *If the CAG make a report about the irregular usage of money to the Department whose officials have committed the default and they contest CAG's decision or don't take any action, it virtually amounts to the departments sitting over judgement on C&AG's findings and obstructing the duty he is required to perform under the law. In no other country of the world the State audit finds itself in such a helpless situation.*

Position in Advanced Countries:

Most Supreme Audit Institutions (SAI) have been vested with powers to fix responsibility on the officials who have caused loss to the exchequer & have legal power for its recovery. In **New Zealand** under the Public Finance Act of 1977, the Controller and Auditor General (CAG) is empowered to hold an enquiry which may require any evidence to be given either orally or in writing and to which the provisions of Crimes Act relating to perjury applies. The CAG has power for surcharge if he finds that there is deficiency or loss of money or store caused through fraud, mistake, default, negligence, error or improper or unauthorized use.

In **Japan** the Board of Audit has powers to adjudicate and can order an official to indemnify the loss and direct the supervising officer to take disciplinary

action against the delinquent official when it finds that the official has caused grave loss to the State either deliberately or by gross negligence.

Need for Conferring Legal Powers:

The situation in our country needs to be remedied by conferring legal power to Audit Officers to enable them to implement their findings by making appropriate provisions in the C&AG's Act on the lines enjoyed by State audit institutions of other countries.

The Act should entrust Audit Officers with following powers:

- (a) Powers to summon the concerned officers before it for evidence on oath
- (b) Where default is established after giving due opportunity, they be required to make good the loss
- (c) In case the official doesn't make good the loss & the default or neglect is established, the report be made to the higher authority of the department where officer is working for taking disciplinary action under the Civil Services Conduct Rule
- (d) Where the action of a public official involves criminal liability, the public prosecutor can be informed either by the Audit official or by the Department to which he belongs for initiating criminal action under the Penal code.
- (e) For discharging this quasi-judicial function, the powers similar to those available under Commission of Enquiry Act be vested with the Accountant General / Principal Director of Audit who are heads of department by making suitable legal provision to that effect.
- (f) To make the system transparent and fair, there should also be a provision of appeal with final appellate stage at the level of Addl./Dy. Comptroller and Auditor General at the headquarters of C&AG's office.

Need For Collegiate Decision: Audit Commission

In our country there is no system of finalisation of audit reports through a formal committee system in which the Dy CAG/ Accountant General / Principal Directors of Audit participate. The audit reports of both the Central and State governments are processed on files by the Dy CAG and Additional Dy CAG and approval of C&AG taken.

Expenditure & revenue transactions of the government have increased hundred fold with remarkable growth in government's activities after independence. It is simply not possible for one individual viz. C&AG to be responsible for all audit work of Central as well as State government. There is a need for wider sharing of responsibility.

The current system results in neglect of audit & poor quality of Audit Reports. There is also no system of discussion with Secretaries to government or heads of department before the Audit report is finalised. This leaves a yawning gap in

the Report, facts & conclusions are often challenged with the result that the main purpose of audit viz. improvement of the administrative set-up and the systems and procedure takes a back seat.

The existing system needs an overhaul. Audit Reports should be finalised through collegiate decision making of an Audit Commission in which all the Dy CAG's and Addl/Dy CAGs should be represented besides C&AG. The position of CAG should be that of primus inter pares. For proposed Audit Commission to be effective it's members should be given a status similar to that of a High Court Judge with age of retirement as 62.

Strengthening PAC:

The two Parliamentary Committees are able to examine only a few paras and reviews out of a large number of audit reports submitted to them which defeats the very purpose of parliamentary financial control and the accountability of the Executive which the Parliament is required to enforce. For example, during 1997-98 out of 16 Reports submitted to Parliament containing 1209 paras or reviews the number of paras / reviews selected for examination was 76, out of which only 16 could be discussed by the PAC. In the States there is a huge backlog of work before the PAC's.

In order to strengthen parliamentary control over the executive, it is necessary to devise a system which envisages that PAC examines all the reports submitted by CAG and submits its recommendations to Legislature within a time limit of say 18 months.

This is possible only if the volume of CAG's Audit reports is reduced and their quality and content improved and only matters of critical importance are included in the Audit Reports. (Other financial irregularities noticed during audit need to be settled with the concerned Ministries or departments through forums such as Audit Committees which need to be devised in consultation with the Ministry of Finance).

For PAC to function effectively and it's members to develop specialization, the life of PAC be made 5 years coextensive with the life of Parliament/ State legislature with one- third of members retiring every year. It should be sent for consideration whether PAC be given a Constitutional status with clearly defined mandate, duties and functions.

C&AG and Parliament: In parliamentary democratic form, State audit tends to be classified as part of the legislative branch as the institution has developed over time to implement the power of the purse. State audit with its access to information and review of governmental activities, fulfils an increasingly important role in providing legislature with detailed reliable information necessary for control.

A realisation of this fact has led to major restructuring of the audit department in the U.K with the passing of the National Audit Act of 1983. Under the act C&AG has been made an officer of the House of Commons. Another Commonwealth country, Australia in line with British system stem and under a 1997 act the Auditor General will be an independent officer of Parliament. In the U.S.A the General Accounting Office from the time of its constitution in 1921, has been recognised as an agency within the legislative branch of the government and enjoys a special working relationship with the American Congress.

It is for consideration whether C&AG should be made an officer of the Lok Sabha so that he could work in greater cooperation with Parliament and its Finance committees with a view to make parliamentary financial control more effective.

Model Answers

Que 1. What merits do you foresee in the proposed merger of the Railway Budget with the General Budget? (2016) (10M)

The Separation of Railway budget was effected in 1923 in accordance with the recommendations of Acworth Committee, due to the large proportion of expenditure the railways had in British India. Later, in 2017, the railway budget was merged in to the general budget under the recommendation of Bibek Debroy committee.

Reasons for merger:

- Diminishing share of railway budget as compared to total budget, now less than 15% compared to ~85% in 1920s.
- The railways are chiefly operated by government investment and private investment is negligible. Thus, it makes sense to account for the general budget.
- The extant railway budget system had not been successful in ensuring the capital requirements of the Indian Railways.

- A separate railway budget opened the doors for populist announcements, which negatively impacted the economic health of the railways.

Merits of the merger:

- With the presentation of a unified budget, a holistic picture of the government's financial position is presented. This would help to reduce fiscal deficit and induce fiscal consolidation.
- Financial burden of the dividend has gone off from the Railways so they will now have more resources in hand. Will help enhance capital expenditure.
- There will be less political and populist pressure on the Railway budget and the centre will have the ultimate hold of the decision making.
- Decisions like fare revisions can be removed from public glare and done rationally.
- Finance ministry will get greater leeway for planning finances, especially during mid-year reviews.
- The merging of the budgets facilitates multimodal transport planning between railways, inland waterways, and highways.

Demerits of the merger:

- The merger indicates a reduction in financial autonomy for the railways as a fall in revenue or gross receipts in the general budget will mean the finance ministry will be carrying out similar cuts in expenditure allocated to railways, too, which may affect morale of the functionaries
- The merger may make the Railways just another government department. In the process, it could also lose its commercial character.
- The merger is an indirect assertion that railways are the government's domain, which may lead to issues in plans for privatization.

The merger of the railway budget with the general budget marks one of many reforms that have been long called for both to improve the railways as well as the budgeting process. Further reforms can be expected with political will.

[Additional information]

Reforms in budget process

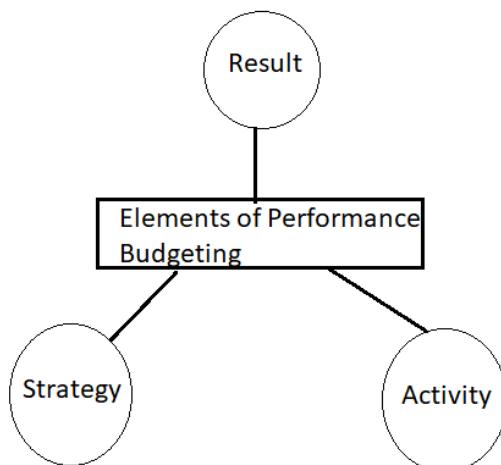
Reform	Merits	Demerits
Merger of railway budget	<see above>	<see above>
Preponement of budget to February 1	-Eliminates the need for vote on account. - reduces march rush -ensures timely availability of funds to	- revised estimates may not be accurate as data is to be compiled before "actuals" can be estimated

	<p>all departments</p> <p>-Allows people and companies to plan taxes accordingly since budget is passed before new financial year</p>	<ul style="list-style-type: none"> - Estimates of rainfall in the coming year may not be accurate in the beginning of the year as it would be in another month.
Merger of Plan and Non Plan	<p>-the bifurcation was irrational as it segmented relevant service delivery into unrelated compartments. Eg: Creating roads should also consider upkeep as integral expense.</p> <p>-It biased capital creation, but not maintenance</p> <p>-Plan era is over. Thus continuing the distinction is unnecessary.</p>	NA

Que 2. “Performance budgeting failed because it was applied to sectors/programmes where quantitative evaluation was not feasible.” Examine the principles underlying performance budgeting techniques. (2013) (10M)

Performance budgeting is a method of budgeting that focuses on result orientation or performance orientation. It reflects both the input of resources and the output of services for each unit of an organization. It is commonly used by government bodies and agencies to show the link between taxpayer funds and the outcome of services provided by the government and enhance efficiency of expenditure.

It was first coined by Hoover commission in 1949 and introduced in Truman's presidency, following the state's transformation from a laissez faire to a welfare state.



- Performance budgeting is based on the Taylorian principle.
- It is allocation of funds based on programmatic results that contribute to organizational goals. Evidence of performance of a line item is used to maximize the allocation of funds toward measurable goals during the budget process.
- Involving classification of budget in terms of function, programme, project and activities.

Functions	Programmes	Projects	Activities
Education	Mid-day Meals	Making Meals available	Contracting caterers/kitchens
Health	Ayushman Bharat	Availability of medicines in PHCs	Tenders for procurements

Performance management techniques are to be used for measuring results. A few examples of outputs that a performance budget could address include:

- Improvement in enrolment ratios in schools
- Improvements in sex ratio in state
- Construction of toilets
- Reduction of crime in an urban area

All of these would have numerical targets attached to them. A performance budget would be developed accordingly to identify those target numbers and a method of evaluating performance. Performance budgets often rely on quantifying otherwise qualitative or subjective factors so that they can be measured and accounted for.

Performance Budgeting in India was introduced during the 1970s, in 32 Ministries/Departments, on the recommendation of the Administrative reforms commission. However it was merged into Outcome budgeting in 2007-08 due to unsatisfactory performance.

Principles of Performance budgeting and why it failed in India:

- End results must be measurable: However government programmes like MGNREGA aims to improve the livelihood. But measuring livelihood is qualitative and is difficult. Often, programmes have multiple indicators which can obscure performance measurement. For example, should success of mid-day meal scheme be measured by enrolment ratios, attendance ratios or reduction in malnourishment and child labour?
- Programmes should be closely monitored. This is difficult in India, as we are a prismatic state with differentiation but poor integration. Thus, monitoring is marred by poor capacity, conflict of interest and aforementioned issues of quantifying qualitative outcomes. For example, there is little research on how implementation of budgets of previous 10-15 years has been.
- Outlay shown in the budget should represent entire costs. In India finance is more a political instrument than an expert. This leads to delays in fund release, re-appropriation or reallocation of funds during mid-year reviews, lack of prudent financial administration etc.
- Allocation based on past record: This was not always possible due to the presence of coalition governments as well as issues in political will. For example, MGNREGA was planned to be downscaled following 2014, however this attracted controversy and could not be followed through with.

Performance budgeting is not a panacea, but rather a specific tool meant for specific use cases. In the absence of quantifiable outcomes and monitoring mechanisms, this tool understandably did not perform satisfactorily. However, it acted as the precursor to the adoption of the Outcome/output framework and changed the focus of government budgeting from input to output, as well as incentivizing efficiency.

Que 3. “The initiative of the Income Tax Department on disclosure of black money has had a mixed response.” Give suggestions for tackling this complex problem. (2016) (10M)

Black money refers to all income that has not been disclosed for tax purposes. It may involve proceeds from both legal and illegal activities. The use of black money leads to the creation of a “parallel economy”, which has been variously estimated to range from about 15% of the GDP to about 70% of the GDP.

Black money leads to problems for the government as:

- Parallel economy leads to issues in macroeconomic management as it reduces efficacy of monetary policy transmission.

- Black money is intimately linked with terror financing and organized crime leading to threats to national security.
 - Lost revenue realization leading to low finances available for development.
- To tackle this issue, various initiatives have been undertaken by Tax department:

- Project Insight, use of big data analytics to identify potential tax evasion
- Income Declaration Scheme, Garib Kalyan Yojana, Voluntary amnesty scheme for people to declare black money and avoid litigation and legal action. Done in 2016, before and after demonetization respectively.
- Simplification of Income Taxes and pre-filling of forms: in accordance with Adam Smith's canon of simplicity
- Adoption of taxpayer's charter and faceless assessment: to inform taxpayers of standards of services as well as what is expected from them. This is the application of Citizen's charter concept in taxation, to reduce issues in paying taxes.
- Vivad se Vishwas scheme: to reduce litigation relating to direct taxes and incentivize tax settlement.
- Sabka Vishwas scheme: similar to above, for indirect taxes.
- Rationalizing Tax slabs: announced in budget 2020, use of flat rate slabs is expected to reduce complexities of paying taxes, thus encouraging voluntary tax payments.

Why have they had mixed responses ?

- They have not satisfactorily targeted use of creative accounting and tax planning used for evasion.
- Long delays in legal proceedings embolden defaulters against declaration of black money.
- Criticism for arbitrary powers vested in IT department for raiding and harassment, leading to “tax terrorism”.
- Numerous loopholes in laws which are exploited, such as use of DTAA for round tripping, numerous exemptions, etc.
- Perception of no utility in paying taxes among many individuals as they are seen as outliers who pay.

Suggestions for tackling the problem:

- Use of behavioural principles, as suggested by the economic survey-
 - Use of “Nudge” principle, emphasising number of people who file taxes as positive role models, reduce barriers to filing taxes by simplifying choices, etc

- Design incentives for taxpayers. For example, providing distinction via certifying tax receipt, providing primacy in certain services, etc
 - Leveraging herd behaviour by creating an environment of compliance and leveraging need for conformity.
- Tightening tax network by effective use of ICT to improve tax intelligence as well as creating reliable and easy to use filing methods.
- Tightening the loopholes for this purpose, the Direct Tax code is being examined by the Akhilesh Ranjan Committee. Similarly, the GST has introduced self-policing features.
- International cooperation: Measures like DTAA, G7's proposal for global minimum corporate tax, cooperation with FATF, etc.

Taxes represent the glue that holds the social contract together. The problem of black money highlights a weakening of this glue and weakens the idea of democratic governance. Thus, black money should be eliminated by the use of coercive as well as incentivizing measures.

Chapter 10 - Administrative Reforms since Independence

Syllabus: Major concerns; Important Committees and Commissions; Reforms in financial management and human resource development; Problems of implementation.

Introduction:

The central and state governments must meet the Indian people's aspirations by delivering rapid economic growth and Provide access to basic services while maintaining fairness and social justice. This necessitates a governing architecture based on

- 1) Cooperative federalism
- 2) Decentralisation
- 3) Accountability
- 4) Economic reforms
- 5) Respect for citizen's rights and transparency

The above will benefit not just individual residents, but will also set the country on a course of long-term prosperity. Progress cannot be assessed solely in terms of gross domestic product or per capita income, but also in terms of nutrition, education, health care and work prospects.

The state must play a major role in supporting and facilitating economic development and widespread benefits of growth to the people, as evidenced by the experience of successful East Asian economies.

This function would entail at the very least

- 1) Putting in place and enforcing the rule of law as well as property rights
- 2) Maintaining a policy regime that is non-discretionary.
- 3) Ensure the availability of fundamental infrastructure and services
- 4) Environmental protection

5) Protection of the vulnerable and underprivileged parts of the population.

Que. "Decentralised governance must serve as an instrument of realizing social change and social justice." Comment on the statement. (2015) (10M)

Administrative Reform in India: Past, Present and Future Prospects

Administrative reform is a constant requirement in a society, especially when the society's core framework of administration, including, its aims, undergoes a quantum leap. As a result, India's journey as an independent nation-state began with a profound contradiction.

The new polity that was adopted was fully self-created and chosen. However, the tool used to carry out its new responsibilities was inherited from the Raj and hence carried over from the past. The British Raj had very specific governance goals, which can be summarised as follows:

- (i) Maintaining law and order in the country
- (ii) Collection of required money to fund expenditures
- (iii) Retention of strategic powers in the hands of British civil employees
- (iv) Administration's subservience to the ruling country's paramount requirements and interests

The Indian Constitution, on the other hand, has been in force since 1950 and is based on three axes:

1. India transforms from a distantly ruled country to a parliamentary democracy based on a system of periodic elections with adult franchise.
2. India is a confederation of states, with the Constitution granting considerable autonomy to both the centre and the member states in their various areas of activity.
3. Irrespective of levels or political complexions, the government is solemnly devoted to the Directive Principles of State Policy, which are incorporated in the Constitution and direct it to actively work for the people's economic and social well-being. This conceptual shift in the function necessitates a shift in public administration's overall outlook in society.

All of this amounts to a significant qualitative shift in the state's objective and position in India. In nature, as well as in their consequences, they are new and novel. The previous objectives either ceased to be valid or became insufficient as a result of the Constitution. It is axiomatic that when goals and objectives change, the instrument of public administration must be re-engineered and re-cast. This was not done, and Independent India absorbed the British

administrative system lock, stock, and barrel, and used it for modern duties such as democracy, development, and state-making.

The term "administrative reform" is occasionally chastised for being overly presumptuous. Who knows if a change in administration will necessarily lead to a pre-determined aim: the outcome of a planned intervention in administration may evade the pre-determined purpose, therefore invalidating it as a piece of administrative reform. Critics suggest that a more neutral word, such as administrative change or administrative reorganization, be used instead.

The word, on the other hand, is gaining in popularity over time. Because 'administrative reform' has become a conventional expression in public administration, it is preferred here.

India is a third-world country, with poverty, illiteracy, malnutrition, unemployment, and overpopulation as prevalent aspects. Nonetheless, it has elements from the other two realms as well: It shares First World characteristics such as rule of law, democracy, limited government, federalism, judicial review, and so on; nevertheless, India's adoption of centralised planning is a feature of the now-defunct Second World. The challenge of reforming public administration is made much more difficult by this combination of seemingly incongruous characteristics. Government prevails at three levels, central, state and local, making administrative reform a simultaneous concern of all the levels of government.

Because public administration is so important in a developing country like India, the Constitution included two all-India services in the form of the Indian Administrative Service (IAS) and the Indian Police Service (IPS). The all-India services are binary in nature, serving both the central and state governments. Though this structure reduces the rigidity of a conventional federal system to some level, the states' attitude toward the all-India service is not without a sense of discomfort. The all-India services, according to the states, are considered as the Centre's agent and as an agency to undermine their authority.

Attention to Administrative Reform:

The years following India's independence were tense for the country. The Indian government formed a few committees to measure the country's local conditions, as it was unsure of the inherited system's administrative competence.

The Gorwala Report on Public Administration in India (1951) emphasised the importance of a clean, efficient, and impartial administration, to be promoted by the appointment of a tribunal of inquiry.

Shortly after, India recruited Paul H. Appleby, an American specialist, to investigate the country's public administration. Appleby's assessment of the government as one of the world's dozen or so most advanced governments boosted the political and administrative leadership's spirits. Two of Appleby's twelve proposals were accepted and implemented.

These were in connection with the creation of the Indian Institute of Public Administration as a self-governing body and an Organization & Methods Division in the Government of India. As the Organization & Methods Division was a significant landmark in the history of administrative reform in India, it needs a separate treatment.

Que. "The recommendations of various commissions on administrative reforms have not made a radical departure from the Paul Appleby Report." Do you agree ? Give reasons. (2018) (20M)

The Organization & Methods (O&M) Division:

Partition accompanied India's independence which threw the country's civil administration into disarray.

- The national planners' first objective was to examine the inherited administrative structure, determine its strengths, and identify areas that needed to be strengthened.
- The second shift occurred in 1954, when the Cabinet Secretariat established the Organisation and Methods Division.

The Organization & Methods Division was created 'with the aim of initiating and sustaining a concerted effort to improve administrative efficiency in all branches'² of administration. The O&M structure is based on the belief that primary leadership for administrative improvement must come from each ministry, with the higher-tier central O&M Division's primary role being to provide leadership and drive, as well as a cooperative effort to build up a common pool of information, experience, and competence in O&M work.

The O&M division offered the much-needed standing mechanism for bringing about ongoing administrative reform in government. It devised a three-pronged strategy to achieve this objective.

- First, it aimed to raise awareness among civil officials of current shortcomings in public administration, as well as the need for and scope for reform.
- Second, rather than relying on gut instincts and hearsay, it sought out evidence to determine what was genuinely wrong and where it was

occurring. That is, it attempted to identify the root causes of slowness and poor quality of work.

- Finally, it devised and applied appropriate remedies to affect the economy and improve efficiency.

In the short term, the O&M structure was more of an administrative improvement machine than a micro-level reform machine. It aimed to create proper procedures for the disposal of work, as well as aids for the faster and proper disposal of such work, as well as control mechanisms; it also attempted to keep track of receipt disposal and reduce delays by establishing a regular inspection system, implementing a simplified and effective reporting system, and training lower-level employees, among other things. However, its long-term success was in bringing government servants' improvement to their attention. But its long-term achievement lay in making civil servants' improvement conscious.

However, the O & M programme had a number of flaws that limited its otherwise modest impact on administration change. Its single most serious flaw was a lack of appropriate leadership and even professionalism.

The Administrative Reform Commission (1966-70):

In times of severe economic crisis, the focus of a country's leadership shifts to administrative change. The country's economic status deteriorated after the armed struggle with China in 1962 and several years of drought. Around 1965, India's fortunes appeared to be at their lowest point.

In 1966, a high-powered Administrative Reforms Commission chaired by Morarji Desai was tasked with conducting the most comprehensive study of India's governmental administration (later K. Hanumanthaiya). Previously, comparable commissions were typically staffed by public personnel.

The ARC was unique in that its membership was drawn from public life, which was a distinguishing trait. In independent India, the ARC was the single most extensive examination into the country's governmental administration. It produced 19 reports with a total of 581 suggestions in them. This was in addition to the reports of the research groups and task forces that it had established. The most significant report presented by the ARC concerns personnel administration. The most important proposal in the report is "road to the top."

The Commission aimed to encourage civil workers to specialise, and even the "heaven-born" IAS to specialise, limiting its all-purpose nature. The results of a mid-career competitive examination open to all officers were to be used to choose officers for the top positions. It proposed a reform plan that called for all

services to be allowed to enter the central secretariat's middle and senior management levels.

The ARC's recommendations were implemented in a sloppy, colourless, and slow manner. The Commission had given the issue of implementation a lot of thought.

In a bid to enlist political support, it wanted a specially constituted cabinet committee assisted by the cabinet secretary to be in overall charge of implementation. When reports pertaining to his portfolio were being examined, a minister was to be co-opted to this committee. To ensure prompt action, it was suggested that the Government present a report from the Commission to Parliament within three months after receiving it, a white paper indicating decisions on its recommendations.

To reinforce this process an all-party parliamentary committee was to be set up to keep a close and continuous watch over the implementation of the accepted recommendations. The Commission specifically asked the Government not to involve the committee of secretaries, viewed by it as the proverbial gate-keeper to administrative reform, in processing its recommendations.

The ARC offered a sound recommendation, but its approval was contingent on political leadership. In India, administrative reform has rarely progressed beyond rhetoric; despite much drumming, the political leadership has exhibited constant apathy when it comes to administrative re-invention. The Government of India developed a system in which the obligation for accepting or rejecting the Commission's recommendations was delegated to the ministry directly responsible.

The Department of Administrative Reform was given responsibility for the processing of the ensuing reports, and an "implementation branch" was established to handle this work. Before the cabinet could act on the specific proposals, the committee of secretaries was given the task of commenting on them.

In effect, the committee of secretaries became the de facto highest court, hearing the Commission's reports and passing judgement. In short, despite the Commission's recommendation, the career bureaucracy socialised in a culture of status quo played a significant role in the implementation strategy. Furthermore, Parliament was left out of the picture because no white paper on implementation or parliamentary committee was ever constituted. The Government simply placed on the table of each house of Parliament the progress report indicating the fate of each of the recommendations.

To administrative reformers, the experience of the ARC carries valuable lessons. The ARC was not backed by top level political will. Besides, it failed to rouse and sustain parliamentary interest. But for this the ARC itself was partly to blame: it spread its task too indiscriminately and took an agonisingly long time. As a result, the civil society, whatever it was, including Parliament, began to feel weary of it. A feeling of relief, even joy greeted the ARC when it was wound up in 1970. The ARC, moreover, functioned in a period of political instability marked by strained centre-state relations; it was not an environment congenial for administrative reform.

Que. Implementation of administrative reforms is humongous and arduous. What lacks the push to realize the changes? (2020) (20M)

Que. What are the major concerns of the Second Administrative Reforms Commission on Civil Service reforms? Indicate the current status of their implementation. (2015) (10M)

The Economic Administration Reforms Commission:

The eighties of the last century saw India in a none too good form. The economy was particularly sluggish around this time, leading to growing public disillusionment, even disappointment with public administration.

The Economic Administration Reforms Commission (EARC) was established in the early 1980s to recommend improvements to the country's economic administration. L.K. Jha, a member of the Indian Civil Service who specialised in the country's economic issues, served as its chairman.

It recommended reduction of governmental activities as well as changes in the style of governmental functioning, the motivation being to reduce the load on public administration and to minimize harassment to citizens and delays to business and industry. Above all, the L.K. Jha Commission recommended appropriate changes in the country's public personnel policies to promote a greater measure of specialisation and professionalisation. This had also been the message of the ARC.

Two EARC papers on accountability and economy in public spending are particularly noteworthy, as they address problems raised during India's earlier administrative reform.

Accountability has two dimensions. Norms, methods, procedures, rules etc. have already been prescribed in public administration and administrative action

must conform to them. Its second dimension is substantive, meaning achievement of the assigned task. Accountability is thus responsibility for observation of laws, rules, procedures, methods etc. as well as the assigned task. Today, achievement orientation is viewed as the true test of accountability, especially in what is known as development administration.

To reiterate, a federal servant's accountability must be measured in terms of his or her performance. This necessitates a clear definition of an organization's tasks as well as the establishment of a time range. What is stressed is that a ministry or department should ask itself what it plans to undertake in the coming year well in advance and provide as specific and precise an answer as possible. When this type of blueprint is complete, it should be feasible to assign tasks and responsibilities to various wings and divisions, as well as specific officials within them.

Why there is an increase of government employees?

- (i) an enlargement of the area of governmental activity
- (ii) Government's working methods and procedure
- (iii) Weaknesses in the organizational framework arising from an obsolete staffing pattern.

The scope of governmental activities and the staff needed to carry them out was bound to be enlarged in independent India. However, this procedure does not have to continue perpetually. Only after calculating the expense of new activities and duties should they be taken on.

While some new activities may need to be undertaken or existing ones extended, others may need to be abandoned or restricted, with the former's staff requirements being met by the latter's excess personnel. This is not the case. The extra personnel isn't squandered: they soon discover work for themselves by spending their time re-examining and re-scrutinising what has been done elsewhere! India must adopt the policy of 'scrap and build' as is the mandatory practice in Japan!

Economic Liberalisation:

In July 1991, India formally declared the New Economic Policy, which marked a significant break from the previous Nehruvian economic ideology and began the age of liberalisation and free market capitalism that is distinctive of western capitalism. In India, economic liberalisation entailed delicensing, deregulation, disinvestment, and privatisation. The 'licence-permit raj', as well as the 'subsidy State,' were to be abolished. Industry privatisation was to be actively encouraged.

In short, the New Economic Policy replaced the mixed economy, in which the government held the reins of power, with a market-friendly economy, signalling the beginning of the state's retreat. As a result, the liberalisation policy represents a significant shift from the past. As a result, the government is devoted to attracting foreign capital and thereby integrating with the global market; the global market, in turn, is integrating with India. Globalisation, in this light, is a necessary component of the process. The state's function as a direct producer will be replaced by that of a regulator as a result of liberalisation.

Under liberalisation, administrative reform necessitates a reconsideration of the role of government administration, as well as a shift in its corporate culture. With the private sector taking up more and more space, the career bureaucracy is being called upon to ensure that private sector firms follow the law. The country's public administration must thus construct new types of organisations modelled after the United States' Independent Regulatory Commissions. Public administration will increasingly interface with multinational organisations, necessitating the acquisition of new skills and competencies.

It is now beset by a number of pathological flaws that must be addressed. Excessive secrecy, limited accountability, and poor performance appraisals all undermine civil service effectiveness, as do issues of political interference in specific situations and the government's widespread and complex interventions that delay action, grant unwarranted power, and create opportunities for corruption.

Several government commissions have identified the civil service's unique difficulties and offered proposals to address them, but their recommendations have generally gone unheeded. Support for what are essentially second-generation reforms in India has been organised since the Fifth Central Pay Commission (1987), while the Chief Ministers' Conference in 1997 and the Expenditure Reforms Commission (2001) should also be mentioned.

The Fifth Central Pay Commission, on the other hand, is the most clear text book of India's second-generation administrative reform. Most wonderfully, the Commission's report lays out the basic framework for reform, and the Expenditure Reforms Commission lays out the necessary foundation for developing the agenda's road map, with the case for the shift first made by the L.K. Jha Economic Administration Reforms Commission.

The Fifth Central Pay Commission's recommendations for reforming the civil service and public administration are particularly relevant.

1. The Government of India has taken a multi-pronged effort to reducing employment, with the goal of a 30% decrease in ten years.
2. Restructuring and "rightsizing" central government services by decentralising functions to states and local governments, converting departmental undertakings like the Indian Railways into public undertakings, and entrusting certain functions to non-governmental organisations, cooperatives, and autonomous bodies.
3. Eliminating arbitrary and frequent transfers of bureaucrats at the state level, particularly those in all-India services, by establishing minimum tenures for posts and requiring any premature transfers to be cleared by a civil services board to be established for this purpose.
4. Restructuring performance appraisal to make the present ACR system more effective and transparent, as well as a five-year high-level assessment of higher civil service employees to determine whether or not they should be forced to retire early.
5. Increased transparency by enacting the Right to Information Act and amending the Official Secrets Act in tandem.
6. In addition, a closer link between performance and promotions or pay increases, improved procedures to ensure individual accountability for lapses, and improved enforcement of sanctions are needed.
7. The massive army of ministerial staff may be gradually replaced by executive assistants, with group 'D' people being trained as multi-skilled functionaries, and large, bulky sections must give way to compact, business-like desks.
8. Automation and computerization should be implemented in large-scale to reduce paper work. Employees could be seated in aesthetically pleasant environments in big ergonomically built halls with modular furniture.
9. The government's work is currently cloaked in secrecy, and the Official Secrets Act legitimises the widespread secrecy.
10. To fulfil this new function, society requires a new type of public servant. For the time being, competitive tests such as those held by the Union Public Service Commission, the Staff Selection Commission, the Railway Recruitment Board, and others are the only means to find the greatest talent.
11. To improve the effectiveness of performance appraisal, several ideas have been offered. The annual confidential report (ACR) for Group D cadres has been restored.
12. Many approaches to overcoming stagnation have been tried in the past.
13. There is also a Flexible Complementing Scheme, which was originally created for Group A scientists who were conducting research.
14. The Fifth Pay Commission recommended the establishment of a high-powered civil service board at both the federal and state levels in order to strengthen the bureaucracy's spine.
15. The Fifth Pay Commission examined the rate of expansion in the size of the government machinery when it came to employment in the federal government.

Contrary to popular opinion, the annual compound rate of growth in the number of civilian employees was 1% from 1984 to 1994, while the armed forces personnel grew at a pace of 1.4 percent. The central police organisations have grown at a rapid rate among civilians, with a growth rate of 5.6 percent.

16. To enhance the amount of time available for work in government offices, several radical suggestions have been made.

These are:

- (a) Make the switch from a 5-day to a 6-day week, with the second Saturday as a day off. This would result in a 40-day increase annually.
- (b) The number of gazetted holidays has been cut from 17 to 3, i.e. Independence Day, Republic Day, and Mahatma Gandhi's. The 14-day reduction has been compensated for by increasing the number of restricted holidays.
- (c) Except for the incumbent President and Prime Minister, no holidays will be announced in the event of the death of any leader.
- (d) Overtime pay has been eliminated.

Que. Considerable attention has been paid to the restructuring of the administrative systems at the Central and local levels, but very few reforms have been undertaken at the State level. What steps would you suggest to rectify it? (2019) (20M)

The Chief Ministers' Conference, 1997:

The chief ministers gathered in Delhi in 1997 and underlined the importance of maintaining accountability in the country's governance, favouring the proclamation of a citizens' charter to that goal. They were pro-transparency in government and wanted citizens to have access to information. They denounced administrative corruption and advocated for public-sector ethics.

Expenditure Reforms Commission, 2001:

The Expenditure Reforms Commission, chaired by K.P. Geethakrishnan, a retired bureaucrat who previously served as the Finance Secretary in the Government of India, was the most recent commission on administrative reform to be appointed by the Government of India. It was given a year to complete its economy exercise, which included providing a "road map for reducing the functions, activities, and administrative structure of the government." It was appointed in February 2000.

Other Reforms:

A word may also be said here of 'administrative reform' introduced by forces other than formally appointed committees and commissions. Technology is

entering public administration in ever-increasing ways to simplify administrative processes and procedures, thus contributing to citizen satisfaction. IT or Information Technology is finding increased application in public administration which has the effect of removing discretion traditionally enjoyed by the bureaucracy and removing room for corruption. IT is a powerful aid to reform and to simplify public administration in many intimate ways. The future is to see more of its application although its full utilization is presently slowed down by interrupted electricity supply in many areas and other human factors.

A discussion of administrative reform in India is equally bound to remain incomplete without a reference, however brief, to the emergence of a new agency to articulate it. This agency is the superior judiciary of the country: its new role began in the seventies. The normal image of the judiciary is one of a dispenser of justice, a role that it performs in adjudicating disputes between the state and citizens and between citizens.

Since the seventies this organ of state has found itself broadening its role. The then Chief Justice, Justice P.N. Bhagwati helped discard the customary role of passivity by introducing the concept of 'Public Interest Litigation'. As a result, the Supreme Court of India interpreted its role in a more liberal way, even giving rise to what has come to be known as 'judicial activism' in India.

Under this innovation, the Supreme Court began interesting itself in a wide range of matters affecting societal interest. The basket of judicial intervention includes both substantive and procedural matters of administrative reform. Even otherwise, the regular judiciary makes pronouncements on matters of administrative reform in the ordinary course of its functioning.

Earlier, an appeal against the judgement of the central administrative tribunal could be made to the Supreme Court of India alone. In the late nineties the Supreme Court ruled that an appeal could be made to a high court. The Supreme Court has emphasized the concept of accountability in public administration, giving it an enlarged interpretation. It has sought to prevent the country's premier anti-corruption agency, namely the Central Vigilance Commission from becoming a subservient member of the executive by wanting the former (the Central Vigilance Commission) to become a statutory body, thus becoming independent of the executive in its functioning.

A notable feature of India's history of administrative reform confirms that the country's federal system has not deterred the higher level central government from delving into the modernization exercises at the lower state, even local government. The Administrative Reforms Commission (1966-70) did not

hesitate to examine the state government also although it was set up by the Government of India. The famous Balvantrai Mehta Report on Panchayati Raj (1957) ushering in the era of democratic decentralization in the country was appointed by the Committee on Plan Projects, a body under the Planning Commission. One can cite other examples.

The Second Administrative Reforms Commission:

- Constituted on August 31, 2005, with the goal of preparing a detailed blueprint for overhauling the public administration system. Terms of Reference: The Commission will consider the following issues, among others:
 1. Organisational structure of the Govt. of India.
 2. Ethics in Governance.
 3. Refurbishing of Personnel Administration.
 4. Strengthening of Financial Management Systems.
 5. Steps to ensure effective administration at the State level.
 6. Steps to ensure effective District Administration.
 7. Local Self-Government/Panchayati Raj Institutions.
 8. Social Capital, Trust and participative service delivery.
 9. Citizen Centric Administration.
 10. Promoting e-governance.
 11. Issues of Federal Polity.
 12. Crisis Management.
 13. Public Order.

Implementation:

A policy cannot address problems on its own: it must be implemented, and an implementation strategy must be rigorously developed, necessitating efficiency in order to implement and, more importantly, institutionalise a reform. Acceptance of a report is insufficient. Because bureaucrats are used to the old way of doing things, there is always the risk that they would revert to old habits if strong efforts are not taken to institutionalise the reforms. Civil officials in charge of implementation must be a cut above the rest, since they will be expected to demonstrate vision, energy, and ingenuity in dealing with administrative reform.

Administrative reform should not be treated as a routine task: establishing a new order necessitates extra work and zeal. The reform agency must be led by a strong minister, which is part of a bigger prerequisite for the country's political stability.

A systemic reform must deal with a slew of issues along the way, particularly in the follow-up stages. All of this necessitates excellent leadership. It's also

unrealistic to expect a miracle shift in public administration after the administrative reform is fully implemented. Reform is a long, difficult process that will not yield immediate results. Mechanisms for monitoring, reporting, and assessing must also be developed.

In India, the proverbial Achilles' heel of administrative reform has been implementation. The number of recommendations for administrative reform is excessive, resembling the leaves in Vallombrosa. The sad reality is that India's implementation track record is appalling. While formulating administrative reform recommendations, implementation must be actively considered and effectively prepared.

Administrative reformers must carefully consider the feasibility of every given idea. Administrative expansion also has its bounds, which a reformer should not neglect at his peril. It has never been argued that India's administrative reform has no future. What is stated here is that administrative change should ideally be guided by a bold non-stop incrementalism: the administration can only be reinforced progressively. It necessitates ongoing top-level leadership and oversight, particularly during the follow-up stage.

What usually happens is that the more mundane a recommendation is, the more likely it is to be accepted and implemented. However, the most important recommendations in a report may be one or two; if these recommendations are not implemented, minimal impact on the system is probable. For example, in its report on personnel management linked to the "road to the top," the much-quoted Administrative Reforms Commission (1966-70) made one such advice. By ignoring this advice, a critical structural reform of the Indian government was disregarded, and a once-in-a-lifetime chance was squandered.

Citizens' charters are designed to walk citizens through the details of the services to which they are entitled. However, it appears that the government, especially the civil service, has given little attention to the strategy. In government agencies, a citizens' charter exists only on paper and has limited operational significance. The charters describe the services available to residents, the officials who will provide them, and the time range in which such services will be provided.

The charters generally cover departments like public works, transportation, industry, health, food and civil supplies, sales tax, and excise, and others that deal with a lot of public money. Officials, on the other hand, continue to act in a feudal manner, and the charters are handled as if they were just pieces of paper taped to the outside of government buildings. This is the conclusion of a study of the citizens' charter's implementation and corruption in Delhi government departments.

According to the research, study charters are insufficient and cannot be implemented since they lack precise information. The department of transportation makes no mention of bus routes or schedules. Ration cards are not included in the food and civic supply department's charter. Touts and "middlemen" freely operate in all zonal transport department offices for all kinds of services, which is a source of corruption. Police officers have complained that employees from the transportation department seek a bribe even for driver's licences.

Critique on Administrative Reform:

Administrative reform is intensely contextual: Its substance must be relevant to the context in which it is discussed. When India first got involved in social-economic planning after independence, it developed an organic interest in public administration. The adoption of planning brought the state's active role in the improvement of social issues to the fore. In other words, in India, administrative agencies began to be seen as increasingly important in the planning and implementation of socio-economic matters.

This period of administrative reform in India was marked, above all else, by consciously planned state empowerment as the extent of the state's purposeful participation in the management of societal matters increasingly expanded. In other words, the career bureaucracy came to be seen as the guaranteed answer to society's many problems.

In India's changing environment, the original bureaucratic rule book is out of date and needs to be completely rewritten. Indeed, India's entire legal system is openly colonial, well adapted to the imperial state. The new rules must be citizen-friendly and consistent with the Constitution as well as the new liberalisation and market economy policy. The P. C. Jain Commission which has recently examined the laws of India should evoke a strong follow-up action.

The country's key reform agency, the Ministry of Personnel, must be a sleek body staffed by hand-picked civil officials with vision and vitality, as well as enough discretion to allow minimal deviation from standard processes. This agency has to be led by a strong minister, as part of the greater goal of ensuring political stability in the country.

Corruption in public administration is the second factor vetoing administrative reform. The country's middle class buffeted by the cumbrousness and cussedness of the administration temporarily reforms.

There may be a variety of reasons for the low degree of administrative reform achievement, the most important are:

- 1) Intricate nature of administrative reform itself
- 2) Inadequate political and community support
- 3) Insufficiency of resources allotted
- 4) Mind-set of the reformers themselves.

Administrative reform's ultimate success is determined by a number of important elements. The availability of complete and sustained top-level political and bureaucratic leadership to the cause of administrative reform is, nevertheless, of paramount importance in this regard. Any serious administrative reform is likely to upend the present structure and position of vested interests, and the resulting resistance can only be overcome by the country's senior political and bureaucratic leadership acting decisively.

This support is critical, especially when it is noted that during the implementation stages in India, entrenched vested interests are actively engaged and forceful. Teething issues are typical in the post-implementation stage, which necessitates supportive leadership. Reform initiatives have so far produced effects that are too insignificant to make a substantial difference on the ground. This is primarily due to a lack of a shift in the career bureaucracy's mentality. The bureaucracy must cooperate with the reformers without reservation, which will necessitate nothing less than a conceptual revolution on its part.

The unfortunate reality today is that the bureaucracy's implementation levels are deeply rooted in a twisted notion of public service: those in charge of the administration's delivery system see every interaction with residents as an opportunity to abuse and harass them. Discretion is the administration's antithesis, and in India, the clerk uses discretion to take advantage of the opportunity to pad his own wallet.

List of Committees and Commissions on administrative reform established since Independence

- The Advisory Planning Board (K.C. Neogi), 1949.
- The Secretariat Reorganisation Committee (Girija Shankar Bajpai), 1947.
- The Central Pay Commission (Varadachariar).
- The Economy Committee (Kasturbhai Lalbhai), 1948.

- The Reorganisation of the Machinery of Government (Gopalaswami Ayyangar), 1949.
- Report on Public Administration (A. D. Gorwala), 1951.
- Report on the Efficient Conduct of State Enterprises (Gorwala), 1951.
- The Machinery of Government – Improvement of Efficiency (R.A. Gopalaswamy), 1952.
- Public Administration in India – Report of a Survey (Paul H. Applyby), 1953.
- Indian and State Administrative Services and Problems of District Administration (V.T. Krishnamachari), 1952.
- The Committee on Prevention of Corruption (K. Santhanam), 1964.
- The Administrative Reforms Commission, 1966-70.
- The Committee on Recruitment and Selection (D.S. Kothari), 1978
- The National Police Commission (Dharam Vira), 1979
- The Economic Administration Reform Commission (L.K. Jha), 1983
- The Commission on Centre-State Relations (R.S. Sarkaria), 1987
- The Committee to Review the Scheme of the Civil Services Commission (Satish Chandra), 1989
- The Expenditure Reforms Commission (K.P. Geethakrishnan), 2001
- The Committee on Performance Evaluation (Lt. Gen. Surendra Nath), 2003

(Administrative Report) V. T. Krishnamachari Committee (1962):

The practical training systems in the two states are summarised. Regarding the training of IAS probationers in the states, the following five recommendations are given:

- (1) The training period should be set at 18 months.
- (2) Probationers should be appointed to the relevant offices so that they can gain experience in crucial areas such as revenue, survey and settlement, treasury, and community development.

For a minimum of three months, probationers should work as supplementary B.D.O.s. Probationers might learn about branches of work that aren't as important by being assigned to the officers in charge.

- (3) Probationers in the I.A.S. programme should complete casework. They should be taught how to deal with law and order problems by experienced district magistrates.

- (4) The departmental examination schedule should be updated.

(5) Probationers should be assigned to carefully selected collectors for training, and they should be expected to send periodic confidential reports on their work and overall capabilities.

Que. Explain the important recommendation of V.T. Krishnamachari Committee (1962) on Indian and State Administrative Services and problems of District Administration. (2013) (10M)

People's Perception of the Government:

Despite this awareness of the crucial role of a responsive state, India's public administration and civil services look to be in trouble at all levels.

- (1) In terms of the civil service's diminished reputation and efficacy
- (2) Growing public view of an unholy alliance between politicians, civil servants, and criminals (as illustrated in the Vohra Committee Report)
- (3) Increasing criticism of the democratic components in charge of the administration's lack of honesty, transparency, and accessibility.

The age-old legal and regulatory structures controlling decision-making, financial sanctions, tender award, permissions for expenditure and creation of roles, civil service procedures, and so on are considered as exacerbating this. On the other hand, civil service unions complain about demoralisation and a lack of incentives, as well as political interference and a terrible working environment.

Que. Effective 'Performance Management System' needs to precede 'taking deadwood out' from bureaucracy. Comment. (2019) (10M)

Aside from the difficulties raised above, India's recent administrative reform initiatives have been impacted by international experiences in public administration and civil service reform. These encounters have included: Government's role shifts from that of a regulator to that of a facilitator, with a focus on refocusing and limiting common tasks.

- The methodical identification of regulatory barriers to investment and other economic activity, as well as the delivery of services and approvals to the general public, followed by efforts to simplify rules and procedures, decentralise, and de-regulate.
- Increasing focus on the possibilities for privatisation, various types of public-private partnerships, and established consultative processes with diverse stakeholders has resulted from the definition of areas to be vacated by the government or entrusted for other ways of delivery.
- Emphasis on the government's entrepreneurial role, commercialization of infrastructure, performance standards, costing and marketing of government outputs, operational service delivery, revenue and cost matching, improving

financial planning and management systems, ensuring value for money in government, and so on.

- Customer-centricity and a focus on quality and service standards, as exemplified by Malaysia's Citizen's Charter or Hong Kong's Performance Pledge.
- Comprehensive revision of traditional public service systems, accompanied by strict monitoring of staff numbers and costs, limits on staff growth, contracting out senior management, departmental autonomy for hiring and firing staff, flexible remuneration and incentive schemes, and flexible use of negotiated cost ceilings for individual departments in place of centralised control.
- Reviewing administrative structures, such as in the British executive agencies, by distinguishing between fundamental responsibilities from policy and management aspects of implementation, or the move toward corporatization of potentially commercially-oriented departments.

India's response to changing global scenario

1. To identify and implement reforms in government structures and organisational systems in order to achieve macro-objectives such as economic reforms and efficient policy formulation and execution.
2. Efforts to redefine the functions of the federal, state, and local governments in the context of cooperative federalism, as well as decisions on the implementation of the 73rd and 74th Constitutional Amendments on the one hand, and devolution of resources commensurate with the assigned functions on the other, in conjunction with devolution of resources commensurate with the assigned functions; and
3. Immediate initiatives for effective and responsive administration, which would also establish the groundwork for long-term macro-improvements.

Measures taken by the Central and State Governments for reforms in administration of civil services to promote the effective and responsive administration:

Perspective of Reform and Follow-Up Action:

Greater Transparency and Openness:

There is remarkable bipartisan agreement on the need for more government transparency and openness, as well as public access to information. Right to Information legislation has previously been adopted in Tamil Nadu and Goa. Apart from increased attempts to strengthen the grievance redressal apparatus at all levels, computerised response tracking, and nodal officer designation, there is an increasing effort to bring administration to the people.

Greater Responsiveness to the People:

The formulation and enforcement of the Citizen's Charter by a number of Central Departments and agencies with public interface, such as Central Board of Excise and Customs, the Central Board of Direct Taxes, Life Insurance Corporations, and others, is a tangible manifestation of the Government's commitment to provide services to the people. A number of states have made similar initiatives for a Citizens' Charter.

Changes in Regulatory Framework:

It is acknowledged that given the confines of the existing legal system, officials can only achieve so much. Significant improvements are only achievable if efforts are made to repeal outdated regulations and rules and replace them with ones that are more citizen-friendly, straightforward, and consistent with the demands of liberalisation and service delivery.

Such legal reforms will help to eliminate the delays and opportunities for corruption that are inherent in the current system of complex rules and regulations for permissions and permits, tax assessment, scheme sanctions, and so on.

The empowerment of citizen groups and users for the design, execution, and management of services in urban and rural areas is just as vital as the establishment of service standards and the operation of Citizens' Charters. This is being done in relation to a number of local projects, such as primary school operations, healthcare, education, nutrition, women's welfare, and so on.

Civil Service Reform:

Finally, at an era where flexible contracting, administration, and specialisation are the rule of the day, there is substantial dispute about the legitimacy of the concept of a generalist cadre or a permanent civil service, of the type devised by the British in various Commonwealth countries.

The civil service is critical to maintaining the country's integrity and bringing about important changes in post-independence India. Not just the All India Service is included in the bureaucracy, but also the officials of other services who interact with the public.

As a result, a set of initiatives focusing on improving civil service efficiency, morale, honesty, and responsiveness are required. They are:

1. An agreement with the political leadership on institutionalised systems for official tenure and placement;
2. A comprehensive assessment of various factors affecting civil service motivation, incentives, productivity, and working conditions based on the recent Pay Commission's recommendations; and
3. Steps to combat corruption and prosecute offenders.

Que. "In a democratic polity, any conception of ethics and integrity in public

life must encompass not only politicians and civil servants but also citizens." Discuss. (2016) (20M)

Conclusion:

Administration reforms in India have been a continuous process starting from the comprehensive and excellent reports of the Administration Reforms Commissions. The suggestions made in the Report of the Fifth Central Pay Commission on a variety of issues relating to public service management also indicate the directions in which the reforms should proceed. However, in a vast country, like India, consisting of States with varied administrative practices and local conditions, it is difficult to be prescriptive about the extent of reform.

However, there is surprising consensus on the key reform issues and immediate objectives, particularly the need to make government more people-centered, open, decentralised, adaptable, and free of corruption. The increasing trend for entrustment of functions and resources to the Panchayati Raj institutions and Nagar Palikas provide the basis for decentralised delivery of services at the local level, even as the Central and State Government become more facilitatory and flexible in policies and procedures.

Changes in civil service structures and procedures, performance rating methods, incentives and motivation facing the bureaucracy, and changes in the mindset of officials at all levels are all crucial to achieving the reform's intended goals. The crucial requirement is, of course, consistent political commitment and support for a Government that works more, is caring and responsive.

Que. "Decentralised governance must serve as an instrument of realizing social change and social justice." Comment on the statement. (2015) (10M)

Making Indian Bureaucracy responsible, accountable and result oriented:

In the task of socio-economic development, bureaucracy is required, among other things, to display accountability, and dilute inefficient, dilatory and cumbersome work procedures, which are the universally known bane of Indian bureaucracy.

With liberalisation of economy since 1991, thrust has been on linking the economy of India with that of the rest of the world. This requires privatisation, contracting out and shifting the work from government to non-government executive agencies. The role of bureaucracy in linking the economy of India with the world economy is, therefore, very critical and significant.

Major Shortcomings of Bureaucracy:

- (1) **No time limit for case disposal:** The entire bureaucratic structure of India, officers and employees alike belonging to any class, category or

position, may keep the file just as long as they wish according to their whims and fancies. For there is no effective provision of time limits as to how long an officer or an employee could take to dispose of the case in hand.

- (2) **Freedom to raise even inconsequential query:** Any officer or employee, due to selfish interest or being incompetent, can conveniently raise any inconsequential query and delay case disposal. There is practically no effective action against such erring officials. Regarding protection of the common citizens, the Report of the Fifth Pay Commission recommended as follows: "At the very least, the citizen is entitled to a good explanation or an apology. In many cases, he should have the right to demand redressal and compensation. This would also imply the coverage of all governmental services under the Consumer Protection Act."
- (3) **Problem of Transfer of Personnel:** Any officer or employee could be transferred from any post to any post, and from any place to any place, regardless of the fact whether that officer has specialised in the subject or not, whether that officer might hardly have been there for a few months in that post from which he is being transferred.
- (4) **No Powers for Disciplinary Action:** In most of the bureaucratic layers, no single officer or employee is empowered to take direct disciplinary action against his immediate subordinates nor is there any provision for any officer or employee to directly reward his immediate subordinates. This lack of empowerment of officers and employees makes the chain of command very weak and ineffective.
- (5) **Official Secrets Act Obstructs transparency and permits malpractices:** The British Colonial government has initiated and implemented the so called Officials Secrets Act, 1923, which has, by and large, been kept intact during these last 50 years of Independence. Provision of this act literally makes it impossible for any member of the public to know what is happening in government files about any case, whether of personal interest or of larger societal concern. The cover of secrecy encourages potential wrongdoers to indulge in malpractices of various sorts.
- (6) **No participation of people in implementation and formulation of rural development programmes:** Several thousand crores of rupees are being spent on various rural development programmes every year in India. The implementation of these programmes is left to the bureaucracy in the district without any participation of the rural people for whose welfare these programmes are meant. Consequently, despite pumping so many thousands of crores of rupees in rural development programmes, the net result has been a dismal failure, which is evident from any segment of village life just about anywhere in the country.

Most of the planning for the upliftment of rural areas and most of the programmes of socio-economic development for rural areas are planned from top, without any effective feedback from the rural people for whom the programmes are designed. The approach of the planning Commission in India has clearly been from top-to-bottom, with hardly any input from bottom-to-top. Consequently, most of the programmes of socio-economic development, planned by the Government of India for implementation in rural areas, have

- (a) Generally been unsuitable and irrelevant for the people they are designed for, or
- (b) Not been implemented effectively due to lack of preparation and cooperation from people in rural areas.

Making Bureaucracy responsible, accountable and result oriented:

For effective implementation of economic reforms which are being initiated in India since 1991, structural reforms in the existing organisational structure of bureaucracy are, therefore, essential so that:

- (a) Human resources in bureaucracy could be utilised efficiently on the one hand, and
- (b) Economic reforms, being initiated since 1991, could be effectively implemented.

Reforms in Governance and Administration:

In the words of Kofi Annan: “Good governance is perhaps the single most important factor in eradicating poverty and promoting development”

The exercise of economic, political, and administrative authority to manage a country's affairs at all levels is referred to as governance. It is made up of the systems, procedures, and institutions that allow persons and groups to express themselves, exercise their legal rights, fulfil their obligations, and resolve their conflicts. Without strong governance, no number of development projects will be able to improve citizens' quality of life. On the contrary, those with the least authority in society, the poor, are most likely to suffer if the state's power is abused or utilised in a weak or unsuitable manner. Poor governance, in this sense, creates and perpetuates poverty while also undermining efforts to alleviate it. In order to improve the lives of the poor, it is necessary to strengthen governance.

The blueprint for the Tenth Plan highlighted effective governance as the single most critical aspect in achieving the Plan's goals. Decentralization of power and citizen empowerment, effective citizen participation through state and non-state mechanisms, increased synergy and consolidation among various government

agencies and programmes, civil service reforms, transparency, rationalisation of government schemes and modes of financial assistance to states, and improved access to formal justice system have been identified as the key priorities.

Que. ‘Minimum government, maximum governance’ is not just a slogan but a philosophy of administration with enormous potential.” Do you agree? Give reasons for your answer. (2015) (10M)

These positive measures show that our political system is ready to address the mounting difficulties of government. Our administration's relatively quick and efficient reaction to a series of significant natural disasters – the December 2004 Tsunami, the Mumbai floods of July 2005, and the recent earthquake in Jammu & Kashmir – proves that we can marshal our resources effectively in times of crisis. All of this, along with skilled election management, demonstrates that we have a formidable administrative infrastructure that performs admirably when goals are clearly defined, resources are made available, and accountability is strictly enforced.

However, there is still much more to be done. In certain parts of the country, lawlessness is growing, and armed groups are using violence with impunity for sectarian or ideological objectives. The governmental apparatus is widely seen as inefficient, with the majority of its employees serving no meaningful purpose.

The bureaucracy is widely seen as being late, inefficient, and unresponsive. Corruption is endemic, eroding our system's foundations, stifling economic progress, distorting competition, and disproportionately harming the poor and underprivileged. Political criminalization continues unabated, with money and muscular force playing a significant role in elections. In general, there is a lot of turbulence in society because of unmet expectations and bad execution.

The abuse of power at all levels of government has become the plague of our democracy. The widespread idea that every political party and politician is corrupt must be addressed, and systems reorganisation in all sectors – political, bureaucratic, and judicial – is critical. Our political and governance institutions must be restructured, and our Republic must be revitalised. Otherwise, growing cynicism and despair among significant segments of the population may undermine public trust in democratic institutions.

Que. “The Gandhian model of decentralization is similar to the process of reinventing governance. “ Analyze in the context of good governance. (2013)(20M)

Globalization is unavoidable in an interconnected society, but it should not come at the expense of people. To confront the difficulties of globalisation, state, legislative, executive, and judicial institutions will need to be strengthened. As the torchbearers of the next century, the hopes of younger generations, free of historical baggage and coming from institutions of higher learning and frontier technologies, must be realised.

In general, positive capacity to advance the public good appears to be severely limited, making it impossible for even the most dedicated and skilled officials to achieve ideal results. Most elected officials and appointed public servants have become ineffectual and impotent due to institutional rigidities, unnecessary complexity, and overcentralization. However, the negative power of abusing authority in the pursuit of self-interest, privilege, and patronage, or harassing the public through flagrant violations of the law, petty tyranny, and nuisance value, is almost unregulated. The core of the governance dilemma is an imbalance in the exercise of power.

As a result, most government agencies are underperforming, and government programmes have failed to produce the expected results. At most levels, authority is separated from accountability, resulting in a system of plausible and realistic excuses for non-performance. As a result, the majority of functionaries are locked in a vicious cycle.

The extraordinary disparity of power in our society aggravates the situation even more. Only around 8% of our workforce is employed in the organised sector, with a guaranteed monthly income and benefits, and more than 70% of these individuals work for the government at various levels and in public sector businesses. Given the extreme poverty, illiteracy, excessive centralization of power, a culture of disproportionate obedience to authority, hierarchical tradition in society, and the legacy of colonial traditions and practises, even the lowest of public workers wield great power over the majority of the population.

Any real endeavour to make our governance apparatus a tool of service to the people and a formidable tool for achieving national goals must take into consideration these two cardinal problems ailing our polity: power imbalance and asymmetry in power wielding.

In the future decades, there are two fundamental, connected goals that must be met. The first is to realise human potential, reduce unnecessary suffering, and ensure human dignity, justice, and opportunity for all Indians, so that each citizen is a fulfilled and productive human being. The second is India's rapid economic progress, which is allowing her to realise her full potential and play her due role in the global arena, protecting the essential interests of current and

future generations while also becoming a key player in advancing global peace, stability, and prosperity. In order to achieve these national goals, we must sharpen the state's role and develop efficient governance instruments.

Only the inaction on the copious reports laboriously generated matches the haste with which we form various committees and commissions of inquiry. Such ritualism and tokenism shatters public trust and faith. To boost public trust and social cohesion, we need to institutionalise systems for independent investigation and required execution. In a complex and dynamic society, governance at all levels must promote orderly justice and peaceful conflict resolution.

The second category is human development, which entails ensuring that all citizens have access to high-quality education and healthcare in order for them to be productive and fulfilled. Despite our long-term dedication to these objectives, the results are inconsistent and unsatisfactory. The allocation of resources is clearly insufficient, resulting in massive unmet demand. Even the money spent isn't yielding very good results. However, due to systemic flaws, even the private sector is unable to provide successfully.

To allocate resources to human development, we need to realign public finances. But, more importantly, we must rethink our delivery methods based on prior experience and best practises, and we must employ the best talent in the country in these fields. Because of insufficient and poor quality school education, the majority of the nation's gene pool is squandered. Higher education, too, has struggled to promote excellence in the production of future service providers, leaders, managers, and wealth creators. There are other clear danger warnings that must be recognised and treated right once. For example, because the public health system has been unsatisfactory and inadequate, private health spending, which now accounts for nearly 80% of total spending, is expanding at a rate significantly faster than GDP (14 percent per year).

The high expense and limited availability that would ensue would substantially stifle our human growth and perpetuate suffering and poverty. Through reasonable and innovative policies, effective and competent execution, and significant incentives and accountability systems, the governance system should be designed to meet these fundamental concerns.

Infrastructure and long-term natural resource development are the third and last broad categories. While the economic components of these issues are well-known, the governance issues remain unaddressed. Effective land administration, for example, is critical for agricultural capital generation and

soil conservation. Planting energy crops and producing biofuels would necessitate a lot of administrative ingenuity and grassroots organisation.

Urban management entails much more than physical resource allocation and faces serious governance issues. It is more of a governance issue than an economic or tariff one to manage power distribution through local people's involvement and ownership in a consumer-friendly manner. In order to address many of these developing difficulties, we need to develop new governance models.

Social security is a relatively new and growing area of state activity to which the administrative system must respond with alacrity, sensitivity and efficacy. The recent enactment of the employment guarantee law, the efforts in the pipeline to provide a measure of social security to the unorganized sector workers, and many healthcare risk-pooling mechanisms contemplated require an effective delivery system, which can address the special challenges posed in this emerging sector of state activity.

The changing character of federalism is one new issue that requires special consideration. Our federalism has matured significantly over the previous decade. States are gaining more autonomy in determining their own policies and programmes, while the union is becoming more responsive to local concerns. However, the Union's influence has been significantly expanded in recent years in new ways.

Healthcare, education, rural and urban development, and social security are all state-run or heavily influenced by it. Despite this, union policies and funding are increasingly driving the services. Due to a lack of resources at the state level, the necessity for service standardisation, the imperatives of minimising regional disparities, and the imperatives of tackling the problems of a developing economy in the modern world, the Union's involvement in these sectors has had to be expanded.

This transition in the Union's position in a federal democracy is consistent with the evolution of other big federal states, such as the United States. Large Union money under state control, on the other hand, might easily erode accountability. Even if the desired goals are attained and the constitutional framework of power allocation is properly honoured, we must carefully create methods to monitor and enforce accountability for these programmes.

Waste, corruption, a lack of accountability, and growing regional imbalances will all result from poor implementation. Simultaneously, if non-performing states are penalised by losing access to programmes, the poor and

disadvantaged, who require special treatment, suffer even more, exacerbating regional inequities. As a result, new, sustainable, and effective systems for protecting public funds, ensuring intended outcomes, and enforcing accountability must be developed.

The calibre of public officials is crucial in determining outcomes in any system. In India, we have well-established protocols for initial public servant recruiting. However, there is rising fear that our civil service and administration have become rigid, inflexible, self-perpetuating, and inward-looking in general. While the bureaucracy is effective in crisis situations, it is notorious for its huge delay and incompetence to deal with "regular" issues. At the heart of our administrative reform should be effective horizontal delegation and a clear system of responsibility at all levels.

Simultaneously, we must acknowledge the complex issues of modern administration in important sectors such as policing, justice, education, healthcare, transportation, land management, infrastructure, skill development, job creation, and urban management. All of these are complex issues that necessitate subject expertise, extensive industry experience, and in-depth knowledge.

Civil service recruitment, training, promotion and posting strategies, and career management processes all need to be overhauled immediately. We must continue to nurture excellence in the public sector by attracting the best personnel and experience. The wall separating government from the rest of the economy and society must be broken down, allowing free movement based on competency and leadership skills.

Propensity to centralize has been the dominant feature of our administration. We need to truly redesign the government on the basis of the principle of subsidiary. A duty that a small unit can handle should never be given to a large unit. It should only be entrusted to the larger tier when economies of scale and technical complexity warrant it. All financial devolution and personnel transfers should be done in accordance with the functional domain established on this basis. Only then would the citizen be able to recognise the link between his vote and the public good, and funds will be able to be tracked back to the services provided.

The 73rd and 74th Constitutional Amendments established the structure of local governments, but the soul of self-governance and empowerment is mainly missing. The states have grown into their own as a result of the economic reform process, but the Union has just acquired a more important and strategic role for itself. Similarly, local government empowerment does not have to

imply state weakness. Even as local governments provide the majority of fundamental services, states must be able to recognise their critical role in providing strategic inputs and leadership. Wherever a community of stakeholders can be clearly identified, responsibility for services must be transferred to them, so that the stakeholders wield authority and are directly in control of their lives.

Que. “The Second Administrative Reform Commission (ARC) makes a strong case for the principle of subsidiarity.” Elaborate (2017)(10M)

Que. Do you agree that there has been a serious governance-deficit in development administration in India? Give reasons for your answer and add your suggestions. (2015) (20M)

The most concerning aspect of our governance is widespread corruption. Fortunately, certain industries have seen positive changes in recent years. Corruption has decreased drastically wherever competition, choice, transparency, and technology have been introduced. Corruption, on the other hand, remains unabated in other key industries where the government's role is crucial.

Some of these state-controlled industries are showing signs of increasing corruption, signalling a move away from traditional types of corruption. The police, criminal justice system, healthcare delivery, public procurement and contracting, official transfers and postings, tax collection, and land management are all areas that are wholly or partly controlled by the government. As the insatiable desire for illegal monies in our government system continues unabated, corruption in these sectors is either continuing or rising. Clearly far-reaching political and electoral reforms to transform our political culture and alter the nature of incentives in public life are the need of the hour.

In addition, real decentralization of power with effective institutional checks will give citizens greater control and curb the rapacity of state functionaries. Judicial and police reforms ensuring speedy, efficient and accessible justice and swift, sure and severe punishment for abuse of office will increase risks of unacceptable behaviour. Self-regulatory mechanisms to uphold standards in professional groups are another area that requires urgent attention in the changing context.

Finally, accountability measures such as the recently enacted Right to Information Act, well-designed citizen charters with penalties for non-performance, independent, empowered, and effective anti-corruption agencies, and innovative tools to engage citizens in the fight against graft and leakages

will almost certainly expose corruption much more easily, minimise wrong incentives, and enforce compliance with the law.

A comprehensive approach involving political, electoral, judicial, and police reforms coupled with decentralization and accountability must be the essence of an all out assault on corruption. In the wake of economic liberalization, changing forms of corruption, and technological sophistication in economic offences, there is a need for a pan-Indian institutional framework for effective enforcement of criminal justice with focus on speed and dexterity.

Our inability to institutionalise great practises from our own country and elsewhere is one of our governance's flaws. It is necessary to make a concerted effort not merely to find and document best practises, but also to develop policy and establish new structures and institutions to enable broad replication. The communications revolution sweeping across India affords us a fantastic opportunity to create and duplicate.

We now have access to a plethora of methods for bettering the use of technology for better governance. However, for the future, the convergence of numerous services at the user's doorstep, as well as increased public power and local governance, are crucial. In the coming decade, the impressive postal network, with its high efficiency and citizen-friendly approach, and the trains, with their huge reach and proven track record, offer us great prospects for the convergence of a range of services. Our scientists and technologists have the proven ability to meet the challenges of a modern economy. We need to harness their skills to make real improvements in governance possible in real time.

In our pursuit for wealth and justice, governance is undoubtedly a weak link. We have a strong governance structure in place and a track record of accomplishments. However, the instruments must be refashioned to meet the new problems. Unemployment and discrimination are two cancerous issues plaguing our society, both of which go against the Constitution's principles of equality of opportunity. To tackle these two scourges, our government structure must be revamped, releasing our people's productive potential. The political system has the resilience and capacity to mobilize public opinion and transform our governance. What we need is the will and painstaking effort and energy to innovate, design and reform.

Que. "Unimplemented reforms in administrations weaken the administrative reforms process most." Do you agree? Give your answer citing specific cases as illustrations. (2014) (20M)

Que. "Excellent ideas but poor implementation have characterised the

administrative reforms in India since Independence.” Critically examine the statement giving examples from the Union and State Governments. (2015) (20M)

Model Answers

Que 1. “Unimplemented reforms in administrations weaken the administrative reforms process most.” Do you agree? Give your answer citing specific cases as illustrations. (2014) (20M)

Administrative reforms are defined by *Gerald Caiden* as artificial inducement of administrative transformation, against resistance. Reform in the administrative process is essential to ensure that administration can remain relevant to the times and achieve development.

Extra information:

Broadly, administrative reforms are classified in “generations”:

1. **First generation reforms:** Changes in governmental structures, organizations and functions Eg: LPG reforms of 1991 which led to deregulation and delicensing, Introduction of 73rd and 74th amendments, etc.
2. **Second generation reforms:** Reforms in “public management” Eg: Reforms such as introduction of GST.
3. **Third generation reforms:** Reforms oriented towards accountability, transparency, citizens’ participation and responsive administration Eg: RTI, Citizens’ charters, Social Audits, Faceless assessment of taxes, etc.

Based on mode of reform, administrative reforms could be classified as:

- **Structural reforms:** Reforms in the structure of organization. Eg: Merger of Ministry of rivers and Ministry of Water into Jal Shakti Ministry.
- **Procedural Reforms:** Reforms in internal working procedures. Eg: Adoption of SPARROW, PROBITY portals for work appraisal of civil servants.
- **Behavioral Reforms:** Reforms in personnel by using behavioural and neurobehavioral tools. Eg: Since introduction of Citizen Charter, the public facing officers are trained to adopt citizen-centric behaviours, which include welcoming attitude and less of “bureaucratic attitude”

Based on objective of reform, administrative reforms include:

- Economic reforms
- Civil Service reforms
- Police reforms
- Citizen-centric reforms
- Reforms towards decentralization

Some important landmarks in administrative reform:

1. Economic reforms:

- a. Banking- Narasimhan Committee I and II (laid groundwork for banking sector reforms), PJ Nayak Committee (banking reforms in post LPG era), Nachiket Mor committee (for financial inclusion)
- b. Taxation- VAT and GST (Kelkar committee)
- c. Ease of Doing business: LPG reforms (New Economic Policy of 1991), Adoption of Business Reform Action Plan and EoDB Rankings.

2. Civil Service reforms:

- a. Before Independence: Macaulay Committee, Maxwell Committee
- b. After Independence:
 - i. Appleby commission: Suggested setting up of Institute of Public administration, adoption of O&M, etc.
 - ii. Santhanam Committee on Prevention of corruption: resulted in setting up of CBI, CVC.
 - iii. Administrative reform Commissions – First was set up in 1968 and second in 2005.
 - iv. Reforms in recruitment – done under suggestions of Kothari commission and Satish Chandra committee.

3. Police reforms:

- a. Pre-independence: Lord Cornwallis and Lord Curzon took various reforms in police administration – police was to be an instrument of “force” in hands of colonial administration.
- b. Post independence: National Police commission (NPC) setup in 1977 under Dharma Vira, most of subsequent commissions, including ARC-II have largely reiterated the suggestions of NPC; Prakash Singh Judgement for reducing politicization of police and enhancing professionalism, etc.

4. Reforms towards decentralization:

- a. Union state relations: Setting up of Sarkaria Commission and

- Punchhi Commissions, Dismantling of Planning Commission in 2015, Introduction of GST, 14th and 15th Finance commission etc.
- b. Panchayati Raj: Various committees like Balwant rai Mehta, ashok Mehta, M Sighvi, etc, finally resulting in passage of 73rd and 74th amendment Acts.

Reasons for reforms remaining unimplemented:

1. **Lack of adequate resources** – Many reform suggestions require large amount of resources that the nation may not possess. Eg: implementation of a Universal Basic Income, which has been suggested by many economists requires more resources than the entirety of India's subsidy expenditure.
2. **Lack of technical know-how in organizations** – Slow uptake of e-governance can be partially attributed to this.
3. **Absence of systematic groundwork** Eg: Reforms to enable telemedicine require existence of physical infrastructure in form of internet connectivity, social infrastructure in form of digital literacy, etc.
4. **Political realities** – Political horizons are inherently short-term, due to pressures of elections. Thus, reforms that focus on long gestation or long term changes with short term pains are unattractive. Eg: GST was opposed by various states due to fears of short-term revenue shortfalls.
5. **Entrenched Interests and lack of “will”:** Policy formulation and implementation is influenced by various sections of society. Eg: Opposition to farm law reforms, ongoing.
6. **Context blind exogenous reforms**, which lead to furthering of prismatic features. Eg: The British Introduced “open competition” for civil services, but made it almost inaccessible to Indians by holding the exams in London, testing for knowledge of latin, etc.
7. **Bureaupathologies:** Bureaucratic attitudes such as resistance to change can lead to lobbying against certain reforms or non-implementation of reforms. Eg: Recent reports of use of Section 66A despite it being struck down by the Supreme court.

- Administrative reforms are akin to the Processes of Differentiation and Integration, as proposed by Riggs, which lead to development. Unimplemented reforms lead to either lack of differentiation in socioeconomic setup or lead to differentiation without integration – both lead to continuation of prismatic features in society. Eg:
 - failure of reforms in police have led to continued politicization, which leads to particularistic tendencies such as nepotism, that undermine the rule of law.

- Reforms towards liberalization and privatization occurred in the 1990s, but reforms towards social security and labour laws were not done simultaneously. Thus, the informal economy is still at risk.
- Unimplemented reforms can lead to:
 - **Opportunity costs** – A study estimated that the 4 year delay in implementation of GST, led to foregoing approximately 1% GDP growth every year.
 - **Stalled development**- Incomplete reforms act as bottlenecks to all-round growth and stall the nation's growth story. Eg: Infrastructure is a bottleneck in India's economic growth as logistics cost is still high. Thus, reforms towards easier licensing and GST have not improved the competitiveness of Indian exports by too much.
 - **Barrier to other reforms** Eg: reforms towards e-governance would not be possible if reforms in the Industrial Policy and IT Policy were not in place already.
 - **Continuation of socio-economic inequalities**- slow pace of devolution of 3Fs to Panchayats has created grass without roots in governance. This means existing caste and class inequalities can be perpetuated, in the form of Sarpanch-pati, surrogate candidates, etc.
 - Spirit of cooperative federalism may not be achieved
 - Continuation of mai-baap sarkar rather than citizen-centric governance.
- However, incompletely implemented reforms also pose a large threat towards the reform procedure due to them causing-
 - **Public distaste for further reforms** – Partially implemented reforms or unimplemented reforms that cause inconvenience to the public lead to public opinion mobilizing against further reform, which can weaken the legitimacy of the reforms process. Eg: The experience of failed reforms of APMCs in Bihar due to inadequate capacity for contract enforcement, is a factor for farmers in other states to oppose reforms in APMCs and contract farming.
 - **Differentiation and mal-integration:** Mal-integrated reforms inherently limit scope for further reforms. Eg: Reforms in Pakistan did not target a balanced state initially. Thus, further reforms are tougher now due to the influence of the power centre in the form of the military bureaucracy.

Keeping these aforementioned points in mind, I agree that unimplemented reforms weaken the reforms process the most.

Reforms are the only way for an administration to remain competent in a rapidly changing world. This requires that administrations embrace reform in a systematic manner, instead of in isolation. This will ensure that reform happens in a proactive rather than reactive manner. Reform needs to be a continuous and adaptive process that encompasses the public as well as the government.

Que 2. “Decentralised governance must serve as an instrument of realizing social change and social justice.” Comment on the statement. (2015) (10M)

Decentralized governance exemplifies the democratic ideal of governance “of the people, by the people and for the people”. Decentralized governance in India is handled through the 3-tiered Panchayati Raj Institutions and Urban Local Bodies.

The ideal behind decentralized governance is that it enables people at grass root level to plan themselves for betterment and execute these plans at the ground-level. By reducing the gap between the people who govern and those who are governed, decentralization allows for responsiveness, accountability and relevance.

Decentralised governance has the potential to be a powerful instrument of social change as –

- It allows for bottom-up change, where people by themselves identify the social problems and changes needed. Further, since the changes will not be exogenous and imposed on people, social change can take root deeply. Eg: Panchayats in Maharashtra’s Hingoli and Odisha’s Nuapada have successfully tackled vaccine hesitancy, where normal outreach by the government was unsuccessful.
- The functionaries being locals will reflect the social milieu and can push for social change and tackling. Eg: Representation of women, will mean that issues such as period poverty, female education, etc can be tackled and changes in mindset can be brought.

Decentralized governance also can act as an instrument for social justice also:

- Since Gram Sabhas encompass all adults, everyone has an equal voice. Thus, existing social inequalities may be removed by the people’s voice. This also helps people build social capital.

- Gender equality – women empowerment acknowledge their contribution at home and other aspects, giving them the chance to distinguish themselves economically, socially.
- Inclusive growth- sustainable development for all including Tribal's, SC, OBC. This means that tribals as part of the Gram Sabha can fight against being displaced due to land acquisition for projects.
- Dispensing justice and redressal of disputes through Nyaya Panchayats help in ensuring justice- economic as well as social.

Decentralized governance can and must serve as an instrument for social change and social justice. However, there exist shortcomings which have prevented this from being fully realised:

1. **Issue of 3Fs** – lack of devolution of functions, funds and functionaries mean that the governance is not decentralized to the extent envisioned. In fact, the Devolution index published by the Ministry of Panchayati raj indicates that only 3 states have devolved most of the subjects under 11th Schedule.
2. **Continuation of social inequalities** – the lack of capacity building and awareness among the people is taken advantage of existing local elites. Thus, genuine social justice may not be achieved.
3. **Issues of surrogate candidates and “Sarpanch Pati”**- though there are provisions for reservation for women and SC/ST members, influential elites make use of their influence to promote candidates of their choice under the reserved seats. This leads to candidates being surrogates for the elites or where the wife of the influential person is elected as sarpanch.

Decentralized governance in India has not yet been successful in heralding social change and social justice due to these issues. The only remedy for this is proper devolution of power and capacity building of people.

Chapter 11 - Rural Development

Syllabus: Institutions and agencies since independence; Rural development programs: foci and strategies; Decentralization and Panchayati Raj; 73rd Constitutional amendment.

The case for rural development is formidable. It is also true that the need for rural development, which is an important segment of development, which is an important segment of development administration, had been emphasised by the national political leadership even under colonial rule.

The Indian National Congress was committed to a rural amelioration programme since the twenties when Mahatma Gandhi emerged to guide its

destiny. Attention to India's villages became more or less organised and systematic with the enforcement. In 1921, of the Government of India Act, 1919, which, it may be recalled, placed the nation-making activities including rural development under the popularly elected ministers in the provinces.

Why is Rural Development Important in India?

- At the time of independence, more than 90% of our population was living in areas.
- During Mughal times, villages were mostly isolated from urban centres and were self-sufficient. The major source of revenue for the government was land revenue and agricultural tax. It used to vary from $1\frac{1}{4}$ to $1\frac{1}{3}$ of the produce. Villages were headed mostly by traditional authority i.e. head of village position was mostly hereditary in nature.
- During the British times, there was drastic change in government at local level with district administrations headed by Collector. Powers of the village heads were taken away and vested in the hands of district Collector.
- Britishers deliberately destroyed village rule in India and introduced administrates at the local level. Lord Ripon introduced the reforms in Local Self Government but they were not implemented by successive Governor Generals. The British realized that it would be almost impossible for them to rule the country from the lowest level in administration i.e. villages. They made the district the basis unit of administration. It continued till independence. Primary objective of British rule was to exploit India, economically. They did not focus much on development.
- After Independence, the government realized that the development of villages and rural areas is a must for overall growth and development of the country.

Que. Do you think that the role of Panchayati Raj should go beyond development administration? Give reasons for your answer. (2014)(10M)

Que. "A government next-door is the government that matters most for the people." Discuss the statement with special reference to the values of local government. (2018) (10M)

Decentralization & Panchayati Raj:

Panchayati Raj System was introduced in India for strengthening the grassroots democracy through democratic decentralisation. Without such an arrangement rural development would have remained a non-starter in the nascent Indian democracy desirous of rural upliftment. It was felt that most of the programmes for the development of rural communities could show better results if local people's institutions like Panchayats were fully involved in the planning and implementation of development programmes. To this end administration had to

be linked with the people and power had to be linked with the people and power had to percolate down to them. Accordingly, Panchayati Raj institutions became a viable instrument to empower the people at grassroots.

Que. Do you think that the functioning of Panchayati Raj Institutions (PRIs), in practice, reflects genuine devolution of powers and resources? Give reasons for your answer. (2015) (10M)

Origin of Panchayat Raj Institutions (PRI):

- **The Constitution of India:** Our Constitution brings out the provision for PRI. Article 40 on Directive principles read: 'The State shall take steps to organise village panchayats and endow them to function as units of self-government.' The provision of the Constitution is an inspiration for the P.R. institutions to bring about self-government at village level. The 73rd Constitutional Amendment Act now gives Panchayati Raj Institutions (PRIs), a Constitutional status.
- **Gandhian Philosophy:** Gandhiji's concept of self-sufficient village, both economically and politically inspired most of the political leaders to evolve PRI. Provisions regarding P.R. in Directive principles of state policy reflected his views with regard to grassroot democracy.
- **Five Year Plans:** The administrative necessity of planned development also served as a stimulus for Panchayat Raj system institutions. According to the First Five Year Plan, 'we believe that panchayats will be able to perform their civic functions satisfactorily only if they are associated with an active process of development in which the village panchayat is given an efficient role.' The subsequent plans reflected the government's broad philosophy on public relations.
- **Community Development Programs:** The community development programmes were initiated for improving the socio-economic conditions of the villages. The programmes' goals were, first and foremost, to significantly increase agricultural production in the country, improve the nation's communication system, and promote education in villages. Second, to initiate a process of integrated social, economic, and cultural change with the ultimate goal of transforming village social and economic life. Third, the ultimate responsibility belonged to the people. People's participation in the planning and execution of the programme was regarded as a critical component of Community development programmes.

Phase 1947 to 1992:

During this period, the country had opted for centralised top down approach to the development. Initially, two programmes were launched with focus and development of rural areas in the 1950s.

- Community Development Program (CDP) (1952)
- National Extension Service (NES) (1953)

As part of CDP, the focus was on all-round development of rural areas including agriculture, educational, health, infrastructure, employment and so on. But these programmes had failed to realise the described objectives. The government had appointed **BALVANTRAI MEHTA COMMITTEE** to look for reasons for failure of CDP. The committee came out with reasons:

- Absence of people's participation
- Absence of accountability mechanism at the lowest level.

Since Local Self Governments were part of the state level, the Central Government had recommended to the State Governments to implement the recommendations of the BALVANTRAI MEHTA committee. Some states like Rajasthan, West Bengal, Andhra Pradesh and Madhya Pradesh implemented them but most of the states did not implement this recommendation.

In the 1950s, rural development was equated to agricultural development. Education, health, infrastructure, and Small Scale Industries were ignored during this period. Green revolution was introduced in late 1960s which helped India to overcome the food crisis. CDP continued in the 1960s also with little success otherwise rural development had not progressed much during this period.

In the 1970s, the focus of development administration had shifted from production from output to distribution of income and wealth as part of socialistic objectives. Strategies adopted by the government during this period would be divided into 2 categories from rural development.

1. Area Based Approach
2. Target Based Approach

As part of ABA the government identified certain areas for development it started major programmes,

- Desert Area Development Program
- Drought prone Area Development Program
- Hill Area Development Program

Target based approach include

1. Small and Marginal Farmers Development Agency
2. Mahila Samurdhi Yojana
3. Development of Women and Children in Rural Areas
4. Training of Rural Youth for Self Employment (TRYSEM)

Other important programmes

- Integrated Rural Development Programme
- Jawahar Rozgar Yojana (JRY) in which the National Rural Employment Programme and Rural Landless Employment Programme were merged.
- Employment Assurance Scheme
- Indira Awas Yojana
- Million Wells Scheme
- National Social Assistance Programme which has three components
 - National Old Age Pension Scheme
 - National Family Benefit Scheme
 - National Maternity benefit scheme
- Operation Black Board
- Development of Women and Children in Rural Areas (DWCRA)
- Training of Rural Youth for Self-Employment

The 1980s continued with the welfare approach with the launch of more development and welfare schemes in rural areas IRDP was launched to merge in NREGP and RLEGP. Jawahar Rogan Yojana was launched with the objective of providing employment to people in rural areas. The government had spent 1000s of crores of Rupees in implementation of these schemes. Mostly these were financed through revenue generated from urban areas but most of this schemes were a failure.

In 1977 Janata party came to power and changed the development strategy. It had opted for Gandhian socialism instead of Nehruvian socialism adopted by the previous government. Nehruvian socialism focused more on heavy and large-scale industries neglecting rural areas & Small Scale Industries, Gandhian socialism gave importance to development of rural areas & Small Scale Industries.

The Janata government appointed another Commission under Ashok Mehta to suggest recommendations regarding Local Self Government in rural areas.

Ashok Mehta Committee suggested 2- tier governance in rural areas.

- Mandal Panchayats or Block Panchayat

- Zilla Panchayats at district level

It was realised that the development programmes were a failure due to following reasons:

- Centralized planning process
- Top Down approach to implementation.
- Bureaucracy Centric development
- Complete absence of stakeholders' participation
- Absence of Accountability
- Absence of Democratic governments at local levels
- High levels of secrecy
- Lack of awareness among stakeholder about the schemes implemented by the Government
- Colonial attitudes of bureaucracy
- Bureaucracy was only morally responsible for development process but not legally.
- High levels of corruption.
- Mismatch between the needs of the people at the ground level and programmes formulated at the top. For example, people in rural areas were looking for some productive employment in the urban areas, but the programme was TRYSEM which focussed mostly on rural employment resulting in its failure.
- Weberian bureaucracy was given the responsibility of performing developmental functions. They neither possessed the skills nor the attitude and values needed to ensure the success of development administration.

In spite of the recommendations of BHALAVANTH RAI and ASHOK MEHTA committees, State Governments had not shown any interest in conducting elections to local bodies and also to transfer power to them. In order to overcome this problem, in 1989, the government introduced two significant constitutional amendments, 65th & 66th Constitutional Amendment Acts to empower rural and urban government at local level. They were passed by Lok Sabha but failed to get approval in Rajya Sabha. This was the period of confrontational federalism. Opposition ruled states felt that these amendments were introduced with the aim of taking power of State Governments. They voted against these amendments in Rajya Sabha.

In 1992, some amendments were re-introduced as 73^d & 74th Constitutional Amendment Act due to changes in political sceneries in country, they were passed by both houses of parliament and by 1995, and all state assembly gave their approval too,

Important features of 73rd Constitutional Amendment Act:

a) Gram Sabha

Gram Sabha is a body consisting of all the persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level. Since all the persons registered in electoral rolls are members of Gram Sabha, there are no elected representatives. Further, Gram Sabha is the only permanent unit in Panchayati Raj system and not constituted for a particular period. Although it serves as foundation of the Panchayati Raj, yet it is not among the three tiers of the same. The powers and functions of Gram Sabha are fixed by state legislature by law.

b) Three Tiers of Panchayati Raj

Part IX provides for a 3 tier Panchayat system, which would be constituted in every state at the village level, intermediate level and district level. This provision brought the uniformity in the Panchayati Raj structure in India. However, the states which were having population below 20 Lakh were given an option to not to have the intermediate level. All the members of these three level are elected. Further, the chairperson of panchayats at the intermediate and district levels are indirectly elected from amongst the elected members. But at the village level, the election of chairperson of Panchayat (Sarpanch) may be direct or indirect as provided by the state in its own Panchayati Raj Act.

c) Reservation in Panchayats

There is a provision of reservation of seats for SCs and STs at every level of Panchayat. The seats are to be reserved for SCs and STs in proportion to their population at each level. Out of the Reserved Seats, 1/3rd have to be reserved for the women of the SC and ST. Out of the total number of seats to be filled by the direct elections, 1/3rd have to be reserved for women. There has been an amendment bill pending that seeks to increase reservation for women to 50%. The reserved seats may be allotted by rotation to different constituencies in the Panchayat. The State by law may also provide for reservations for the offices of the Chairpersons.

d) Duration of Panchayats

A clear term for 5 years has been provided for the Panchayats and elections must take place before the expiry of the terms. However, the Panchayat may be dissolved earlier on specific grounds in accordance with the state legislations. In that case the elections must take place before expiry of 6 months of the dissolution.

e) Disqualification of Members

Article 243F makes provisions for disqualifications from the membership. As per this article, any person who is qualified to become an MLA is qualified to become a member of the Panchayat, but for Panchayat the minimum age

prescribed is 21 years. Further, the disqualification criteria are to be decided by the state legislature by law.

f) Finance Commission

State Government needs to appoint a finance commission every five years, which shall review the financial position of the Panchayats and to make recommendation on the following:

- The Distribution of the taxes, duties, tolls, fees etc. levied by the state which is to be divided between the Panchayats.
- Allocation of proceeds between various tiers.
- Taxes, tolls, fees assigned to Panchayats
- Grant in aids.

This report of the Finance Commission would be laid on the table in the State legislature. Further, the Union Finance Commission also suggests the measures needed to augment the Consolidated Funds of States to supplement the resources of the panchayats in the states.

g) Powers and Functions: 11th Schedule

The state legislatures are needed to enact laws to endow powers and authority to the Panchayats to enable them functions of local government. The 11th schedule enshrines the distribution of powers between the State legislature and the Panchayats.

11th Schedule of the Constitution

- | | |
|--|--|
| 1. Agriculture, including agricultural extension. | 16. Poverty alleviation programme. |
| 2. Land improvement, implementation of land reforms, land consolidation and soil conservation. | 17. Education, including primary and secondary schools. |
| 3. Minor irrigation, water management and watershed development. | 18. Technical training and vocational education. |
| 4. Animal husbandry, dairying and poultry. | 19. Adult and non-formal education. |
| 5. Fisheries. | 20. Libraries. |
| 6. Social forestry and farm forestry. | 21. Cultural activities. |
| 7. Minor forest produce. | 22. Markets and fairs. |
| 8. Small scale industries, including food processing industries. | 23. Health and sanitation, including hospitals, primary health centers and dispensaries. |
| 9. Khadi, village and cottage industries. | 24. Family welfare. |
| 10. Rural housing. | 25. Women and child development. |
| 11. Drinking water. | 26. Social welfare, including welfare of |

11th Schedule of the Constitution

12. Fuel and fodder.

the handicapped and mentally retarded.

13. Roads, culverts, bridges, ferries, waterways and other means of communication.

27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

14. Rural electrification, including distribution of electricity.

28. Public distribution system.

15. Non-conventional energy sources.

29. Maintenance of community assets.

Further, the state legislature can authorize the Panchayats to collect and appropriate suitable local taxes and provide grant in aids to the Panchayats from the Consolidated Funds of the states.

h) Audit of Accounts

State Government can make provisions for audit of accounts of the Panchayats.

i) Elections

Article 243K enshrines the provisions with respect to elections of the Panchayats. This article provides for constitution of a State Election Commission in respect of the Panchayats. This State Election Commission would have the power to supervise, direct and control the elections to the Panchayats and also prepare the electoral rolls. The article maintains the independence of the election commission by making provisions that the election commissioner of this commission would be removed only by manner and on same grounds as a Judge of the High Court.

If there is a dispute in the Panchayat elections, the Courts have NO jurisdiction over them. This means that the Panchayat election can be questioned only in the form of an election petition presented to an authority which the State legislature by law can prescribe. (Important) The election commissioner for this reason is to be appointed by the Governor. The terms and conditions of the office of the Election commissioners have also to be decided by the Governor.

j) Applications to Union Territories

Provisions of Panchayats shall be applicable to the UTs in same way as in case of the states but the President by a public notification may make any modifications in the applications of any part.

k) Exempted areas and states

The provisions of part IX are not applicable to the following:

- Entire states of Nagaland, Meghalaya and Mizoram

- Hill areas in the State of Manipur for which District Councils
- Further, the district level provisions shall not apply to the hill areas of the District of Darjeeling in the State of West Bengal which affect the Darjeeling Gorkha Hill Council.
- The reservation provisions are not applicable to Arunachal Pradesh.

Que. “The second generation reforms in the Panchayati Raj institutions have changed Panchayats from the agency of development at local level into a political institution.” Discuss. (2013) (12M)

Que. "The goals of good governance will remain utopian if local governments, responsible for providing all basic services directly to the citizens, are not empowered as mandated by the 73rd and 74th Constitutional Amendment Acts." Critically evaluate the status of empowerment of the local bodies. (2016) (20M)

Problems in Implementation Of 73rd & 74th Constitutional Amendment Acts:

Gram Sabha: Mahatma Gandhi famously said that real freedom is not about freedom from the British. It can be achieved only when we can transform our villages into self-sufficient & independent republics. There must be complete decentralization of power to people at the lowest level. They should be given complete freedom to take decisions and implement them.

This was believed that Gram Sabha would help in realizing this dream of Mahatma Gandhi but unfortunately, they had failed due to various reasons:

- The size of Gram Sabha when these amendments were passed- it was based on the assumption that the size would be 1500-2000 people. They would meet, discuss & debate & finally take decisions & implement them. But due to the large population and very dense population, it's impossible for all of them to meet together and make decisions. Average size of Gram Sabha in some of the States had increased to more than 25000 people making it almost impossible to hold meetings.
- Participation of women due to social & cultural restrictions. Women are more or less never allowed to attend the meetings of Gram Sabha.
- Meetings of Gram Sabha are never held regularly; it is expected that Gram Sabha would meet at least 2-3 times in a year & take decisions but these meetings are never held.

- Under the 73rd Constitutional Amendment Act, Gram Sabha should act like an assembly at the local level with Gram Panchayat as executives is expected to implement the decisions taken by Gram Sabhas. But in reality, Gram Panchayat would take decisions, directly without involving Gram Sabha, defeating the very purpose of 73rd Constitutional Amendment Act.
- As and when the meetings of Gram Sabha are held, they are held mostly in secrecy. Efforts are not made to inform all the stakeholders regarding the meetings of Gram Sabha. Mostly the relatives and friends of panchayat members would attend the meetings of Gram Sabha.

Que. Despite the adoption of decentralized planning, participatory initiatives remain marginalized and divisive in many regions. Discuss. (2014) (10M)

Que. “The institution of Gram Sabha has very little connection with the Gandhian spirit of direct democracy.” Critically examine (2017) (10M)

Participation of Women & Empowerment of Women:

The 73rd Constitutional Amendment Act had provisions for reservation for women in panchayat bodies. 33% reservation envisaged and some states like Bihar has 50% reservation for women. In spite of reservations, it has not resulted in their empowerment. All decisions were taken by the male members of the family without informing women. It did not result from their empowerment.

Reservations: were also provided for SC & ST, but it did not result in empowerment of these backward castes. Mostly forward caste people ruled panchayat bodies in the name of backward castes.

Que. Despite the constitutional provisions for representation, the voice of weaker sections is not having the desired impact in the realms of Panchayati Raj Institutions. Critically examine. (2020) (20M)

As a result of election to PRIs in States/Union Territories, 2,27,698 Panchayats at village level, 5906 Panchayats at intermediate level and 474 Panchayats at the district level have been constituted in the country. These Panchayats are being manned by about 34 lakhs elected representatives at all levels; of them one-third are women. This is the broadest representative base that exists in any country in the world.

Chief Minister's Conference: had identified 3 major problems in implementation of 73rd Constitutional Amendment Act.

- Function.
- Functionaries
- Finances

As part of 73rd Constitutional Amendment Act, 29 subjects were to be transferred to Local Self Government. Similarly, State Governments were also expected to transfer functionaries to local bodies for implementation of development and welfare schemes. Finance was to be given to local bodies as per State Finance Commission recommendation.

Que. "The objectives of fiscal devolution to local bodies as mandated by the 73rd and 74th Constitutional Amendment Acts has been derailed by the actual working of the State Finance Commissions." Comment. (2016) (20M)

Que. Efforts to strengthen State Finance Commissions have faced apathy of State Governments over the years, which has also affected the successive Central Finance Commissions in recommending appropriate fiscal transfers to local bodies. Substantiate the answer with example (2019) (20M)

Activity Mapping: was done by the Ministry of Panchayati Raj to find out the number of activities performed by panchayat bodies at local level. According to functions given to them under schedule, here too the performance was not up to the mark.

Lack of Infrastructure: 68% Panchayat Bodies do not have separate buildings of their own. They are in highly dangerous condition. Most of the panchayat bodies do not have manpower. Also, they don't have access to the internet.

Most of the members of the panchayat bodies are poor, illiterate, & backward with no administration experience. It has come in the way of their functioning. States like RJ, Haryana have come out with minimum education qualification for contesting for PRI.

In States like Gujarat, Madhya Pradesh, Maharashtra, Karnataka, Kerala, Orissa, Rajasthan, Tripura, Uttar Pradesh and West Bengal detailed instructions have already been issued and in several cases departmental functionaries have been placed with the Panchayats. The Government of Madhya Pradesh has transferred 18 Departments to the PRIs.

In some States, functions and functionaries have not been transferred to PRIs. For instance, in the field of decentralisation, the State Government of Andhra

Pradesh is implementing 'JANMABHOOMI' mainly through the State bureaucracy, which is against the spirit of the 73rd Constitution Amendment Act, 1992. However, after strong protests from Sarpanches, the State Government has agreed to transfer 16 out of the 29 subjects of rural administration to the local bodies.

In real terms, no improvement in local resource base is likely as a result of the recommendations of SFCs. Moreover, the SFC reports have paid far less attention to issues of autonomy, financial management and auditing procedures. The main deficiency of the reports lies in the fact that the recommendations are not based on a clear statement of the spending responsibilities of local bodies. Indeed the absence of attention to the elementary principle, that expenditure assignment must precede any tax or revenue assignment, has made most of the SFC's recommendations suspect. All PRIs have a poor fiscal base. While resource mobilisation by the PRIs is generally limited, it is imperative to provide PRIs with revenue raising powers of their own in order to reduce their excessive dependence on the State and Central Governments.

Constitution of District Planning Committees (DPCs):

Despite long years of delay, many States are yet to constitute the DPCs. Only nine States, namely, Haryana (just in 3 Districts), Karnataka (10 out of 27 districts), Kerala, Madhya Pradesh, Rajasthan, Sikkim, Tamil Nadu, Tripura and West Bengal and two Union Territories, namely, Andaman & Nicobar Islands and Daman & Diu have taken action to constitute DPCs. In Tamil Nadu, operational orders for DPCs are yet to be issued.

The provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) have come into force on 24th December 1996. The Act extends Panchayats to tribal areas of eight States namely, Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Orissa and Rajasthan; it will enable tribal society to assume control of its own destiny to preserve and conserve the traditional rights over natural resources. All States barring Bihar and Rajasthan have enacted State 268 Legislation to give effect to the provisions contained in Act 40, 1996 as mandated under the Central Act. Rajasthan promulgated an ordinance in this regard recently.

The strength and sustenance of local institutions in India has shifted from their formative phase of 'Functions, Functionaries and Funds' to the contemporary stage of 'Functionality'.

Functionality refers to the quality of being suited to serve a purpose well. It points to aspects of a situation that include the actual doing or experience of something. It is about the objective that something is intended or expected to

accomplish. The critical challenges faced by local institutions in terms of their functionality in recent times are:

- 1) Most states have conformed to the 73rd and 74th Constitutional Amendment Acts only on paper. The state governments have yet to devolve the actual functional autonomy excluding Kerala, Karnataka, Madhya Pradesh etc.
- 2) Since delegation of powers, functions and finances is not mandated, as the case is with the creation of local self-governing bodies, they struggle to achieve their objectives.
- 3) Governance functions related to education, health, sanitation and water are not coded and specified. It becomes difficult to set the targets and attain them.
- 4) State executive authorities influence and direct their functionality trying to accommodate the vast differences through the one-size-fits-all approach.
- 5) Functionality subsists on financial intervention, but there are many blockages in raising their own revenue through local taxes and receiving intergovernmental transfers.
- 6) The framework of governance has no consistency across vertical and horizontal cooperation.
- 7) Local planning, development and administration are in need of Standard Operating Procedure (SOP) Culture.
- 8) Due to the lack of human resource and physical infrastructure, local institutions face difficulties in delivering their services efficiently

Que. The evidence suggests that the dream of deliberative democracy could not be realized in practice at the grassroot level. Evaluate the impediments in the functioning of Gram Sabha. (2019) (10M)

Solutions:

- In those villages where the size of population is very big, it should be divided into ward Sabha with a population of not more than 1500 people.
- To ensure empowerment of women & backward caste, funds should not be disbursed to villages unless the concerned officer is confident about the fact that the head of the panchayat has complete information about how money is going to be spent. It ensures that they have knowledge about the programme he implemented is also about expenditure.
- **Proper training** should be given to the heads of Local Self Government at all levels in administration, so that they can participate in implementation of development and welfare schemes.
- State budgets must have a special window for Local Self Government so that the Local Self Government can receive complete funds within the specific time period.
- Recommendation of state Finance Commission must be made mandatory like that of central Finance Commission. State Governments should not be allowed to divert the funds meant for local bodies.

- The Chief Minister's Conference suggested that Devolution Index must be made the necessary condition for the release of grants from the Central Government to the states. Those states that perform well on the Devolution Index should be given more funds & vice versa.

Que. Performance grants developed by the Finance Commission of India have increased the Financial accountability of the local bodies. Elaborate. (2019)(10M)

Que. "Effectiveness of local-self government institutions is hampered due to the lack of capacity building of the elected representatives." Elaborate (2017)(10M)

Que. The 13th Finance Commission highlighted an indispensable need to improve the finance of rural and urban level bodies. Does this make local bodies more accountable in the discharge of their functions? (2014) (20M)

- Principle of subsidiarity should be followed while delegating functions & finance as local bodies. Those functions which can be best performed at the lowest level, should only be performed at the lowest level. Those functions which cannot be formed by local governments should be transferred to the State Government and Central Government.
- Activity mapping should be made mandatory for all State Governments. This will indicate the performance of State Governments in transferring real powers to State Governments.
- Number of Central Sector Schemes should be drastically reduced so that these panchayat bodies can become institutions of self-governance. If they are not reduced, panchayat bodies should be given freedom to identify benefits.
- Distance learning techniques can be used to provide basic education to members of panchayats.
- There should be a separate district civil service on the lines of All India Services and State Civil Services.
- A small portion of Central Sector Schemes should be spent on improving infrastructure of Local Self Government. Every panchayat institution must have basic amenities like separate buildings, minimum administrative staff, along with internet connection.
- When these panchayat bodies are dissolved before the expiry of their term, it should be made mandatory for State Governments to conduct elections within 6 months.

Que. "The 73rd Amendment, it is felt, may accentuate fiscal indiscipline by

establishing between State and Local Governments a system of transfers similar to the one in place between the Central and State Governments.” (World Bank) Comment. (2013) (20M)

SMART VILLAGES:

- It is said that India requires 1, 00,000 smart villages rather than 100 smart cities. Agriculture, which provides employment to more than 50% of our populations, is part of our rural life. Even in our present times, food security depends on agriculture.
- In 2014, the government launched Pradhan Mantri Adarsh Gram Yojana, wherein every MP was expected to adopt some villages in their respective constituencies.
- On the financial side, small village programmes focus on making villages self-sufficient & sustainable. In the long term, it is expected to raise finance on their own. Development of villages should not be the exclusive of people elected representatives.

Smart Village^[1] India gets its foundation from Mahatma Gandhi's vision of *Adarsh Gram* (model village) and *Gram Swaraj* (Village self-rule/independence). Gandhi in two texts, *Hind Swaraj* and *Gram (Village) Swaraj*, promotes the concept of integrated rural development to impact majority of the population, as the primary initiative after India Independence in 1947. In the concept of "Smart Village" the development of the village shall be based on the five paths Retrofitting, Redevelopment, Green fields, e-Pan, Livelihood.

For democracy to be successful at the national level, the grass root organisations have to be strong. The local authorities have to respond to the felt-needs of the people. The citizens have faith in the efficacy of the administrative system so that distance between people and the government is reduced. The administration, for good governance, has to be accessible.

In developing countries, it is the government, which initiates and implements development programmes. It must gain support of the people in the discharge of these programmes, particularly at the cutting-edge. Such support would strengthen democracy as well as a positive response of the community to development programmes which should be the ultimate goal of good governance.

Self Help Groups:

- "Small economically homogeneous affinity group of rural poor voluntarily formed to save and mutually contribute to a common fund to be lent to its members as per the group member's decision."

- A self-help group is a method of organising poor and marginalised people to work together to solve their individual problems. The SHG method is used by governments, NGOs, and others all over the world. The poor gather their savings and deposit them in banks. In exchange, they are given easy access to low-interest loans to help them start their micro-enterprise. Thousands of India's poor and marginalised people are using self-help groups to better their lives, families, and society.
- “No, these women needed opportunity, not charity – They want chance, not bleeding hearts” – Prof. Mohammed Yunus.
- Self-Help Groups are not simply charitable or community-based organisations. They are created and controlled by the people who are affected. Members of the group are not volunteers. Despite the fact that the work is usually unpaid, members work to improve their own situation and mutual support is provided. The knowledge base of self-help mutual support groups is experiential, indigenous, and based on the wisdom gained from overcoming problems in concrete, shared ways. Self-help groups capitalise on their members' strengths.

Que. “Self-Help Groups (SHGs) have contributed to a change in the role of rural women in development — from symbolic participation to empowerment.” Discuss. (2013) (10M)

Model Answers

Que 1. All weather rural connectivity scheme to even unconnected rural habitations has the potential to transform the rural economy. Do you agree? Justify. (2019) (10M)

Rural India was said to be made of “village republics”, which were largely unconnected from one another. While this is not true today as the rural hinterland is getting integrated, the gulf between rural and urban areas remains. An estimated 40% of rural habitations lacked all-weather connectivity at the turn of the 21st century.

The rural economy is primarily agrarian and greater connectivity will ensure market access and can thus transform the rural economy.

How it has the potential to transform the rural economy:

- Market access: For agricultural produce through connectivity to APMC, GRAMs, etc. Thus, the agricultural sector (which employs about half of the workforce in India) can grow better due to lower wastage, find better prices and respond to demand adequately.
- Export potential: Connectivity allows for setting up of agro-based food-processing industries, handloom industries, etc. which can contribute to exports earnings. Greater connectivity will also reduce the cost of logistics (currently at 15%) improving competitiveness of Indian exports and enhance ease of doing business. Rural economies can diversify beyond agrarian.
- Creation of jobs: construction of roads and infrastructure is a source of jobs under MGNREGA.
- Connectivity means more people to people contact between rural and urban areas leading to potential for cross-pollination of ideas and potential for innovation through start-ups.
- Service delivery by administration: Connectivity will enable administrators to accurately assess the ground situation as well as allow participation of people. This is especially true in case of Left-wing extremism and insurgency hit areas. Connectivity also will ensure that administration can respond fast in case of disasters.
- Access to essentials: In India, education and health are largely concentrated in urban areas. Connectivity will ensure that even people of rural areas can access these. Super specialty hospitals like AIIMS cannot be set up in all areas due to economic considerations. However, connectivity will ensure everyone can access these and bring about the effects of agglomeration.

The lockdown following the COVID pandemic has exposed the limitations of urban-led development, while the rural economy remained as a bright spot of the economy. Ensuring all weather connectivity is thus a rational course of action economically as well as socially. Thus schemes like the PM- Gramin Sadak Yojana need to be expanded upon.

PM-Gramin Sadak Yojana:

- PMGSY was launched in December 2000 with the objective of bringing single all-weather road connectivity to eligible unconnected habitations of a certain population size (500+ in plain areas and 250+ in North-East, hill, tribal, and desert areas, according to Census 2001) for overall socio-economic development of the areas.
- The funds would be segmented 60:40 between the Centre and the states, with the exception of eight North Eastern and three Himalayan states (Jammu and Kashmir, Himachal Pradesh, and Uttarakhand), which would be segmented 90:10.
- Important sub-projects include - Road Connectivity Project for Left Wing

Extremism Area, consolidation of Through Routes and Major Rural Links connecting habitations to Gramin Agricultural Markets (GrAMs), Higher Secondary Schools and Hospitals.

Que 2. “Rural development programmes have failed to effectively address the problems of small and marginal farmers.” Analyse and give suggestions. (2018) (20M)

The agriculture census classifies farmers into 5 types based on size of landholding. Small farmers own 1ha to 2Ha of land and marginal farmers own less than 1Ha. The small and marginal farmers comprise over 85% of the farmers in India, though they own less than half of the total land.

A brief look at rural development schemes:

<ul style="list-style-type: none"> • Infrastructure creation 	<ul style="list-style-type: none"> • PM- Gram Sadak Yojana, road laying. • SAUBHAGYA yojana, universal electrification. • Bharatnet project, ensuring broadband connection to every gram panchayat area. • Jal jeevan Mission-Har Ghar Jal, tapped water for all. • Swachh Bharat Mission (Gramin) creation of sanitation infrastructure and toilets. • Shyamaprasad Mookerjee Rurban mission- aims to provide basic urban facilities in all rural areas.
<ul style="list-style-type: none"> • Ensuring Livelihood 	<ul style="list-style-type: none"> • Deendayal Antyodaya Yojana -National Rural Livelihood Mission: to alleviate rural poverty and create sustainable livelihood opportunities for the rural poor. • Promotes SHGs and co-operatives, as well as promotes entrepreneurship. • Deen Dayal Upadhyaya Grameen Kaushalya Yojana – skilling for enhancing employability of rural youth. • MGNREGA – provides assured 100 days of unskilled work.
<ul style="list-style-type: none"> • Schemes for agriculture 	<ul style="list-style-type: none"> • Schemes for agricultural marketing at APMCs, e-NAM and GrAMs. • Schemes for agricultural inputs. • Various subsidies for fertilizers, electricity, etc. (by states as well as Union).

	<ul style="list-style-type: none"> • Creation of Community Hiring centers for machinery • PM- Krishi Sinchayee Yojana for irrigation and so on. • Schemes for remunerative pricing MSP regime, price-deficiency payments, price support mechanisms. • Kisan rail and kisan udan for improving transport of produce and reducing wastage. • Security net. • Crop insurance under PM-Fasal Bima Yojana. • Conditional DBT in the form of PM-KISAN (6000 per year).
• Credit Creation	<ul style="list-style-type: none"> • RBI norms that mandate minimum 25% branches of banks in rural areas. • Creation of regional rural banks (RRB Act, 1976). • Priority sector lending norms for Agriculture and rural enterprises.
• Health	<ul style="list-style-type: none"> • National Rural Health Mission. • Creation of Health and wellness centers under Ayushman Bharat. • Health Insurance under PM Jan Arogya Yojana.

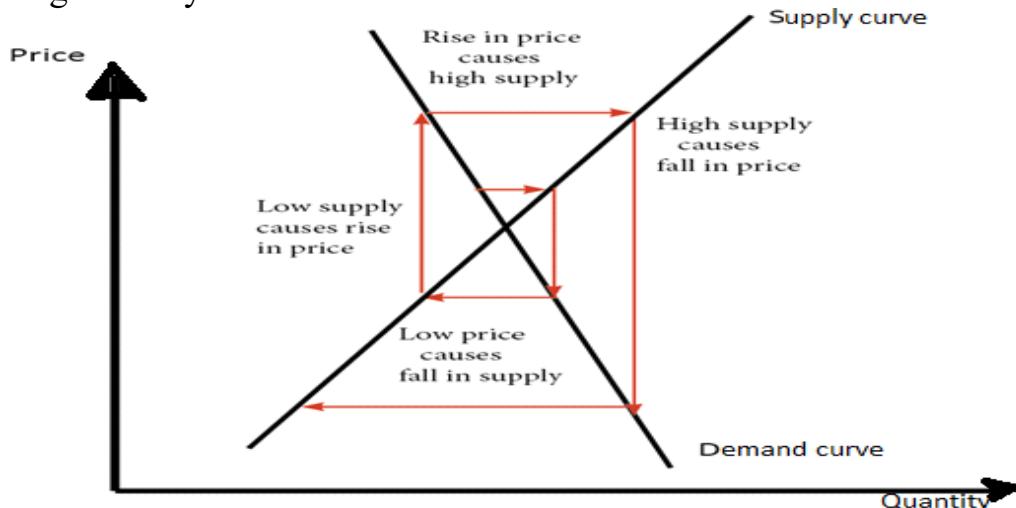
Have rural development programs failed to effectively address the problems of small and marginal farmers?

As the problems of land fragmentation and declining productivity continue, the number of small and marginal farmers (SMF) is increasing.

Issues related to debt and indebtedness (based on NAFIS data)

- Access to formal credit is still a problem. Non institutional credit comprises of over 28% of total, while average loan from non-institutional source is almost double that of formal credit
- About 48% of farming households are indebted.
- Average monthly income of an agricultural household is low at nearly 8900 rupees.
- While recent years have seen rise of debt waiver schemes by state governments for farmers to free them from debt overhang, it does not address the root cause of continuing indebtedness.
- Adoption of Innovation and new techniques in agriculture is low. This is due to inadequate extension services and relatively high cost of modern machinery.

- Reducing productivity of land and ecological problems, especially due to overuse of fertilizers and over-irrigation indicate unintended consequences of subsidy schemes.
- Remunerative prices have not been available- due to gaps in MSP regime and costs associated with APMC charges, corruption and middlemen. The Shanta Kumar committee estimated that only 6% of farmers are benefited by MSP.
- Asymmetry in information leads to cobweb phenomenon and farmers have to face a specter of losses due to price crash and natural phenomena. Insurance coverage is not yet universal.



- Lack of proper irrigation facilities. Only 45% of land is irrigated.
- Land reforms are yet unfinished. Digitization of land records is not yet complete which leads to issues in accessing credit, as well as disincentivizes investment of farmers into land.
- Increasing underemployment in agriculture as other sectors are not able to absorb excess workforce away from agriculture.

However rural development programs have not been an entire failure:

- Schemes for enhancing agricultural productivity like Soil health Card scheme, PM-KUSUM have reduced the ecological impact and have successfully improved agricultural income for farmers.
- Social security net in the form of rations under PDS scheme, MGNREGA, etc. benefit the lower strata of agricultural households.
- Adoption of JAM trinity and DBT in subsidies is eliminating leakages and ensuring beneficiaries receive what they are entitled to.
- Innovative schemes spearheaded by states and Union such as price deficiency payment schemes and conditional DBT have helped to improve the life of farmers.

Suggestions for improvement:

- Teach a man to fish, rather than feed him a fish while measures such as loan waivers may act as short term band-aids, farmers should be made self-sufficient by promotion of Farmer Producer Organizations, Contract farming and Agro-based industries. The recent farm law amendments are a step in

this direction. Administration should be guided by the philosophy of New Public service in this regard.

- Eliminating leakages and corruption by use of JAM trinity and DBT.
- Use of ICT:
 - Using satellite data for weather prediction and effective communication to farmers via mobile
 - Use of drones and GIS for land record updation and digitization (SWAMITVA scheme)
 - Use of multiple communication channels for effective extension services
- Enhancing remuneration by sustainable means promotion of micro-irrigation, organic agriculture, Zero-budget natural farming, climate-smart agriculture etc.
- Outcome- orientation should be undertaken in implementation of schemes. For example, instead of measuring how many kilometers of roads have been laid in a district under Gram sadak yojana, other measures such as reduction in average time to reach APMCs or average time for evacuation of agricultural output can also be considered.
- Participatory governance via panchayati raj institutions (PRIs) should be promoted by supporting PRIs with 3 Fs- funds, functions and functionaries. This will give voice to small and marginal farmers and allow them to work towards their betterment in a bottom-up manner.
- Enhancing Accountability via social audit.

Sustainable rural development requires the development and uplift of all. To this end, the small and marginal farmers are key. Thus, rural development should be given greater emphasis to realize the dream of “sabka saath, sabka vikas”.

Chapter 12- Urban Local Government

Syllabus: Municipal governance: main features, structures, finance and problem areas; 74th Constitutional Amendment; Global-local debate; New localism; Development dynamics, politics and administration with special reference to city management.

- As per the 2011 census, only 31.16 per cent of India's population was classified as urban. But, in terms of absolute numbers, India's actual urban population of 377 million is massive as evident from the fact that it nearly is more than the total population of the USA.

- Urbanisation is an incessant trend and its pace is accelerating. Poverty and lack of employment in the villages lead to migration from rural to urban areas; increasing industrialisation has contributed to the growth of new towns; the expansion of means of transport has facilitated easy movement of men and material and, above all, cities provide a better quality of life, in terms of educational and health facilities.

Evolution of Urban Local Government in India:

The Pre-Independence Period:

- Municipal administration in India can be traced back to 1687, when a Municipal Corporation was established in Madras to shift the financial burden of local administration to the local city council. Later, in 1720, the Royal Charter of Madras, Bombay, and Calcutta established a Mayor's Court in each of the three Presidency towns. In 1850, an Act was passed for the entire British India allowing the formation of local committees to make better public health provisions. Lord Mayo's resolution of 1870 provided for the strengthening of municipal institutions and the increased participation of Indians in these bodies.
- Yet, it was Lord Ripon's Resolution of 18 May 1882 that was hailed as the Magna Carta of local government and got for Lord Ripon the title of "father of local self-government in India." Ripon suggested reforms for instilling life into the local bodies. He advocated the establishment of a network of local self-governing institutions, financial decentralization, the adoption of election as a means of constituting local bodies and the reduction of the official element to not more than a third of the total membership.
- However, these reforms were hampered by several factors such as the obstructive tactics of bureaucracy, domination of these institutions by the Deputy Commissioner and the hostile attitude of Lord Curzon, who succeeded Lord Ripon, towards local bodies. It is ironic that when the prime movers of reforms leave the scene, the spirit of their reforms also gets affected adversely.
- The Government of India Act 1919 introduced the system of dyarchy and the local self-government became a transferred subject under the charge of the powers of local bodies, lowered the franchise, reduced the nominated element and extended the communal electorate to a larger number of municipalities. This experiment was both a success and a failure. It was a success because the local bodies became popular and provided the people with some political education. It was a failure because communal representation hindered the spirit of unity, the dyarchy

system was confusing, and municipal personnel were untrained. Finally, the 1935 Government of India Act, which emphasised provincial autonomy, declared local government to be a provincial subject once more. The Act made no provision for local governments to levy taxes. The introduction of popular ministries was supposed to revitalise municipal institutions. However, due to the outbreak of World War II, little progress could be made in this direction.

Que. Urban local governance is perpetually afflicted with lack of financial autonomy and starvation of funds. Elaborate. (2020) (10M)

The Post-Independence Period:

The Indian Constitution, which entered into force on January 26, 1950, directs the state through Article 40 to organise panchayats but does not impose a corresponding duty on the state in terms of the creation of urban bodies.

Two entries are the only ones that mention urban self-government:

“Local Government, that is to say, the constitution and powers of Municipal Corporations, Improvement Trusts, District Boards, mining settlement authorities, and other local authorities for the purpose of local self-government or village administration,” says Entry 5 of List 11 of the Seventh Schedule, referring to the State List.

Entry 20 of the Concurrent List reads: “Economic and Social Planning, Urban Planning would fall within the ambit of both Entry 5 of the State List and Entry 20 of the Concurrent List.”

The Five-Year Plans also highlighted the municipal bodies' problems and inability to meet the growing demands of urbanisation on a regular basis. The Central Government has appointed several commissions and committees to address the need to improve urban bodies on a timely manner.

The most important ones and their contributions are:

- The Local Finance Enquiry Committee (1949-51) primarily proposed broadening the scope of taxation of urban bodies.
- The Taxation Enquiry Commission (1955–54) advocated for the exclusive use of certain taxes by or for local government.
- The Committee on the Training of Municipal Employees (1963) emphasised the establishment of training institutes at both the national and state levels to train municipal personnel.
- The Rural-Urban Relationship Committee (1963-66) prepared a detailed report on the subject, looking into all aspects of municipal

administration such as personnel, planning, and taxation, as well as the town's interdependence with its surrounding villages.

- The Committee of Ministers on the Augmentation of Financial Resources of Urban Local Bodies (1963) stated that urban bodies were not levying taxes even in areas designated for them and urged local bodies to establish statutory Urban Development Boards to undertake town development.
- The Committee on Service Conditions of Municipal Employees (1965-68) advocated for the establishment of a statewide cadre of municipal employees.
- The National Commission on Urbanization (1988) made broad recommendations for revitalising urban government.

THE 74th CONSTITUTION AMENDMENT ACT:

- Following the National Front Government's assumption of power in December 1989, the provisions of the Constitution 65th Amendment Bill 1989 were reviewed. In September 1990, a revised Amendment Bill was introduced in the Lok Sabha, incorporating provisions relating to Panchayats as well as municipalities. This bill also lapsed as a result of the dissolution of the then Lok Sabha.
- On September 16, 1991, the Narasimha Rao government took charge and introduced a Constitution Amendment bill pertaining to municipalities in the Lok Sabha. It was essentially based on the 65th Amendment Bill, with a few changes. In December 1992, both Houses approved it. The bill has since been ratified by a resolution passed by at least half of the state legislatures. It received the President's assent on April 20, 1993, and was published in the Gazette on the same day as the Constitution 74th Amendment Act, 1992.
- The 74th Amendment establishes the District Planning Committee, tasked with developing a draught development plan for the entire district, including both rural and urban areas. Where there are DPC, they have tended to be rather unwieldy, as its composition comprises a very large number of people.

Que. It is observed that non-functioning of District Planning Committees is preventing the convergence of rural and urban planning needs. Do you agree?
Justify. (2019) (20M)

Que. 'District Planning Committee (DPC) has been the weakest structure in the local self-government mechanism in India.' Analyze with examples

(2017)(10M)

Que. "Municipal Administration in India faces both structural and operational challenges." Examine in the context of the post-74th Amendment Act. (2013) (10M)

Structure and Functioning:

In India, various types of municipal bodies are established for the administration of urban areas, depending on their size, population, industrial or other importance, and so on. These are the bodies:

Municipal Corporation:

- Municipal corporations are only established in big metropolitan cities.
- The 74th Amendment Act stipulates that the areas for various types of urban bodies would be specified by the Governor of the state, taking into account the population, density of the population therein, revenue generated by the local body, percentage of employment has a statutory status because it is created by an Act on the state legislature or Parliament in the case of a union territory.
- The council of the corporation comprises the councillors who serve for a period of five years.
- The composition of municipal bodies has also changed as a result of the 74th Amendment Act to the Constitution.
- It specifies that all seats will be filled through direct elections, with the municipal area divided into wards.
- Each seat in the municipality shall represent a ward. Aside from seats filled through direct elections, some seats may be filled through nominations of individuals with special knowledge or experience in municipal administration, but such members will not have voting rights.
- Besides, the Members of Parliament (MP) and of the state legislature (MLA) will also be voting members in a municipality.
- The Act also specifies the reservation of seats for SC/ST, women, and backward classes. The proportion of seats reserved for SC/ST to the total number of seats reserved for SC/ST shall be reserved for SC/ST women. Women will be given at least one-third of the total number of seats in the municipal body. (This includes the seats reserved for women from SC/ST groups.) A state legislature may make an optional provision for adequate representation of SC/ST and women in the office of municipality chairperson.
- The Municipal Commissioner is the corporation's chief executive officer. He is at the top of the municipal hierarchy and is the key officer in charge

of the corporation's administrative machinery. He is appointed by the state government. In the case of a union territory, the appointment is made by the central government.

- Officers from the Indian Administrative Service (IAS) are generally appointed to this position; however, at the state level, a state service officer may be appointed. Because a municipal commissioner is the centre of municipal administration, he is responsible for a wide range of responsibilities. He carries out or puts into action the decisions of the council and its committees. All municipal records are in his possession; he prepares budget estimates, appoints to certain categories of positions, and can enter into contracts on behalf of the corporation up to Rs. 25,000.

Functions:

- Municipalities are carrying out their traditional civic functions. The 74th Constitutional Amendment, on the other hand, states that municipalities must go beyond simply providing civic amenities.
- They are now expected to play a critical role in the formulation of local development plans as well as the implementation of development projects and programmes, including those specifically designed to alleviate urban poverty.

The Twelfth Schedule of the Constitution includes an illustration list of functions that may be delegated to municipalities. A state legislature would be free to choose from or add to this list while defining the functions that municipalities would perform.

Following list of functions has been laid down in the Twelfth Schedule is as follows:

- Urban planning, including town planning.
- Regulation of land use and construction of buildings.
- Planning for economic and social development.
- Roads and bridges.
- Water supply for domestic, industrial and commercial purposes.
- Public health, sanitation, conservancy and solid waste management.
- Fire services.
- Urban forestry, protection of the environment and promotion of ecological aspects.
- Safeguarding the interests of weaker sections of society, including the handicapped and the mentally retarded.
- Slum improvement and upgradation.
- Urban poverty alleviation.
- Provision of urban amenities and facilities such as parks, gardens, playgrounds.

- Promotion of cultural, educational and aesthetic aspects.
- Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
- Cattle ponds; prevention of cruelty to animals.
- Vital statistics including registration of births and deaths.
- Public amenities, including street lighting, parking lots, bus stops and public conveniences.
- Regulation of slaughterhouses and tanneries.

Municipal Council/Committee/Municipality:

- A municipal council is a statutory body established by a state legislature Act, and the criteria for its establishment differ from state to state.
- These are, in broad terms: population of city, size of city, sources of income, industrial/commercial future and prospects of the city. Even within a state, the criteria may differ.
- Despite its small population, a city with advanced industrialization may have a municipality.
- The state government determines the size of a municipality, but the minimum number of councillors should be five. As the population grows, so does the size.
- As per the Constitution 74th Amendment Act, 1992, their tenure/term is five years.
- The municipal council elects a President from among its members for a five-year term. The council also elects one or two Vice Presidents, one senior and one junior, who are removable by the council.
- The President is an important figure in municipal administration, with real deliberative and executive powers. He presides over council meetings, guides deliberations, and ensures that decisions are carried out. He is the administrative head of all municipal officers, the custodian of municipal records, the approver of all financial matters before they are presented to the council, and the council's representative on national and social occasions. He possesses extraordinary powers that allow him to order the immediate execution or suspension of any work.

Some Other Provisions of the 74th Constitution Amendment Act:

- In addition to the various forms of urban local government that exist today, the Act provides for the establishment of Nagar Panchayats. A transitional area will be served by a Nagar Panchayat. Such an area is primarily rural in nature, but it is likely to develop urban characteristics over time.
- Each state/UT will be required to establish a State Election Commission (SEC), which will be led by a State Election Commissioner appointed by the governor of the state.

- In order that the financial position of the municipalities is reviewed periodically, it has been laid down that a State Finance Commission will have to be constituted by the Governor of the state within one year from the commencement of the Constitution 74th Amendment Act, and, thereafter, at the expiry of every five years.
 - Distribution of income between the state government and municipalities, determination of taxes, duties, tolls and fees to be assigned or appropriated to the municipalities, grants-in-aid to municipalities from the Consolidated Fund of the state, measures needed to improve the financial position of the municipalities, grants-in-aid to municipalities from the Consolidated Fund of the state, measures needed to improve the financial position of the municipalities and allocation of the shares of such proceeds between the municipalities at all levels in a state.
- The Act also provides for setting up ward committees in order to provide the citizens ready access to their elected representatives.

Notified Area Committee (NAC):

- The Notified Area Committee is formed for an area that does not yet meet all of the prerequisites/conditions for the creation of a municipality but is deemed important by the state government. In general, it is created in a rapidly developing area where new industries are being established.
- It is created by a notification in the government gazette rather than by statute, hence the name "notified area." To administer this area, the state government forms a committee known as the Notified Area Committee (NAC). This committee's members are all appointed by the state government; there are no elected members.

Town Area Committee (TAC):

- It is a semi-municipal authority composed of small towns. There are such committees in several states, but Uttar Pradesh has the most of them. The TAC is established and governed by a state legislature Act, which specifies its composition and functions. Its membership varies from one state to the next. The committee can be partly elected, partly nominated, or wholly elected or wholly nominated.

Township:

- In India, several large-scale public enterprises have been established. Steel plants in Rourkela, Bhilai, and Jamshedpur are examples, as are

Heavy Electricals Limited near Bhopal and Hindustan Aeronautics near Bangalore. Housing colonies for staff and workers have been built near the plants. Because these industries provide employment, people from both urban and rural areas are drawn to them, and as a result, small townships form around them. Among the well-known examples are the townships of Jugsalai and Adityapur near Jamshedpur.

Cantonment Board:

- Cantonment Board is the form of Urban Local Government which is also a British legacy. Cantonment boards were established for the first time in 1924 under the Cantonments Act. While all other urban governance institutions are administered by the state government, these are the only bodies that are administered centrally by the Defence Ministry.
- When a military station is established in an area, the military personnel move in, and a sizable civilian population joins the developing area to provide them with everyday amenities. Colonies, markets, and other amenities sprout up near such military bases. Cantonment boards are formed to administer these areas.
- As of 1987, there were 63 cantonment boards in India which were grouped into three classes:

• SPECIAL PURPOSE AGENCIES:

- These agencies are established as government departments or as statutory bodies under separate state government Acts. Housing boards, pollution control boards, and water supply and sewerage boards are examples of such agencies. Even though other municipal agencies exist for the same area, such bodies are established because certain activities require expertise, concentrated attention, and special skills that municipal bodies do not have. Besides, the municipal bodies are already overburdened, they lack the requisite administrative machinery and the necessary resources in order to deal with problems arising out of rapid urbanization.

• HOUSING BOARDS:

- Almost every state has established housing boards to address housing issues. The constitution of a housing board varies by state. A housing board at the state level, on the other hand, is generally led by a chairman who is either a serving civil servant or a citizen from public life. Representatives from the state departments of finance, industry, education, health, labour, and local self-government serve on the board. The Chief Town Planner, the Mayor or the Municipal Commissioner, and some citizens, including members of the Central and State legislatures, are also members.

- **IMPROVEMENT TRUSTS:**
- An Urban Improvement Trust is a statutory body formed with the explicit purpose of promoting a city's development. In general, a city's areas are divided between the municipal council and the improvement trust. The majority of the time, it is the "newer" city or the outlying areas that fall under the purview of a development trust.

Personnel Administration in Urban Bodies:

Three types of municipal personnel systems are obtained in the Indian states and union territories. They are:

- ***The Separate Personnel System:*** Each local authority in this system has the authority to appoint its own personnel. Such personnel are managed and controlled by the local government and cannot be transferred to another unit.
- ***The Unified Personnel System:*** According to this system, all or some local bodies form a single career service for the entire state, from which officers and other employees are posted in various units and are also transferable within the state. The service is run by the state government.
- ***The Integrated Personnel System:*** Personnel from local governments and the state government work together as part of the same service in this model. This service may be used to recruit all or some categories of local government personnel. The local civil service has been absorbed by the state civil service. The state government has the authority to transfer them from the municipal government to other departments.

In India, all three systems are operational in different states. Separate personnel systems can be found in West Bengal and Gujarat, where urban units serve multiple states. Municipal services have been established in such states, and the system now operates in Rajasthan, Uttar Pradesh, Andhra Pradesh, Tamil Nadu, and other states.

Decentralisation, Democratisation, Finances and Constitution with regard to Local Self Governments:

The passing of the 73rd and 74th amendments to the Indian constitution in 1992, decentralisation came into its own in the Indian polity. The process of decentralisation, so referred to because it was recognised that there had been excessive centralisation, was to deepen the democratic foundations of the Indian nation. People were to have a say in how their communities developed, with their elected representatives at the local level empowered to act in the public interest. These amendments were the result of extensive debate in the country.

When it was enacted, the Indian constitution established two levels of government: the Union Government or the Government of India, and the State governments, each with functions specified in lists. A number of articles in the constitution define the relationship between these two levels of government. It is ironic that many states, which argued for greater state autonomy in financial and administrative matters pertaining to the Union, are uninterested in further devolution from their level to local bodies. They are especially hesitant to consider local bodies to be “government,” despite the fact that the amendments refer to them as such.

Scheme Implementation:

There would be elected bodies at the village and taluk levels on and off. These were only to assist officials in the implementation of schemes and had no authority in any of the states. When they were well run, they were consulted; when they were not, they were often superseded and forgotten. Funds were moved in this hierarchical system, which was subject to rigid and inflexible rules, which frequently resulted in money not being spent as intended. The state's Local Fund Audit Department is in charge of auditing at the local level.

Decentralisation After the 74th amendment:

The 74th amendment also has a provision for a District Planning Committee, which has the mandate of integrating the plans of rural and urban bodies, for the first time, a horizontal integration of development schemes has become possible. The basic unit is the gram sabha, the electorate of the area. Above this come the elected bodies.

Supervision and Monitoring:

The elected bodies, whose existence became mandatory following the 73rd amendment, have been incorporated into the existing structure with minimal changes from what existed previously. Autonomous societies continue to exist as they have in the past. Officials can now—and do—claim that they are not liable for any shortcomings because they act on the decisions of elected representatives. Decentralisation is the appearance, but not the substance, of what occurs locally.

Decentralisation As It Should Be: A Possible Future

Where do we stand? The conclusion that states have fulfilled the legal requirements of the constitutional amendment without devolving funds, functions, or functionaries is unavoidable. This is not to deny that some limited progress has been made; rather, it is to acknowledge the nature of such progress. If we are to pass judgement on how decentralisation works in this country, we must ensure that the spirit of the constitutional amendments is truly implemented. If the essence of democracy is that people decide their own fate, then decentralisation is merely the first step in that process.

Mere elections are not enough. India has decentralised in a legal sense—democracy requires that the process be deepened so that the people can make their own decisions and implement them. This would require decentralisation of staff and funds—the two go together. Suggestions for a structure that allows this are provided below in desperate brevity. The goal is to create a debate that is different from what has already taken place.

First, without waiting for constitutional approval, several steps can be taken under existing law. Sub-committees are led by elected members in panchayats. Together with the President, these chairmen/chairwomen can act as a local council of ministers. As the head of the district government, the President serves as the district's chief minister. He reports to the zilla panchayat, which has the authority to remove him by passing a vote of no-confidence.

There is a Finance Committee. This committee can begin to supervise the use of local funds. The Chairman of the Committee can begin to act in the capacity of the local finance minister. To begin, he can present a budget to the zilla, taluk, or gram panchayat each year, outlining what revenues are available and what uses are planned for them. The fact that this body does not currently have legislative authority does not preclude such a presentation or discussion. It will improve information flow. It will cause people to consider their problems. In the process, it will make it easier to set priorities in a fund-scarce local situation. Such priorities can be used for fund allocations in the future.

The District Planning Committee is a statutory body. It should receive plans, programmes, and priorities from lower-level bodies. It should then engage in a discussion about what should be done and what should be postponed due to financial constraints. As the Kerala experience demonstrates, a bottom-up planning process can yield results.

There are significant obstacles to overcome. We lack the type of information required for effective planning at the local level. Our statistical system has been designed to provide national level estimates—the National Sample Survey gives state level estimates only for 14 major states. Sub-state level information is conspicuously lacking. It must be collected using systems that have been put in place. Rather, systems for utilising information gathered by state government bodies must be put in place. Much can be learned from the experience of the NRDMS experiment of the Department of Science and Technology of the Government of India.

The DPC should meet on a regular basis to ensure that the district's rural and urban areas are developed in tandem. It should eventually become the district's primary planning and approving agency, taking power away from the state

government. Once a district's funds are determined, the DPC should make all decisions within that budget. It could be delegated plan approving authority within budgeted amounts, as in Madhya Pradesh, to reduce the rigidity in the financial system. To use James Manor's terminology, what is required is a combination of de-concentration and decentralisation.

Just as the constitution has provided for an Inter-State Council, there can be an Inter-District Council, with the Governor of the state as Chair, and all district presidents and the Chief Minister as members. Other ministers can be special invitees as needed. This body should deal with inter-district issues, and set guidelines for the state government on matters that come under the local list. It is not necessary to wait for a constitutional amendment to establish an Inter-district Council. It is possible to accomplish this by reaching an agreement with the presidents of the ZPs and the Chief Minister; after all, that is how the National Development Council was established, and it works when it comes to approving the Five Year Plans. It is simply a matter of political will on the part of the government.

Administrative support for local authorities will need to be restructured. Departments and Directorates must be enhanced to the level of district-level bodies. The CEO of the Zilla Panchayat, as well as the urban body, should be a senior IAS officer on the supertime scale. This will provide them with the clout they need to get things done. According to Karnataka's 1983 Act, these officers must report to the President of the ZP. The IDC must take over the coordinating functions that the Departments used to perform in the state capital. As a result, authority can be delegated to the district level, and scheme implementation should improve from its current state.

Conclusion:

It has frequently been asked whether decentralisation reduces corruption. It has frequently been stated that decentralisation has only decentralised corruption and that there is no good reason to continue with it. Corruption must be combated, but it does not have to be linked solely to decentralisation.

Corruption has indeed become a cancer in this society. However, the case for decentralisation must be made on the basis of its democratic credentials, not its impact on corruption. Decentralisation, in my opinion, is at best neutral in terms of corruption. We need to decentralise because it is the right thing to do in a democracy to empower people to look after themselves.

There is another aspect to this. Often, in talking of corruption, the reference is not to spend money and rent seeking activity but to the fact that projects are delayed, time and cost estimates are over-run in a routine way. This is because of centralised bureaucratic decision making. The disastrous experience of the Soviet Union with such planning is well known. There is little doubt that

empowering local governments in the matter of project implementation will lead to significant savings in the form of time and cost overruns avoided--and this of course is a matter of some importance.

This can also be achieved by a measure of de-concentration, which is a half-hearted decentralisation, for it has no element of democracy in it. But it should, nevertheless, be encouraged as a first step.

Critical Appraisal of Local Bodies after The Passage Of 74th Constitutional Amendments Act:

The goal of the constitutional amendments at the national level was clearly to revitalise local government. This was viewed as a means of encouraging greater community participation and involvement in developmental efforts, thereby improving the Indian developmental state's dismal record in the areas of human development and public goods provision. The attempt to revitalise local government in India mirrors attempts in other countries in that the impetus for the amendments came from a widespread consensus regarding the failures of the bureaucratic and centralised apparatus of the Indian developmental state, supplemented, in some circles, with a political agenda of democratic deepening. But there are several key respects in which the Indian case stands out and these need to be highlighted at the outset.

Que. "The disempowerment and depoliticisation of urban local government has happened in multiple ways." Comment. (2018) (10M)

First, because the Indian constitution grants the states exclusive legislative domain over local governments, unlike in many other countries where the impetus for decentralisation originated at the national level and implementation responsibility also resided at the national level, the final responsibility for the design and implementation of local government reforms lay with the states in India. Unsurprisingly, given the diversity in their historical trajectories and current socio-political and economic situations, across the states there has been tremendous variation in the design, scope and extent of devolution to local governments.

Second, and relatedly, the Indian case also differs from some others in that there have been attempts in the past to empower local governments. As a result, the most recent effort to revitalise local government is far from a "greenfield" initiative. This means that the novelty of the reforms—the extent to which they differ significantly from the pre-1993 scenario—varies across states.

The constitutional setting and the 74th amendments:

Until the passage of 74th constitutional amendments, the states were the only sub-national units officially recognized by the Indian constitution. Furthermore, the constitution gives individual states significant legislative autonomy. The state legislatures' and the national parliament's respective legislative domains are explicitly delineated in Schedule Seven of the constitution. List I, also known as the "Union List," specifies the functional areas over which the national parliament has exclusive jurisdiction. Defense, foreign affairs, currency, income taxes, interstate commerce, and critical infrastructure are among the items on this list.

Because local governments are a state subject under Schedule Seven of the constitution, any legislation reforming the structure of local government must be enacted at the state level. The states' first task was to pass conformity acts, which either introduced new legislation or amended existing legislation to bring state laws in line with the amendment's provisions. States had a year from the date the amendment went into effect to do so, according to the amendments.

Two more points should be made. The first is that, while the 74th Amendment Act primarily applies to urban local governments, a key provision in that amendment also applies to rural local governments. Article 243ZD requires the formation of District Planning Committees to consolidate plans prepared by both rural and urban local bodies. The second point is that the 73rd amendment's provisions did not apply to Scheduled Areas, which are constitutionally recognised areas of the country with large Adivasi populations.

The amendment did, however, include a provision reserving parliament's right to extend the amendment's provisions concerning local bodies to Scheduled Areas at a later date without the need for a further constitutional amendment. Parallel provisions governing local governments in Scheduled Areas were eventually enacted as part of the Panchayats (Extension to Scheduled Areas) Act of 1996.

Prior to 1994, the state legislative assembly members were the elected representatives who were effectively closest to the voters (MLAs). This equated to a population of nearly 200,000 or more per MLA on average. After 1994, most states reduced this number to a few hundred, with the village panchayat representative being closest to the population. Local body elections had not been held on a regular basis in most states prior to 1994, with the exception of West Bengal since 1978. Elections were often postponed as a result of writ petitions filed in court by groups other than the state government.

In others, state governments unilaterally postponed elections, citing a variety of reasons ranging from natural disasters to civil unrest to school holidays. The constitutional amendment sought to limit the discretionary authority of state governments by mandating regular elections to local government institutions. The amendment even includes a provision (Article 243O) prohibiting courts from interfering in electoral matters.

Que. "Municipal governance in India is not sufficiently prepared to meet the challenges of frequent natural disasters." Elucidate the statement and add your own suggestions. (2015) (20M)

Chief Ministers' Conference on "Poverty Alleviation and Rural Prosperity Through Panchayati Raj"

District Rural Development Authority:

The Standing Committee on Urban and Rural Development of Parliament has repeatedly urged the merger of the DRDA and the Zilla Parishads so that authority and responsibility are vested in elected officials rather than usurped by bureaucracy. Indeed, the Standing Committee was disturbed to learn that, rather than dismantling the DRDAs, the previous government proposed to "strengthen" them.

Of course, elected officials, whether at the Centre, the States, or the PRIs, require administrative and technical assistance from professionals and technical specialists. However, just as the bureaucracy and technocracy are subordinated to the elected authority at the Centre and in the States in all democracies, including India, the Constitutional requirement of "self-government" requires the bureaucracy and technocracy at the local government level to be subordinated to the elected local body.

Panchayats and municipalities should be informed as early as possible of what they can expect to receive in terms of tied and untied funds under various budgetary heads for implementing various schemes in order to facilitate well-planned husbanding of available resources. This is a necessary prerequisite for each tier of the Panchayati Raj system to prepare plans for its areas of responsibility, as defined by Activity Mapping, and for all of these plans, along with municipal plans, to be "consolidated" by District Planning Committees (DPC), as mandated by Article 243 ZD of the Constitution.

It needs to be underlined that the Constitution does not provide for DPCs to prepare district plans on their own, but to "consolidate" local area plans drawn up at lower tiers in both rural and urban areas of each district (A different provision of the Constitution covers district planning for Metropolitan areas).

Que. Why has District Planning been marginalized in many States and remained prominent in a few States? Explain.(2015)(10M)

Planning:

Article 243 ZD of the Constitution provides for the formation of DPCs to “consolidate” plans prepared within the district by panchayats at all levels and the municipalities. Unfortunately, many States are yet to fulfil their mandatory constitutional obligation to constitute DPCs. Even when DPCs have been constituted, in the absence of local area plans being prepared in the panchayats and municipalities, DPCs are not consolidating, so much as directing, the activities to be undertaken.

Instead of plans being formulated at the State or even District level, and subsequently disaggregated and farmed out to the panchayats and municipalities at various levels, it is important that panchayats and municipalities be empowered and integrated to formulate their own plans in consultation with the Gram Sabha / Ward Sabha.

To this end, the experience in Kerala needs to be replicated elsewhere after being refracted through the objective reality of economic, socio-political and cultural- educational diversities prevailing in different States.

Action Points:

Effective Devolution:

Devolution should be based on the principle of “subsidiarity”, that is, whatever can be accomplished at a lower level should be entrusted to that level. Only that which cannot be effectively implemented at a lower tier might be taken to a higher tier.

Devolution may also be made irreversible: a function once devolved should not be arbitrarily taken back. Therefore, it would be preferable to make provision for devolution through legislation rather than administrative orders.

Finances:

It has to be considered whether money for programmes related to functions devolved in terms of the Eleventh and Twelfth Schedules – estimated at Rs. 31,000 crore per annum, are channeled directly to the panchayats at the appropriate level. Restructuring of planning and implementation mechanisms and monitoring agencies at the central level may be needed to ensure there is no centralization in the name of decentralization. Central and centrally-sponsored schemes should be conceived and executed as to promote and not impede effective devolution and the larger constitutional purposes of elected local bodies functioning as institutions of local self-government.

State Finance Commission recommendations are recommendatory not mandatory in nature. The State Governments should place the recommendations of the State Finance Commissions before the legislatures with an Action Taken Report, and fully implement the recommendations. State governments may undertake a review of the state of implementation of all accepted recommendations. Consideration may also be given to establishing a standing committee of the state legislature to keep a watch on the “sound finances” of the elected local bodies, particularly with a view to supervising and monitoring the progress in implementing central and state finance commission recommendations.

Moreover, fiscal responsibility will evolve only when local bodies are empowered and obliged to complement grants received by raising their own finances through taxation, particularly forms of taxation which enable the local bodies, in accordance with the provisions of Articles 243H and 243X, to “appropriate” the revenues so raised for their own purposes instead of being obliged to credit them to the consolidated fund. District panchayats and municipalities may also be encouraged and assisted in raising funds through bond issues.

Planning:

Many states are still to fulfill their mandatory constitutional obligation to constitute District Planning Committees (DPCs) in accordance with the procedure set out in Article 243 ZD of Part IXA of the Constitution. As this amounts to a serious violation of Constitutional provisions, it is essential that DPCs be duly constituted in every district.

Few states have demonstrated adequate awareness of the centrality accorded by the Constitution to planning at the grass-roots level. “The preparation of plans for economic development and social justice” is the key functional obligation devolved on the panchayats/municipalities as “institutions of self-government” by Articles 243G and 243W respectively.

Such planning is required by the constitution at each level of the PRIs, including the village panchayat, intermediate panchayat, and district panchayat. Similarly, Nagar Panchayats and Municipalities must develop their own plans.

The DPC is required by Article 243ZD to undertake the “consolidation” of all these separate plans, of the panchayats and municipalities. The state authority will then be notified of the consolidated district plan. Consideration may be given to the convening of a general assembly of all panchayat/municipality representatives to endorse the plan consolidated by the DPC so as to strengthen the democratic credentials of the DPC plan for integration into the state plan.

Such detailed district planning according to the constitutional scheme is being undertaken virtually nowhere. A five-year road-map, with annual milestones, for effective participatory district planning in each state is thus an imperative need.

District plans are essential for effective state planning, just as state plans are crucial for national-level planning. Therefore, the national goal should be to ensure that the Eleventh Plan commencing in 2007 is firmly anchored in district plans prepared by the DPCs according to the constitutional mandate.

The Planning Commission, for its part, must recognize that it can and must play a crucial role in encouraging grassroots planning by insisting on the district plans component before sanctioning the annual state plans.

The constitutional mandate stipulates that planning by the elected local bodies shall be subject to such conditions as may be laid down by the state legislatures. States may please ensure that adequate legislative provision is made for effective district planning. Such legislative provision may pay particular attention to the requirements of “social justice” stipulated in the Constitution. This is essential to ensure that the weaker sections, including women, are fully benefited by and not discriminated against in the processes of grassroots planning.

Moreover, professionally qualified and experienced elements of the local community (serving and retired) should be mobilized and co-opted into rationally assessing and explaining the alternatives to the people to facilitate informed choice by the local community.

Each state may, in association with civil society representatives, make arrangements for launching such a people’s movement.

Implementation of programs:

Chairpersons of local bodies must act as chairpersons-in-council, requiring the consent of the panchayat/municipality's body for all decisions. To that end, not only must the elected local body as a whole, rather than just the chairperson, be the implementing authority, but the gram/ward/neighbourhood sabha must be deeply and continuously involved in the process as well. Concurrent social auditing is the most effective anti-corruption measure.

Que. Ward committees in urban local governance have remained mere paper tigers. The ideal of realizing effective people’s participation in collaboration with local functionaries is still in the pipeline. Evaluate the gap in theory and practice. (2020) (20M)

Parallel Bodies:

The practise of appointing bureaucrats or ministers as DPC chairpersons should be discouraged because it tends to turn DPCs into parallel bodies. Furthermore, because district plans, according to the Constitution (Articles 243G and W, respectively), must conform to the "conditions" stipulated by the state legislature and must, in any case, be submitted to the state authority, ministers and state governments should have their say in the state capital, not at the district level. Therefore, to ensure that DPCs reflect the consensus of the elected local bodies rather than perspectives imposed from outside, the chairpersonship of the DPC should invariably vest in the chairperson of the district panchayat chairperson.

Equally, planning mechanisms which second-guess or substitute the functions of the DPCs at the district level must be wound up forthwith as they are subversive of elected local bodies fulfilling their constitutional role as "institutions of local self-government.

Capacity-building and Training

In association with specialist academic institutions and experts, NGOs, and civil society in general, state governments need to embark on a sustained programme of capacity-building and training at all levels from the gram/mahila sabha and the elected local bodies (especially women and the weaker sections of society) to the DPCs and the bureaucracy at all levels, extending to MPs and MLAs, to optimize the working of Panchayati Raj to the benefit of all.

Distance education is especially important in training, and the multimedia programmes developed by the Indira Gandhi Open University deserve special attention. Indeed, electronic media is the single most cost-effective method of reaching a large number of people interested in the best available training talent in the state and country.

Jurisprudence:

The Constitution requires that existing legislation be reviewed to ensure that it does not conflict with the provisions of Parts IX and IXA of the Constitution. However, almost no state government has undertaken this task. It is recommended that the Law Commissions of the Centre and the States be asked to investigate the matter and that action be taken as soon as possible.

Impact of globalisation and decentralisation on Urban Local Governance in India

In India, the decentralisation initiative is frequently regarded as a process that was purposefully implemented as a result of a need arising from various local, political, and economic factors. Others see decentralisation as a natural

progression of the globalisation and liberalisation processes. Much of the literature on decentralisation is based on industrialised countries and assumes the existence of institutions that are usually very weak in developing countries.

The opening up of the Indian economy following the advent of globalisation has resulted in the creation of 'global cities.' For example, in 1991, three of the world's twenty largest cities were from India, and by 2001, six of the world's twenty largest cities were from India.

In 1991 there were 23 million plus cities in India and their number increased to 40 in 2001 and is expected to go up to 70 in 2021. In 1991 26% of the population was living in urban areas and has increased to 33% in 2001 and is expected to go up to 40% by 2021. These cities grew into industrial and economic powerhouses, as well as desirable destinations for foreign direct investment. It has become a significant challenge for civil agencies, particularly those in larger cities, to provide internationally competitive infrastructure in order to attract FDI flows.

As Indian markets are being opened to international markets decentralisation became inevitable to make the local bodies more accountable to the stakeholders. Larger cities became the hub of economic alacrity because they were able to provide basic infrastructure required for overall development. It has resulted in the need to dissolve power and authorities to the lower tier of the government i.e. municipal bodies to provide infrastructural facilities within city limits.

Decentralisation implies that the subnational units of government have the discretion available to them to engage in effective decision making affecting their area. It is a behavioural concept that can be affected by structural characteristics i.e. local government. Having a high degree of discretion can be considered decentralised despite lying in a highly centralized system.

Basic Characteristics of sustainable Urban Development:

- (1) Controlled population for whom adequate meaningful employment is available.
- (2) Efficient basic civic amenities and their management for a reasonably comfortable existence. For example, due to shortage of power more than 50% of power is illegally consumed resulting in corruption, financial losses and wastage of resources.
- (3) Efficient transport planning to reduce total vehicle miles driven in congested areas thus reducing pollution and emission of green-house gases.
- (4) Effective environmental infrastructure to address issues like polluted rivers, lakes and coastal zones threatening the quality of aquatic systems.

- (5) Efficient urban private sector which reduces poverty by generating jobs and facilitating economic growth.
- (6) Efficient health care system that would address issues of family planning and sanitation.
- (7) Citizens should be law abiding, conscious of their role and contribute to all aspects of growth.
- (8) Adequate government services which can meet the needs of population, community participation, sense of identity, sense of responsibilities, transparency and equity in local institutions.

Benefits of municipal bonds route:

Bonds provide more structuring flexibility to ULBs than bank loans due to longer tenures, annual interest payments, and fixed coupon rates.

In addition, the capital market has a large investor base and can be more competitive than bank borrowing.

The government's move to develop civic infrastructure across the country through the AMRUT (Atal Mission for Rejuvenation and Urban Transformation) and SMART City missions requires significant capital spending by ULBs. These will have to be paid for with market borrowings as well as government grants.

QUE. How do the Union Government policies on Smart and AMRUT Cities address the problems of management of urban development? Explain. (2015) (20M)

Global Local Debate:

Globalization is a continuous process, and there have been constructive discussions on the impact of globalisation, particularly in developing countries, since its inception.

- (1) Some argue that the process of globalisation is an inexorable integration of markets, nation states, and technologies; whereas others argue that it is a deliberate ideological project to assert market supremacy.
- (2) Some argue that globalisation heralds a new era of development and that global integration heralds the end of the nation state, whereas others strongly disagree, believing that globalisation is simply another form of capitalism.
- (3) Globalization would result in cultural integration by reducing differences between cultures. Global norms, ideas, and practises encroach on local cultures. It would result in 'cultural imperialism,' but some argue that rather than creating homogeneous cultures, globalisation would increase

heterogeneity. Intercultural interaction would result in the formation of new cultures as global norms and practises are integrated differently based on local traditions.

Global Vs Local Debate:

Global vs Local debate has resulted due to the emergence of globalization which is a mixture of Globalization and Localization. The term *gloocal* refers to individual group organization and community which is willing to think globally and act locally. The term has been used to show the human capacity to bridge the scale (from local to global) and to overcome traditional thinking processes. Traditional views on Globalization always treated it as a major threat facing developing nations but could never recognize its positive aspects. The process of glocalization helps in enhancing the capabilities of people at the ground level to maximise the benefits of Globalization.

New Localism, Participation and Networked Community Governance:

Effective local governance has a vital role to play in tackling social, economic and environmental problems. It calls for a new localism, a strategic approach to devolution- to allow local communities and governments to involve themselves in the decisions that affect their social, economic and political environment. In a global world where national governments still play an important role, a nested but powerful role for local governance remains the most appealing option.

New localism arose as people became more aware of the limitations of centrally-driven policy implementation. It entailed acknowledging that standardised approaches imposed from on high could not solve local problems, and that local agencies needed room to adapt and innovate within the policy framework.

An effective new localism when combined with a realised practice of public engagement and participation lays the foundations for a new form of networked community governance. This form of governance goes beyond traditional public administration and new public management-inspired forms of local governance to provide a focus for both integrated service and programme delivery and the capacity to engage and involve a large number of stakeholders in influencing policy.

Que. "The concept of 'new localism' is related to the emerging nature of the relationship between the State Governments and local government bodies." Explain. (2016) (10M)

New localism and 'old localism':

As a result, new localism is distinguished by a cautious devolution of power to the local level in an attempt to better implement national goals.

It emphasises managerial power devolution over political power devolution; the goal is to allow local managers to meet national priorities more effectively, rather than to allow local politicians to deviate from national goals.

New localism differs from the implicit 'old localism' in two important senses. First, it accepts the role of the central government in driving change at the local level, something that the localists of the 1980s strongly resisted. Second, it does not center on the role of the local authority, but takes a wider view of the locality that includes communities and other public service organizations such as health and police services.

1. New Localism: an emerging governance principle

Within an agreed framework of national minimum standards and policy priorities, New Localism can be defined as a strategy aimed at devolving power and resources away from central control and towards front-line managers, local democratic structures, and local consumers and communities.

In summary, it is a practical response to a significant practical challenge: how to manage a wide range of state service provision and interventions in a world that defies the application of simple rule-driven solutions and where the recipient of the service must be actively engaged if the intervention is to be effective. Building a road or providing electricity are both tasks that necessitate a level of state capacity in order to create a better environment for citizens. Creating the conditions for a damaged child or community to reach their full potential necessitates a slightly different and more subtle capacity.

The case for New Localism is based on three points. For starters, it is a reasonable response to the complexities of modern governance. Second, it addresses the need for a more engaging form of democracy that is appropriate for the twenty-first century. Third, New Localism fosters the dimensions of trust, empathy, and social capital, and thus promotes civil renewal. The case for New Localism is based on concerns that local decision-making is either failing or leading to more inequitable outcomes. These arguments for and against New Localism will be discussed in greater detail below.

Complexity:

There are few problems that communities face today that have simple solutions. Protecting the environment, building a strong economy, maintaining healthy communities, and assisting in the prevention of crime all necessitate a complex set of actions from people and organisations at various spatial and sectoral

levels. It would be nice to argue that we should abandon complexity in favour of simplicity. That may be true in a self-help book, but when it comes to running a modern society's business, the allure of simplicity is deceptive. As the saying goes, "there is a simple answer to every complex problem, and it is always wrong."

New Localism is appealing because we can only hope to meet the challenge posed by these complexities by allowing for local capacity building and the development of local solutions within the context of a national framework. Networked community governance is the solution to complexity because it is only through this approach that local knowledge and action can be linked to a larger network of support and learning. This allows us to create solutions for a wide range of diverse and complex circumstances.

Democracy: Engaging Participants

To commit to New Localism means recognising that conventional understandings of democracy are valuable but limited. We can agree that several of the features of the conventional vision of democracy remain essential: the protection of fundamental citizen rights and freedom of organisation and assembly for groups and individuals. But we need different answers to two fundamental questions: what are the building blocks of democracy and what is the nature of accountability.

The conventional answer to these two questions sees the nation state, national assemblies and central government as the ultimate and indeed prime building blocks of democracy and accountability as led by elected representatives being held to account by their electorates. This top down view of democracy is not appropriate when we think about making democracy work in our complex societies.

New Localism draws in broad terms from the ideas of associative democracy advocated by the late Paul Hirst.

- First, democracy must have a strong local dimension; the nation state is not the core institution of democracy. Democracy comes to life when it is practised at the local, regional, and international levels, as well as at the level of the nation state. Furthermore, the central government should be an enabler, regulator, and perhaps a standard setter, rather than a direct provider or the level for making decisions about detailed directions or the substance of services.
- Second, that provision itself must be plural through a variety of organisations and associations, so that ordinary citizens can participate in service decisions and assess the capacity of various institutions to deliver.

Third, democracy can be organised in both functional and territorial ways.

- Finally, in this understanding of democracy, accountability is viewed as a more complex process. The right of the electorate to choose their representatives is still important, but people should have more opportunities to engage in direct discussions with service providers and judge their performance. In short, accountability entails providing reasons, questioning, and a continuous exchange between the provider and the relevant public. In terms of minimum standards, service providers will also be held accountable to the centre. Multiple and overlapping lines of accountability exist.

Addressing Competence and Equity Concerns:

There are two common grounds for objecting to local decision-making.

- One school of thought holds that community perspectives are inherently limited and limiting. The danger of too much local decision-making is that it exposes too many decisions to the narrow-minded concerns of individuals and threatens the ideas and practise of a broader welfare politics. Behind the romantic notions of community is a real world of insular, "not in my back yard" politics. Most forms of progressive politics, it is argued, require a larger canvas than local politics can provide.
- The second objection is that if the problems faced by communities are to be addressed, interventions to address the inequalities faced by specific communities are required. To address inequality, national or even international intervention is required, and expanding the scope for local decision-making only serves to exacerbate or even reinforce existing inequalities. Rich areas will remain rich, while poor areas will be allowed to spend non-existent resources on addressing the problems they experience.

New Localism must be understood in the context of national framework creation and funding. Indeed, the localism advocated is part of a larger multi-level governance system. Furthermore, nothing in New Localism implies that it simply assumes that local politics is free of the tensions that characterise politics at other levels.

Conflicts between interests, and the resolution of those conflicts, continue to be at the heart of politics, no matter where it is practised. Localism does not imply a romantic faith in communities to solve problems for the common good. It is also not incompatible with the redistribution of resources provided by higher levels of government.

The New Localism argument is one for a shift in the balance of governance, one that allows for more scope for local decision making and communities. It is based on the idea that involving people in the difficult, rationing choices of politics in the context of a shared sense of citizenship leads to a more mature and sustainable democracy. It is also based on the notion that addressing the challenge of equity does not imply treating all communities or individuals the same way, but rather entails tailoring solutions to specific needs. That proposition would be widely accepted, and localism can help ensure that the tailoring process is successful and responsive to local needs and circumstances.

Que. The concept of new localism arrangement may defeat the very purpose of local self-governance. Do you agree? Justify. (2019) (10M)

Summary and review:

The complexity of what the modern state is attempting to achieve, the need for a more engaging form of politics, and an acknowledgement of the importance of issues of empathy and feelings of involvement in enabling social and political mobilisation all make the case for a New Localism, because some of these challenges can best be met at the local level. The point isn't that all social and political action and decision-making should be done locally, but that more of it should be.

The vision of New Localism must be carefully defined so that it recognises community diversity and is concerned with equity issues. The case is not for a romantic return to community decision-making or for a rampant 'beggar by neighbour' localism. It is about a critical and expanding role for local involvement in decision-making about public services and the public realm as part of a larger multi-level governance system.

The following measures must be implemented to ensure that sustainable development occurs within urban local governments.

- (i) In order to ensure their effective participation, these forms of Government cannot be suspended by the state governments at their own will and to ensure inclusive development and women participation, women should be given 1/3rd reservation in district councils.
- (ii) State level finance commission should be granted more powers to recommend for developmental finances to Local Self Government.
- (iii) A Prospective plan for a period of 25 years should be prepared by the state government and should be implemented through Urban Local bodies.
- (iv) People's participation in policy formulation should be encouraged at the local level to ensure transparency in administration.

- (v) Control of elected representatives over employees of local bodies by clearly defining local bodies' roles and powers. It should also make the flow of funds to local governments easier and faster.
- (vi) Allocation of funds by the center to the state government should be conditioned upon the performance of the state in implementing the provisions of the 74th Amendment.
- (vii) Developing guidelines for states to assist cities in levying taxes, charging user fees, borrowing funds, and incurring expenditure.
- (viii) Facilitating necessary municipal reforms in order for municipal bodies to raise the necessary funds.
- (ix) Raising awareness among all segments of the community about the importance of active citizen participation.
- (x) Local governments should have their own laws, rules, and regulations in order to effectively implement local projects.
- (xi) Promoting Public Private Partnership at local level as a single agency or government is not in a position to effectively address the issues of poverty.
- (xii) To ensure transparency in administration, laws, rules, and procedures must be simplified so that the average person can understand them.
- (xiii) Improving efficiency of local bodies through enhanced technical, administrative and financial capabilities. Development of appropriate municipal information systems for the people to conduct the process of governance at the local level.
- (xiv) Computerization of various departments of local bodies and usage of geographical information systems for better decision making.
- (xv) Assessment of the training requirements of those involved in urban administration.
- (xvi) Creation of an interactive platform for municipal administration to share municipal innovation and experience.

The problems and challenges that humanity faces are global in nature, but they must be addressed on a local level. To combat the problems of environmental degradation, poverty, and unemployment, it was suggested that stakeholders be involved at the grass roots level and that governance be prioritised. Involvement of the community in decision-making powers can only provide effective solutions to urban problems. The concept of new localism should be used to delink politics from administration in urban areas.

Techniques of New Public Management should be used at the local level to increase efficiency while also ensuring administration accountability to stakeholders. Governance should include, in addition to traditional institutions under Local Self Government, Non-Governmental Organisations (NGOs), civil society, user groups, pressure groups, and the people themselves. Participatory

management of the local level can only provide effective solutions to the challenges of administration of urban bodies at the local level.

SMART CITIES

Smart Cities Mission was launched by the Hon' Prime Minister on 25th June, 2015. The main objective of the Mission is to promote cities that provide core infrastructure, clean and sustainable environment and give a decent quality of life to their citizens through the application of 'smart solutions'. The Mission aims to drive economic growth and improve quality of life through comprehensive work on social, economic, physical and institutional pillars of the city. The focus is on sustainable and inclusive development by creation of replicable models which act as lighthouses to other aspiring cities. 100 cities have been selected to be developed as Smart Cities through a two-stage competition.

The purpose of the Smart Cities Mission is to drive economic growth and improve the quality of life of people by enabling local area development and harnessing technology, especially technology that leads to Smart outcomes.

National Smart Cities Mission is an urban renewal and retrofitting program by the Government of India with the mission to develop smart cities across the country, making them citizen friendly and sustainable. The Union Ministry of Urban Development is responsible for implementing the mission in collaboration with the state governments of the respective cities. The mission initially included 100 cities, with the deadline for completion of the projects set between 2019 and 2023. The effective combined completion of all projects as of 2019 is at 11%.

The Mission is operated as a Centrally Sponsored Scheme. Central Government will give financial support to the extent of Rs. 48,000 crores over 5 years i.e. on an average Rs.100 crore per city per year. An equal amount on a matching basis is to be provided by the State/ULB. Additional resources are to be raised through convergence, from ULBs' own funds, grants under Finance Commission, innovative finance mechanisms such as Municipal Bonds, other government programs and borrowings. Emphasis has been given on the participation of private sector through Public Private Partnerships (PPP). Citizens' aspirations were captured in the Smart City Proposals (SCPs) prepared by the selected cities. Aggregated at the national level, these proposals contained more than 5,000 projects worth over Rs. 2,00,000 crores, of which 45 percent is to be funded through Mission grants, 21 percent through convergence, 21 percent through PPP and rest from other sources.

Smart Cities Mission envisions developing an area within the cities in the country as model areas based on an area development plan, which is expected to have a rub-off effect on other parts of the city, and nearby cities and towns. Cities will be selected based on the Smart Cities challenge, where cities will compete in a countrywide competition to obtain the benefits from this mission. As of January 2018, 99 cities have been selected to be upgraded as part of the Smart Cities Mission after they defeated other cities in the challenge.

It is a five-year program in which, except for West Bengal, all of the Indian states and Union territories are participating by nominating at least one city for the Smart Cities challenge. Financial aid will be given by the central and state governments between 2017–2022 to the cities, and the mission will start showing results from 2022 onwards.

Each city will create a Special Purpose Vehicle (SPV), headed by a full-time CEO, to implement the Smart Cities Mission. Centre and state government will provide ₹1,000 crore (US\$130 million) funding to the company, as equal contribution of ₹500 crore (US\$66 million) each. The company has to raise additional funds from the financial markets.

In the 2014 Union budget of India, Finance Minister Arun Jaitley allocated ₹7,016 crore (US\$930 million) for the 150 smart cities. However, only ₹924 crore (US\$120 million) of the allocated amount could be spent until February 2015. Hence, the 2015 Union budget of India allocated only ₹143 crore (US\$19 million) for the project.

The first batch of 20 cities was selected. Known as 20 Lighthouse Cities in the first round of the All India City Challenge competition, they will be provided with central assistance of ₹200 crore (US\$27 million) each during this financial year followed by ₹100 crore (US\$13 million) per year during the next three years. The Urban Development Ministry had earlier released ₹2 crore (US\$270,000) each to mission cities for preparation of Smart City Plans.

The Ministry of Urban Development (MoUD) program used a competition-based method as a means for selecting cities for funding, based on an area-based development strategy. Cities competed at the state level with other cities within the state. Then the state-level winner competed at the national level Smart City Challenge. Cities obtaining the highest marks in a particular round were chosen to be part of the mission.

The state governments were asked to nominate potential cities based on state-level competition, with overall cities across India limited to 100. In August 2015 the Ministry of Urban Development released the list of 98 nominees sent in by state governments.

Objectives

1. The objective is to integrate city functions, utilize scarce resources more efficiently, and improve the quality of life of citizens.
2. To improve safety and security
3. To improve the efficiencies of municipal services.
4. The use of Information and Communications Technology (ICT) is at the core of enhancing the city's liveability, workability, and sustainability.
5. The Ministry of Urban Development has identified 24 key areas that cities must address in their 'smart cities' plan.
6. Of these 24 key areas, 3 are directly related to water and 7 are indirectly related to water – Smart-metre management, leakage identification, preventive maintenance, and water quality modeling.
7. Smart Cities Mission is one of the mechanisms that will help operationalize the nationwide implementation of the Sustainable Development Goals (SDG) priorities like poverty alleviation, employment, and other basic services.

To mark the sixth anniversary of the Smart Cities Mission (SCM) and other urban transformation missions, a virtual event was organized by the Ministry of Housing and Urban Affairs (MoHUA) on June 25, 2021. The date also marked the 45 years of establishment of the National Institute of Urban Affairs, an autonomous body of MoHUA, tasked to bridge the gap between research and practice on issues related to urbanization.

Winners for Smart Cities India Awards 2020 were also announced on June 25, 2021. Indore and Surat together were named the smartest cities. All government exam aspirants can visit the linked article and get the detailed list of state/UT-wise and theme-wise winners.

Out of the 100 municipalities in the Smart Cities Mission, the ICCCs of 45 cities are online or operational. As Covid-19 war rooms, the ICCCs implemented initiatives such as:

- CCTV surveillance of public places.
- GIS mapping of Covid-positive cases.
- GPS tracking of healthcare workers
- Predictive analytics (heat maps) for virus containment across different zones of the city.
- Virtual training to doctors and healthcare professionals.
- Real-time tracking of ambulances and disinfection services.
- Providing medical services through video-conferencing, telecounseling, and telemedicine.

Atal Mission for Rejuvenation and Urban Transformation (AMRUT)

Providing basic services (e.g. water supply, sewerage, urban transport) to households and build amenities in cities which will improve the quality of life for all, especially the poor and the disadvantaged is a national priority.

The purpose of Atal Mission for Rejuvenation and Urban Transformation (AMRUT) is to

- Ensure that every household has access to a tap with the assured supply of water and a sewerage connection.
- Increase the amenity value of cities by developing greenery and well maintained open spaces (e.g. parks) and
- Reduce pollution by switching to public transport or constructing facilities for non-motorized transport (e.g. walking and cycling). All these outcomes are valued by citizens, particularly women, and indicators and standards have been prescribed by the Ministry of Housing and Urban Affairs (MoHUA) in the form of Service Level Benchmarks (SLBs).

The Priority zone of the Mission is water supply followed by sewerage.

However, the pursuit of better outcomes will not stop with the provision of taps and sewerage connections to all (universal coverage). Other benchmarks will be targeted following a step-by-step process after achieving the benchmark of universal coverage. Such a gradual process of achieving benchmarks is called “incrementalism”. This does not mean that other SLBs are less important, but that in the incremental process SLBs are achieved gradually according to National Priorities. In the case of urban transport the benchmark will be to reduce pollution in cities while construction and maintenance of storm water drains are expected to reduce, and ultimately eliminate, flooding in cities, thereby making cities resilient.

Earlier, the MoHUA used to give project-by-project sanctions. In the AMRUT this has been replaced by approval of the State Annual Action Plan once a year by the MoHUA and the States have to give project sanctions and approval at their end. In this way, the AMRUT makes States equal partners in planning and implementation of projects, thus actualizing the spirit of cooperative federalism. A sound institutional structure is a foundation to make Missions successful. Therefore, Capacity Building and a set of Reforms have been included in the Mission. Reforms will lead to improvement in service delivery, mobilization of resources and making municipal functioning more transparent and functionaries more accountable, while Capacity Building will empower municipal functionaries and lead to timely completion of projects.

Mission Components

The components of the AMRUT consist of capacity building, reform implementation, water supply, sewerage and septage management, storm water drainage, urban transport and development of green spaces and parks. During

the process of planning, the Urban Local Bodies (ULBs) will strive to include some smart features in the physical infrastructure components. The details of the Mission components are given below.

Water Supply

Water supply systems including augmentation of existing water supply, water treatment plants and universal metering.

- Rehabilitation of old water supply systems, including treatment plants.
 - Rejuvenation of water bodies specifically for drinking water supply and recharging of ground water.
 - Special water supply arrangement for difficult areas, hill and coastal cities, including those having water quality problems (e.g. arsenic, fluoride)
- Sewage**
- Decentralised, networked underground sewerage systems, including augmentation of existing sewerage systems and sewage treatment plants.
 - Rehabilitation of old sewerage system and treatment plants.
 - Recycling of water for beneficial purposes and reuse of wastewater.

Strom water Drainage

Construction and improvement of drains and storm water drains in order to reduce and eliminate flooding.

Urban Transport

- Footpaths/ walkways, sidewalks, foot over-bridges and facilities for non-motorised transport (e.g. bicycles).
- Multi-level parking.

About Reforms

Besides creating infrastructure for basic amenities, Mission also focuses on Reforms and capacity building of the ULBs. The reforms aim at improving delivery of citizen services, bringing down the cost of delivery, improving financial health, augmenting resources and enhancing transparency. The Mission sets aside 10% of annual budgetary allocation to be given away as incentive to States/UTs for accomplishing the reforms within specified timelines.

The Capacity Building is being focused at improving the capabilities of cities to deliver the citizen services and to improve the health of ULBs.

The key expected outcomes under Reform agenda are:

- Energy efficient LED street lights in cities.
- Energy audit of water pumps followed by replacement of inefficient pumps.
- Conducting credit ratings and issuance of Municipal Bonds.
- Reuse of treated waste water.
- Single Window Clearance System for Construction Permits.
- Capacity building.

The reform agenda is spread over a set of 11 reforms comprising 54 milestones to be achieved by the States/ UTs over a period of four years. These reforms broadly cover offering online services to citizens, establishing single window for all approvals, establishing municipal cadre, achieving at least 90% of billing and collection of taxes/user charges, developing at least one park for children every year, establishing maintenance system for parks and play grounds, credit rating, implementing model building bye-laws etc.

Implementation Status of Reforms Under AMRUT

- Credit Rating & Municipal Bond: Credit rating work for 485 cities have been awarded and completed in 468 cities. Out of 468 cities, 163 cities have received Investible Grade Rating (IGR), including 36 cities with rating of A- and above.
- Energy audit of water pumps: Field survey for energy audit has been completed in 413 cities and energy audit has been completed in 358 cities. 11,100 water pumps have been identified for replacement with energy efficiency pumps.
- Replacement of streetlights with LED lights: 62.8 lakh streetlights have been replaced with LED lights out of targeted 97.9 lakh light. This is estimated to save 137.5 crore units of energy per year and reduce 11 lakh tonnes of CO₂ emission per year.
- Online Building Permission System (OBPS): OBPS has been made operational in 1,705 cities across the country including 439 AMRUT cities.
- Capacity building: Surpassing the target of 45,000 functionaries, 52,327 functionaries and elected representatives across the country have been trained so far.
- Rs.3,390 crore had been raised through Municipal Bonds during 2018-19 for upgrading urban infrastructure by 8 Mission cities (Ahmedabad, Amaravati, Bhopal, Hyderabad, Indore, Pune, Surat and Vishakhapatnam). Cities had been awarded an incentive upto Rs.26 crore (at Rs.13 crore per Rs.100 crore) for issuing municipal bonds.

Shyama Prasad Mukherji Rurban Mission (SPMRM)

As per Census of India statistics, the rural population in India, stands at 833 million, constituting almost 68% of the total population. Further, the rural population has shown a growth of 12% and an increase in the absolute number of villages by 2279 units during the 2001-2011 period.

Large parts of rural areas in the country are not stand-alone settlements but part of a cluster of settlements, which are relatively proximate to each other. These clusters typically illustrate potential for growth, have economic drivers and derive locational and competitive advantages. These clusters once developed can then be classified as 'Rurban'. Hence taking cognizance of this, the Government of India has proposed the Shyama Prasad Mukherji Rurban

Mission (SPMRM), aimed at developing such rural areas by provisioning of economic, social and physical infrastructure facilities.

Taking also into view, the advantages of clusters, both from an economic view point as well as to optimize benefits of infrastructure provision, the Mission aims at development of 300 Rurban clusters, in the next five years. These clusters would be strengthened with the required amenities, for which it is proposed that resources be mobilized through convergence of various schemes of the Government, over and above which a Critical Gap Funding (CGF) would be provided under this Mission, for focused development of these clusters.

Mission's Vision

The Shyama Prasad Mukherji Rurban Mission (SPMRM) follows the vision of "Development of a cluster of villages that preserve and nurture the essence of rural community life with focus on equity and inclusiveness without compromising with the facilities perceived to be essentially urban in nature, thus creating a cluster of "Rurban Villages".

Mission's Objective

The objective of the Shyama Prasad Mukherji Rurban Mission (SPMRM) is to stimulate local economic development, enhance basic services, and create well planned Rurban clusters.

Mission's Outcomes

The larger outcomes envisaged under this Mission are: i. Bridging the rural-urban divide-viz: economic, technological and those related to facilities and services. ii. Stimulating local economic development with emphasis on reduction of poverty and unemployment in rural areas. iii. Spreading development in the region. iv. Attracting investment in rural areas.

Que. "Development management advocates self-sustaining customer-friendly institutions at the district level." Comment.(2018)(10M)

Model Answers

Que 1. "Neighbourhood management provides an appropriate global strategy of dealing with social exclusion in the urban development scenario." Comment. (2018) (10M)

Neighbourhood Management is a relatively new approach to improving Public Services. Neighbourhood management is the local organization & delivery of core urban services within a small built up area. The concept was introduced by Anne Power and Emmet Bergin.

Social exclusion in urban development is increasing due to:

- Modern society is increasingly mobile, urbanized and cosmopolitan. This makes neighborhoods more transient.
- Neighborhoods are getting complex, fragmented and polarized. This leads to creations of “poor” and “rich” neighborhoods. This is accompanied by ghettoization and slums. The “rich” neighborhoods are often associated with high property values and greater access to governmental services.
- There is more fear of strangers, more insecurity & fewer levels of control due to the floating population.

These create a perception of social exclusion in urban society, as those in the poorer neighbourhoods receive lesser attention and it perpetuates the cycle of inequality and exclusion.

Neighbourhood management can be used to address these problems as it leverages the ”neighbourhood” as the unit of service delivery. People connect with their neighbours in many, often unspoken ways – security, cleanliness, the environment, social behaviour, networks and conditions, nuisance control, shops, etc. These people can mobilize and ensure that their neighbourhood is not deprived of the basic services like cleanliness and sanitation and supplement the activities of urban Local Bodies. The neighbourhood management units could be Resident Welfare Associations, Local committees, etc.

Moreover, as neighbourhood units are closer to people and more readily accessible, they can be far more responsive to people’s needs. This creates a greater sense of community and tackles exclusion. It is a global strategy in that it allows for accommodating the unique problems in all areas.

Power and Bergin recommend that neighbourhood management units provide certain core services such as:

- Security, nuisance control, and general supervision.
- Environmental maintenance and public-area damage repair.
- Street cleaning, refuse collection, and rubbish removal.
- Community liaison, contact, consultation, and support.
- Coordination of specific services coming into the neighbourhood – co-ordination of inputs to maximize benefits and minimise waste and overlap – this includes housing, repairs, health, education, policing, leisure, regeneration, social services.
- Links with local business activities.
- Links with wider and central services that are required for the successful functioning of the neighbourhood. For example, adult education, job centers, and libraries.
- The promotion of local initiatives, special projects and new ideas.

- Coordination with and support for local voluntary groups.

Power and Bergin have said the lessons from neighbourhood management include:

- They show the potential for the sound management of difficult neighborhoods.
- They illustrate the real costs of neighbourhood management and the potential for much greater ground level staff inputs under that structure. They illustrate the different elements of neighbourhood management.
- They draw in and work with other services. The housing experiments have not stopped at housing management but have spread into a large range of other services

Limitations of neighbourhood management include:

- It is hard to measure the direct impact of neighbourhood management on jobs, health, education, and crime without much more detailed research, since they act in a larger political and administrative environment.
- Mobilizing funds for neighbourhood management will be a challenge.
- Issues of coordination with higher tiers of administration.

Thus, neighbourhood Management is an example of neolocalism which promotes bottom-up development and co-operation with other local bodies. It is the embodiment of “think global act local”.

Que. 2 “Bureaucracy has to make a balance the need for environmental sustainability and developmental imperatives.” Discuss. (2017) (20M)

Development is a multi-faceted concept indicating qualitative improvement in the well-being of individuals, society or a nation. It is an aspect of change that is desirable and administered or at least influenced by the Government of a nation.

The rise of Development Administration perspective in the 50s has mainstreamed development as the goal of governments. The Human Development Index (HDI) by UNDP is the most widely used indicator to decide developmental imperatives. It consists of:-

- Health (measured by lifespan),
- Education (years of schooling) and
- quality of life (measured by Gross national income)

Other developmental imperatives include –reduction of inequality, Enhancing social capital, promoting stability and peace. However, the term “development” is largely used to refer to the “economic” aspects.

Developmental imperatives	impact on Environmental sustainability
• Industrialization	• Burning of fossil fuels, mining,

<ul style="list-style-type: none"> • Modern agriculture • Construction of roads, buildings, dams. • Increasing usage of vehicles, air connectivity • Medical research and manufacturing • Nuclear research 	<ul style="list-style-type: none"> pollution • Soil salinization, exhaustion of aquifers • Erosion, submergence, habitat loss • Ever increasing emission of Carbon and greenhouse gases • Water Pollution, zoonoses, etc.
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Why development.

- Development and economic growth is the only way to ensure poverty eradication.
- Development is the only way for developing nations to seek parity in the world order with the hegemonic powers.

Thus, developmental initiatives are pursued by developing countries, in the form of promotion of Industrialization, Infrastructure creation for connectivity, Human resource development, use of chemical inputs to enhance productivity.

This means that the developmental imperatives result in mining, burning of fossil fuels, and other activities that negatively impact the environment

Why do bureaucrats need to balance environmental sustainability with developmental imperatives?

- Since the rise of the Development Administration perspective, bureaucracy has emerged as the instrument of development, especially in developing nations such as India.
- Environmental degradation directly impacts productivity in a nation. Eg: Soil salinization in Northwest India due to excess irrigation is reducing agricultural productivity in the region
- Absence of environmental sustainability can undo the developmental efforts. Eg: Recent Uttarakhand Glacial burst.
- In absence of environmental sustainability, economic development can lead to increasing inequality and trigger conflict. For example, the emerging issue of climate refugees due to global warming and sea level rise.
- Environmental sustainability can be the catalyst for innovation and promote the knowledge economy. For example, Creation of smoke free Chulhas.
- Addressing environmental imperatives can help make development truly inclusive Eg: Including marginalized sections such as tribal in the developmental process is better done through schemes like Joint Forest management, rather than large dams which lead to displacement and feed negative forces like Left wing extremism.

How to balance?

- “Development” should be approached holistically instead of focusing excessively on economic aspects. This would mean that environmental concerns are mainstreamed into every stage of decision making, via process like Environmental Impact Assessment (EIA)
- Adoption of global best practices and standards by administration. For example, Adoption of BS- VI standards, BEE star ratings, promotion of RoHS standards, use of carbon trading, carbon taxes, etc.
- Promoting innovation and change. For example, schemes like FAME for promoting Electric vehicles.

The COVID crisis has exposed the risks that activities such as deforestation associated with development can massively impact lives and livelihoods throughout the world. While bureaucracy has successfully transformed itself from traditional administration to development administration, the meaning of development itself has to be further modified to include environmental concerns, so that development remains rooted, empathetic and fruitful.

Chapter 13- Law and Order Administration

Syllabus: British legacy; National Police Commission; Investigative agencies; Role of central and state agencies including paramilitary forces in maintenance of law and order and countering insurgency and terrorism; Criminalization of politics and administration; Police- public relations; Reforms in Police.

Introduction:

- Administration of Law and Order is an essential function performed by any Government. The survival of administration depends on the maintenance of law and order within the country. In the Indian context, the states, under the federal Constitution, are responsible for maintaining public order. The role of the union government is merely advisory and coordinating.
- However, article 257 of the Constitution authorizes the central Government, at the request of a state government, to deploy its own security forces to maintain law and order within that State. It is in addition to the power of the union government to issue such directions or give such instruction to a state government as may appear to it to be necessary for the purpose.

- Historically the primary problem before any administration in India has always been maintaining peace and law and order. Given the prevailing atmosphere of violence in the country, attention to law and order is called for. Unfortunately, the function of law and order is being relegated to a secondary position by prioritizing development. However, man must live before he can develop.

Law and Order Machinery at the Union Level:

- The Constitution of India has mandated 'Police' and 'Public Order' to be State subjects. There are specific provisions in the Constitution, which empower the Central Government to intervene in some situations or perform particular functions in police matters. The Centre must protect the states against internal disturbances and ensure that every State's governance is carried on by the provisions of the Constitution (Article 355).
- As per List I of the 7th Schedule, the Parliament has exclusive powers to make laws concerning:
 - The armed forces of the Union, which also includes the Central Para-Military Forces (Entry 2A);
 - The Central Bureau of Intelligence and Investigation (Entry 8);
 - The Union agencies and institutions for the training of police officers, promotion of special studies or research in scientific and technical assistance in the investigation or detection of crime (Entry 65);
 - All-India Services (Entry 70); and
 - Extension of powers and jurisdiction of members of one state police force to another with consent of that State or outside railway areas (Entry 80).

Que. Even though the law and order administration is a State subject, it is paradoxical that the Central agencies- NIA or paramilitary forces under the Union Government have restricted the powers of State Governments. Discuss (2019) (20M)

Que. Given the contemporary internal scenario, should "law and order" be made a part of the Concurrent List of the Constitution of India? Justify your opinion (2017) (20M)

Union Ministry of Home Affairs:

- The Union Ministry of Home Affairs controls the nationwide Indian Police Service, most paramilitary forces, and the internal intelligence bureaus. The Police are a civil authority subordinate to the Executive,

represented in the Union Government by the Prime Minister and the States by the Chief Minister and their respective Councils of Ministers. Prominent among the Union police forces are the Central Bureau of Investigation (CBI), Border Security Force (BSF), Central Reserve Police Force (CRPF), Central Industrial Security Force (CISF) and the Indo-Tibetan Border Police (ITBP). Each of these forces is headed by a Director/Director-General with a three-star General in the Army.

- The CBI is controlled by the Department of Personnel of the Union Government headed by a Minister of State who reports to the Prime Minister. The other forces are controlled by the Union Ministry of Home Affairs headed by a Cabinet Minister.

Que. Do you think that the Central paramilitary police forces have proven more effective than the State police service? Give your answer objectively in a critical vein. (2014) (10M)

- The rapid growth of the intelligence bureaus and the increased use of paramilitary forces against separatist insurgencies and communal unrest has given the MHA increasing control over law and order operations.
- Centrally controlled paramilitary forces are deployed throughout India. They have been responsible for significant human rights abuses in Jammu, Kashmir, and the northeast. Such abuses ultimately raise questions about the effectiveness of civilian oversight and the extent of the Government's willingness and ability to prosecute offenders vigorously. Army units are also deployed for internal security duty in Kashmir and the northeast and generally show more tremendous respect for human rights than the paramilitary forces. However, they have also been responsible for some abuses.
- The Union Ministry of Home Affairs controls most of the paramilitary forces, intelligence bureaus, and the nationwide police service; it provides training for senior police officers of the state-organized police forces. The armed forces are under civilian control. Security forces have committed significant human rights abuses, particularly in Jammu and Kashmir and north-eastern states.
- Today, the Central Police organization includes the Assam Rifles, Border Security Force, Central Reserve Police Force, Central Industrial Security Force, Rapid Action Force, and Indo-Tibetan Police Force. In addition, there exist several Bureaus like the National Crime Records Bureau, Bureau of Police Research and Development, which looks after research, development, training and has several Forensic Science Laboratories. Moreover, India is a permanent member of the International Police

Organisation (INTERPOL) and has actively participated in various conferences, symposia and meetings. India is also a member of Interpol's 13 member executive committee.

Que. What factors have led to the expansion of the role of the Ministry of Home Affairs? How can it coordinate its affairs more effectively with the Ministry of Defence? (2016) (20M)

Centre's Role in Policing:

- recruitment and management of the Indian Police Service;
- operation of the Intelligence Bureau, Central Bureau of Investigation and other Central Police Organisations;
- raising, maintaining and deploying Central Para-Military Forces to assist the civil Police;
- maintaining a Directorate of Coordination of Police Wireless to provide an independent channel of communication to police forces in the country and a National Crime Records Bureau to ensure computerization of police forces;
- establishing and maintaining institutions of research, training and rendering of scientific aids to the investigation;
- enacting laws for the effective functioning of the criminal justice system in the country;
- rendering advice and assistance to the state governments in dealing with crime, law and order and other matters;
- coordinating the activities of various state police organizations; and
- Providing financial assistance for the modernization of State Police Forces.

Indian Police Service:

- At Independence, India inherited two All India Services from the British – the Indian Civil Service (ICS) and the Indian Police (IP).
- These were subsequently renamed the Indian Administrative Service (IAS) and the Indian Police Service (IPS). These services were constituted under Article 312 of the Constitution of India, and legislation was framed to govern them.
- The Central Government recruits officers to the IPS based on a competitive examination annually conducted by the Union Public Service Commission.
- Depending on the vacancies available, the number of officers selected for the IPS varies every year, with the average intake at approximately 65 each year.
- After selection, the officers receive their professional training in the National Police Academy, Hyderabad.
- The IPS cadre is controlled by the Ministry of Home Affairs of the Government of India. The officers selected to the IPS are allotted to the various state cadres.
- They join as Assistant Superintendents of Police and remain on probation for two years. They are confirmed as Assistant Superintendents of Police. The IPS

officers are in the senior posts in the police forces of all States/Union Territories and Central Police Organisations.

- All matters relating to postings, transfers or promotions of IPS officers in the states are handled exclusively by the State governments. At the same time, similar administrative control is exercised by the Central Government in respect to officers working under the Central Government. An IPS officer can be removed or dismissed from service only by the central Government.

Central Police Organisations (CPOs):

- The Central Government has established several police organizations known as the Central Police Organisations (CPOs). Police organizations, also known as Central Paramilitary Forces (CPMFs), like the Assam Rifles, Border Security Force, Central Industrial Security Force, Central Reserve Police Force, Indo-Tibetan Border Police and the National Security Guards.
- The other group includes organizations like the Bureau of Police Research and Development, Central Bureau of Investigation (CBI), Directorate of Coordination of Police Wireless (DCPW), Intelligence Bureau (IB), National Crime Records Bureau (NCRB), National Institute of Criminology and Forensic Science (NICFS), and the National Police Academy (NPA). A Brief description of these organizations is given below:

Central Armed Police Forces (CPMFs):

Assam Rifles:

- Assam Rifles is the oldest of all the Central Para-Military Forces. Presently, it is headed by a Director General, an officer of Lt. General from the Army. Though the organization has a cadre of its officers, yet most senior positions are filled by taking officers on deputation from the Army. The Force functioned under the control of the Ministry of External Affairs till 1965. Its control was then transferred to the Ministry of Home Affairs and had since been functioning under that Ministry. The Assam Rifles Act, 1941, presently governs the Force.

Border Security Force (BSF):

- Before the Indo-Pak war of 1965, maintaining security on the Indo-Pak border was the responsibility of Armed Police Forces of the concerned States. The 1965 war led the Government of India to recognize the need to set up a specialized force to maintain security on the Indo-Pak border. This led to the establishment of the BSF on December 1, 1965. All the twenty five and a half State Armed Police Battalions posted on the Indo-Pak border at that time were merged into this Force. Increasing security concerns in the area have since led to consistent and considerable expansion of the Force. The Force is governed by the Border Security Forces Act, passed by the Parliament in 1968 and on June 9, 1969.

Central Industrial Security Force (CISF):

- The CISF was set up through an Act of Parliament (Central Industrial Force Act, 1968) to provide security to public sector undertakings. It was made an armed force of the Union subsequently in 1983. The concerned public sector undertakings bear the expenses of the CISF personnel deployed for their security. The Force is also deployed in States/ Union Territories to help them maintain public order.

Central Reserve Police Force (CRPF):

- This Force was formed in 1939 and earlier known as the Crown Representative Police and was utilized to maintain law and order in the then princely states of central India. After Independence, the Force was given statutory status with the passage of the Central Reserve Police Act in 1949. Its primary role is to help the States/ Union Territories in maintaining law and order.
- Besides dealing with various types of riots occurring in different parts of the country, it has also been deployed on anti-insurgency and anti-terrorist operations, VIP security, aviation security, election duties, guard duties over the past few years and army convoy protection duties.
- The Force is divided into Sectors, each headed by an Inspector General. The Sectors have Group Centres under them. Five to seven battalions are attached to each Group Centre. The head of a Group Centre is a Dy. IG. The CRPF was known as the Crown Representative Police and utilized to maintain law and order in the then princely states of central India.

Indo-Tibetan Border Police (ITBP):

- The ITBP was formed in the wake of Chinese aggression in 1962 to police the Indo-Tibetan border covering a vast expanse of 2115 Kms. The Indo-Tibetan Border Police Act, enacted by the Parliament in 1992, presently governs the Force.

The primary role of this Force is to:

- Maintain vigil on northern borders, detect and prevent border violations, and promote a sense of security among the local populace;
- Check illegal immigration, trans-border smuggling and crimes;
- Provide security to sensitive installations, banks and protected persons; and
- Restore and preserve order in any area in the event of disturbance;

The ITBP forward border posts at altitudes ranging from 9000 to 18000 feet. While the primary role of the ITBP continues to be that of policing the Indo-Tibetan border, the Force is also deployed on internal security duties. The ITBP was initially set up under the CRPF Act. Now, it is governed by the Indo-Tibetan Border Police Act, 1992

The National Security Guards (NSG):

- The National Security Guards was established in the aftermath of the 'Blue Star' operation in 1984 to deal with terrorism in various forms, like hostage taking, hijacking of aircraft, kidnapping etc. It has two main components as Special Action Group (SAG) and Special Rangers Group (SRG). The functioning of the Force is regulated by the National Security Guards Act of 1986 and the Rules framed under the Act in August 1987.

Central Bureau of Investigation (CBI):

- What is known today as the CBI was initially set up as the Special Police Establishment (SPE) in 1941 to investigate cases of bribery and corruption involving the employees of the War and Supply Department of the Government of India during the Second World War. Even after the war, the need to continue the agency to investigate corruption charges levelled against government servants was felt.
- The Delhi Special Police Establishment Act was passed in 1946 to give the organization a statutory base. Its jurisdiction was extended to cover cases of corruption involving employees of all departments under the Government of India. The role of the SPE was gradually extended. By 1963, it was authorized to investigate offences under 97 Sections of the Indian Penal Code, offences under the Prevention of Corruption Act and 16 other Central Acts. Presently, the CBI consists of the following divisions:

CBI

- i. Anti Corruption Division
- ii. Economic Offences Division
- iii. Special Crimes Division
- iv. Legal Division
- v. Coordination Division
- vi. Administration Division
- vii. Policy and Organisation Division
- viii. Technical Division
- ix. Central Forensic Science Laboratory

The Court directed that exercising superintendence over the CBI should be entrusted to the Central Vigilance Commission (CVC). The CVC should be given statutory status.²⁴ The judgement of the apex court is yet to be implemented. The CVC Bill has not yet been passed.

The Single Directive:

- The term 'Single Directive' is largely associated with the role and functioning of the CBI. The Single Directive was a set of executive instructions issued by the Central Government, prohibiting the CBI from undertaking any inquiry or investigation against any officer of the rank of Joint Secretary and above under Central Government including those in

the public sector undertakings and nationalized banks without the prior sanction of the head of the department.

Intelligence Bureau (IB):

- The IB's role is so vast and extensive, covering a broad range of issues and has to deal with many problems, such as terrorism, subversion and insurgency on the one hand and espionage and attempts to undermine the democratic fabric of the country by external agencies on the other. Its main task is to collect intelligence about the subversive and terrorist activities of people and organizations, disseminate such information in time to the concerned authorities, and adopt strategies to counter threats to the country's internal security and its institutions.

Sardar Vallabhbhai Patel National Police Academy (NPA)

- The training programmes conducted at the Academy are the introductory course for IPS Officers; three in-service Management Development Programmes for officers of SP, DIG and IG levels of the Indian Police Service; Training of Trainers' Courses for the trainers of various police training institutions in the country; IPS Induction Training Course for State Police Service Officers promoted to the IPS and short specialized thematic Courses, Seminars and Workshops on professional subjects for all levels of police officers.

Machinery at the State Level:

- All the state governments have primary responsibility for maintaining law and order. However, the centre provides guidance and support through the use of national paramilitary forces. In law, the centre has ultimate responsibility for protecting the fundamental rights guaranteed under the Constitution.
- The bulk of the Indian Police is composed of forces in the States. Each State has its Force headed by a Director-General of Police (DGP) who is equivalent in rank to his counterpart in the Union Government forces. Several Additional Directors-General or Inspectors-General of Police (IGP) who look after various portfolios, such as Personnel, Law & Order, Intelligence, Crime, Armed Police, Training, and Technical Services, are located at the State Police Headquarters and report directly to the DGP.
- Significant cities in a State are headed by a Commissioner of Police (CP) who reports to the DGP. Areas outside such cities in a State are divided into Districts of varying sizes. Each district is headed by a Superintendent of Police (SP) and is supervised by a Deputy Inspector-General (DIG) whose jurisdiction is called a Range, comprised of a group of three to four districts.
- The administration of Prisons in India is the sole responsibility of the States. All prisons are managed by State governments or by the Union

Territory administration. The Central Government is concerned mainly with policy formulation and planning services. In each State, the head of prison administration is an Inspector General who is usually a senior police officer.

Que. Is training of Police in India still a reflection of the colonial mindset? Give reasons for your answer. (2016) (10M)

Recruitment In Police:

- After 1860, senior police officers were recruited in two ways, appointing officers from the British Army or nomination from among younger sons of landed gentry in the UK.
- In 1893, the nomination system was abolished. Also, Army sources were discontinued. Recruitment of officers is done through a combined competitive examination held in London for the Indian Police Service. Candidates who are at the top of the merit list were appointed as Assistant Superintendents of Police. Provincial Governments were permitted to recruit some officers directly through a joint examination conducted separately. Domiciled Europeans only were appointed to superior police service.
- Similar to other civil services, recruitment to the IPS was allowed for the Indians.
- Today, recruitment was made through the Combined Civil Services Examination conducted annually by the Union Public Service Commission.
- All India Service of the Union is mentioned in Article 312 of the Constitution of India.
- The Ministry of Home affairs is cadre-controlling authority, dealing with appointment, training, fixation of seniority & pay, and deputation.
- Probationers were recruited to undergo a very tough introductory training course. All physical/academic/arms/other activities are trained at Sardar Vallabhbhai Patel National Police Academy (SVPNPA), Hyderabad. Successful completion of training makes candidates confirmed in service. They are then assigned to various states or UT cadres.
- A career in the IPS is full of opportunities or deputation outside the service within India and abroad.

Police Structure and Organization:

- Each state and union territory of India has its own police force. Article 246 of the Constitution of India designates the Police as a state subject, which means that the state governments frame rules and regulations that govern each police force. These rules and regulations are contained in the police manuals of each state force.
- The head of the police force in each State is the Director General of Police (DGP), who is responsible to the state government for administering the police force in each State and advising the Government

on police matters. The DGP represents the highest rung in the police hierarchy.

- The hierarchical structure of the Police in India follows a vertical alignment consisting of senior officers drawn, by and large, from The Indian Police Service (IPS) who do the supervisory work, the "upper subordinates" (inspectors, sub-inspectors, and asst. sub-inspectors) who generally work at the police station level, and the police constabulary who have delegated the patrolling, surveillance, guard duties, and law and order work. The constabulary accounts for almost 88% of total police strength.

Que. Critically examine the statement: 'Thana' (Police Station) as the last bastion of India's waning British administrative legacy. (2014) (10M)

Police Legislation in India:

- The Police Act of 1861 remains the central piece of legislation that governs all aspects of policing in India. Much police work is also administered by the Indian Penal Code (IPC), the Code of Criminal Procedure (Cr. PC) and the Indian Evidence Act 1872. The 1861 Act was established directly as a result of the Indian Mutiny of 1857.
- The experience of such firm resistance led the colonial rulers to impose a regime police force upon their subjects, which could be used solely to consolidate and perpetuate their rule in the country.
- The 1861 Act instituted a police system designed to be subservient to the Executive and highly authoritarian. The managerial philosophy of the police hierarchy was based on distrust of the lower ranks.

Que. The design of the Indian Police was to subjugate the Indian People in the aftermath of 1857." Analyze in the context of the Indian Police Act of 1861. (2013) (10M)

- The years after Independence, we have witnessed the enactment of new legislation in several states of the country. The first to come into force was the Bombay Police Act of 1951, which governs the police forces in Maharashtra and Gujarat. Next came the Kerala Police Act of 1960, followed by the Karnataka Police Act of 1963, and lastly, the Delhi Police Act of 1978. Most recently, the Government of Madhya Pradesh framed a Police Bill, 2002.
- Unfortunately, these new Acts were based almost precisely on the model of the 1861 Act, resulting in no significant improvement in the performance or behaviour of the police forces. Some of these state Acts tightened political control even further over the police force, without

introducing any safeguards to prevent misuse of the Police for partisan purposes or creating effective mechanisms to ensure police accountability.

- The Central and State Police Acts are given below in chronological order:
 - The Police Act of 1861
 - Bombay Police Act 1951
 - Kerala Police Act 1960
 - Karnataka Police Act 1963
 - Delhi Police Act 1978
 - Madhya Pradesh Police Bill 2002
- More than half a century after Independence, the Police Act of 1861, which was an instrument of British colonial rule, still regulates the functioning of the Indian police force. The present public perception of the Indian Police Service is mainly due to the structure of the 1861 act. Attempts have been made by some non-governmental organizations (NGOs) to expedite the process of police reforms in India. These efforts, however, have met with little cooperation from the State Governments or the Police.
- Policing in India consequently remains plagued by political interference, a lack of basic training, the virtual absence of accountability and a poor public image. Brutality has become endemic in police work. The general public believes that the Police are more likely to harass them than help them. Therefore, they rarely seek police assistance. On the other hand, the police force must contend with low pay, poor working and living conditions, and high-stress levels.
- The Bureau of Police Research & Development (BPRD) Government of India, in a research paper, "Political and Administrative Manipulations of the Police," published in 1979, also warned that "excessive control of the political executive and its principal advisers on the police has the inherent danger of making it a tool for subverting the process of law, promoting the growth of authoritarianism and shaking the very foundations of democracy". The warning went unheeded.

Que." The image of Indian Police can be improved if its structure and orientations are transformed radically." Do you agree? Elaborate (2017) (10M)

- In the elections to Lok Sabha held in 1977, Mrs Gandhi was voted out of the power. The people of the country once again reiterated their faith in democracy and rejected the emergency. The Janata Party Government,

which replaced Mrs Gandhi, decided to do something concrete to reform the Police to tune with a democratic system.

- They appointed a high-power Commission, namely, the National Police Commission to examine all aspects of the modern police system. This was only the third time that the Central Government thought of examining policing on a national scale in modern India. More remarkably, the first time since Independence. The other police commissions were appointed before Independence, i.e. in 1860 and 1902. These Commissions submitted its reports in 8 parts. Only the first has been made public so far.
- Most of the recommendations, particularly in core areas of police reforms, remains unimplemented. Some initiatives have been taken in recent years. The matter is before the Supreme Court. This calls for a separate discussion.

Non-Professional Approach in Police Management:

- There is no reasonable recruitment policy for crucial ranks of constabulary and sub-Inspectors which can produce men, having moral courage, stamina and proper aptitude. There are not enough incentives for trainers, nor selection for training institutions is made on suitability. The training Institutions continue to be a "dumping ground". Few states have implemented the recommendations of the Gore Committee Report on police training and recommendations of National Police Commissions. There is a lack of basic requirements of buildings, classrooms, bathrooms, dining halls etc.
- A study conducted by BPRD in 1992 had revealed that 7 out of 10 police training Institutions did not have adequate teaching aids. Non-availability of adequate finance and lack of priority are two main reasons. Another study conducted by BP R&D some years ago indicated that the percentage of expenditure on police training vis-a-vis total expenditure on Police in states was small, ranging between 0.08% in Kerala to 3.29% in Mizoram. In Bihar, it was only 1.75% and in UP, 1.1%
- The police station is the primary unit of police administration. It is the basis on which the entire pyramid of police administration stands. However, unfortunately, it continues to be neglected. The size of police stations at most of the places continues to be very large and unmanageable. They are not well-equipped.
- In short, a non-professional approach to policing by those not in police forces has led to neglect of district policing, including police stations, with lop-sided attention being paid to the expansion of armed forces and central paramilitary forces. More attention is paid to VIP duty, law and order at police stations, and crime prevention and detection gets very low

priority. The strength of the district police force and its modernization have not received the attention that they deserved. This has a paralyzing effect on the whole police system, particularly in rural areas.

Criminalization of Politics and Administration:

- The growing criminalization of politics and politicization of criminals have taken a heavy toll on policing in the country. This phenomenon has further eroded the Police's credibility, effectiveness, and impartiality and resulted in a lack of trust and confidence in police forces in large sections of society. The district administration and Police are the first casualties of the criminalization of politics, resulting in a system of law that is neither fair nor impartial.
- The Government of India woke up belatedly to this alarming situation. It convened a conference of Chief Ministers on the "Administration of Criminal Justice in India" in 1992. The conference noted the lack of financial support to the Police and the other two wings of the criminal justice system, namely, the judiciary and the jails. In the resolution passed in the conference, it was highlighted that "over the years, the expenditure on criminal justice administration on all the three areas of police, judiciary and jails has declined".
- They also expressed their grave concern about the increasing criminalization of politics and the politicization of administration. The conference recommended forming a committee under the Home Minister, Government of India, for follow up action. Nothing, however, happened. The following year, the Government constituted a committee with union Home Secretary N.N. Vohra as Chairman, and Secretary R&W, Director I.B., Director C.B.I. and Special Secretary Home as members.
- The Committee was asked to take stock of all available information about the activities of crime syndicates/Mafia organizations that had developed links with and were being protected by government functionaries and political personalities and make recommendations.
- On October 3 1993, the Committee reported that a nexus between the criminal gang's Police bureaucracy and politicians was a common occurrence in various parts of the country. In states like Bihar, UP and Haryana, the Mafia gangs enjoyed the patronage of local politicians and the protection from the government functionaries. The report further said that the mafia network was virtually running a parallel Government, making the state apparatus virtually irrelevant.
- The (crime) syndicates had acquired substantial financial muscle power and respectability to wield enough influence to make the task of investigation and prosecution agencies extremely difficult. Even the members of the judiciary had not escaped the influence of the mafia, and

not infrequently, officers-in-charge of cases were transferred long before they could complete their task.

- What is unprecedented, that some of the ministers in the Central Government today have severe cases under trial in the courts pending against them. Police face, "Nuremberg dilemma" today. What do they do when the law has to be enforced against a central minister, as happened in a case of a cabinet minister from Jharkhand state recently. The Court issued a non-bailable warrant but he went underground.
- The PM or the HM would not tell the Parliament as to where the Minister was. What is happening today is not merely a challenge to policing in the country but the whole Criminal Justice System. Time is running out, and unless something firm is done to stem the rot, the entire system will collapse, the policing system included. Today, what is required is to simultaneously take a holistic view and carry out urgent reforms in police judiciary and electoral laws.
- The roots of corruption lies in the election expenditures of the candidates. The statutory limit — Rs 15 lakh for a Lok Sabha seat (depending on the constituency and the number of voters), Rs 3 to 6 lakh for state legislatures (depending on the area), and Rs 75,000 for municipal corporators — is too less. In practice, the expenses incurred by the candidates are much more. The candidates generally do not have much money to spend; the funds usually come based on quid pro quo from the corporate world or the underworld. Once a candidate becomes an MP, MLA or a minister, he has to reciprocate in a big way. This Leads to corruption.
- Corruption at higher levels of political leadership promotes the corruption in the bureaucracy and other wings of the administration. It percolates downwards into the entire bureaucratic apparatus and also amongst the civilians. Along with money power, muscle power also has polluted elections. Unfortunately, a large number of our elected MPs and legislators have criminal records against them. Uttar Pradesh and Bihar top the list.

Que. "There is both criminalization of politics and politicization of criminals in India." Examine and identify the challenges they cause for law and order administration. (2013) (20M)

Que. "Institutional change is a necessary but not a sufficient condition for reducing the criminalization of politics." Examine. (2018) (20M)

Que. Police need to be made accountable and freed from the grip of politics. It is a big challenge not only for law and order but also for the country's development. Critically examine. (2020) (20M)

Historic Ruling:

- The Union and state Government, all political parties and several NGOs, including our "Citizens for National Consensus" (CNC), have advocated electoral reforms to strengthen democracy at various levels. Sadly, despite promises, political parties have not brought the required changes in the Representation of Peoples' Act (RPA). On May 2, 2002, the Supreme Court gave a historic ruling following a PIL by an NGO.
- It ruled that every candidate, contesting an election to Parliament, State Legislatures or Municipal Corporation, has to declare the following details along with the application for his/her candidature:
 - A candidate's criminal records such as convictions, acquittals and charges etc.
 - His financial records (assets & liabilities etc.).
 - Educational qualifications of the candidates.
- Suppose the candidate fails to file any of the above three declarations. In that case, the Returning Officer will have the right to reject his nomination papers. The Supreme Court has ruled that all three declarations will have to be truthful. The Election Commission of India had sent a notification on June 28, 2002, to all State Election Officers intending to enforce it.
- The Supreme Court's thrust upon the peoples and the voters right to know about the candidate's criminal record, assets and liabilities and educational qualifications. The Returning Officer has to publish these declarations for the voters' knowledge. Undoubtedly, the people will get an opportunity to know about their candidate's background.

Police Reforms in India:

- The subject of police reforms is very broad and covers many issues and concerns beyond strengthening and improving the administrative and structural aspects of the organization to include changing the culture and ethos of policing.

Police Reforms: Rationale and Resistance

- Policing in democratic societies is governed by law and is indeed a complex and challenging task. Given that the Indian police force was trained to serve the objectives of colonial rule and has not yet been granted the autonomy, resources and training for professionalization in a democratic milieu, its performance has not been entirely disappointing.
- Compared to several departments of the Government, the Police have largely served the public good even in adverse situations. What is disconcerting today is the steady deterioration of policing standards, the

increasing lawlessness amongst themselves and the attitude of complacency amongst the leadership in police organizations. Given the prevailing attitudes and approaches in the police department, there is very little hope that the people will get better services from the Police in the immediate future. Since the efficiency of the criminal justice system is mainly dependent on the Police who feed the system, the future seems bleak for criminal justice in general.

- Enormous changes have occurred in the country since Independence, which cast a paramount obligation of duty on the Police to function according to the mandates of the Constitution and democratic aspirations of the people. They require the Police to be professional, service-oriented, free from extraneous influences and above all, be accountable to the rule of law.
- However, this has not happened because those who control and run the system have abused it beyond repair and are responsible for many ills that threaten to destroy the system.

Causes for widespread dissatisfaction with the Police:

- What are the causes for widespread dissatisfaction with the Police, and who is responsible for it? What follows are examples of large scale discontent against the Police. The issue is not whether all of these are true or not but whether they exist in the public mind and whether there is any justification for them.
1. Police are the principal violators of the law, and they get away because of impunity.
 2. Some sections of the Police are in league with anti-social elements. Consequently, they indulge in selective enforcement of the law.
 3. Police exhibit rude behaviour, abusive language and contempt towards courts and human rights; they indulge in all forms of corruption.
 4. Depending on the socio-cultural status, economic power and political influences of people who approach them, Police adopt differential attitudes, violating equality and human dignity.
 5. Police are either ignorant of human rights precepts, or they deliberately disregard them in arrest, interrogation, searching, detention, and preventive policing.
 6. Given the dismal record of prevention and successful investigation of crimes, the police lack accountability in protecting life and property.
 7. While crimes are getting sophisticated; the Police are becoming less professional. There is no evidence of a collective desire within the police organization to redeem its public image.
 8. The Police are insensitive towards victims of violent crimes. They sometimes behave rudely with victims, as if they are responsible for their fate.

9. At least a section of policemen think of human rights as antithetical to effective law enforcement. They blame the law, lawyers and courts for their inefficiency.

10. Of late, some policemen have publicly shown leniency towards fundamentalists and terrorists, manifesting a dangerous threat to security and constitutional governance.

The tragedy is that unlike any other departments of the Government, if policing becomes lawless, the very foundations of democracy are in jeopardy, development subverted, and the country's integrity will be compromised. Hence there is urgency to reform the Police and their style of functioning. More than fifty per cent of complaints received by the National Human Rights Commission (NHRC) of India every year are against police personnel.

Public complaints against police personnel indicate that,

- They are brutal and lawless;
- High levels of corruption ;
- They are partisan and politicized; and
- lack of professional competence

A media scan by the Commonwealth Human Rights Initiative (CHRI), a non-governmental organization fighting against human rights violations in India, reveals that there has been increasing involvement of police personnel in committing a crime over the last few years. Official statistics also indicate the same amongst police personnel.

The need for police reforms is self-evident and urgent. It is, in fact, vital for the very survival of our democratic structure, the establishment of good governance, protection of human rights and achievement of economic progress.

What can be done and by whom?

- The Police, the Government and society each have a role to play in improving the law enforcement situation and developing human rights-oriented Police in the country. Suppose the Government had accepted the recommendations of the National Police Commission and set up state security commissions. In that case, the work of harmonizing action among the three constituents could have been undertaken.
- In the absence of an independent state security commission, the initiative must come from the Government and the police department.
- Naturally the public will be eager to respond adequately and give momentum to the reform process, which everybody will welcome except the corrupt and criminal elements thriving on police inefficiency.

Reforms within the Police:

- It is important that reforms in the organization start from the top and clear signals of good behaviour are sent down to all the ranks. Organizational behaviour is essentially the outcome of training and continuing education. Police training is archaic in content and its methods. The emphasis is still more on muscle than on the mind. Human rights, if at all, form an insignificant module in the training programme. There is hardly any priority on human rights in the training of constables, who form 85 per cent of the Force. A subculture adverse to democratic policing pervades the organization and is executed due to indifference or connivance of seniors. Respect for human rights is not rewarded.
- If the leadership itself is doubtful about the imperatives of human rights in policing, and if they disregard its importance in the training of subordinate officers, it is pointless to expect a change in the behaviour of ordinary sub-inspectors and constables.
- Another reform that the Police can bring about is adopting appropriate, quick and responsible methods of redress for complaints against the Police. The system has to be institutionalized and integrated with police roles and responsibilities. Why not hold regular "police adalats" at every police station to proactively receive and respond to public grievances? Transparency brings efficiency and popular support.
- No police force, however well-equipped and trained, without public participation, can fight crime in any society. As such, the Police have to take the initiative to build bridges with all sections of society and request their cooperation. An inspector general can appoint honorary police officers from amongst respectable public members in different areas who can augment police efforts in crime prevention and detection.

Que. Critically examine the concept of community policing as a tool for improving public-police relations. (2015)(10M)

Reforms that the Government has to undertake:

- The Government needs to do vis-a-vis the Police if it wants to govern as per the Constitution, which is spelt out in great detail in the National Police Commission reports. It is needless to repeat them here. All that one can say, the people have to be vigilant and demand lesser interference from their governments in the day to day functioning of the Police and greater accountability on decisions concerning the Police and law and order situation in the states.

Reforms that people can initiate:

- According to an adage that every society gets the Police it deserves. After all, policemen come from the same society and reflect the attitudes and behaviour found in society. How respectful is the average citizen about the human rights of fellow citizens? In a society where doctors cheat their patients, lawyers exploit their clients, teachers indulge in politics, and even the low ranked clergy is corrupt, no one can expect anything better from policemen. The evidence they collect is doubtful, and their status is worse than that of any other comparable positions in Government.
- All sections of society, particularly the media, can help improve the status and efficiency of the police force. They can attempt not to disparage the Police without justification. If they cooperate in law enforcement, there is bound to be a welcome response from the other side that eventually will result in greater social defence as well as better law and order situation. People and Police ought not to maintain an adversarial relationship as it harms both of them.
- In India, the public has faith in Governments of different political hues as reforms have not been undertaken because that would mean placing the Police outside the clutches of the politicians who will not be able to use them against opponents.
- A history of various attempts at police reforms and the fate of the respective commissions will show an inbred resistance among all Governments to embark on fundamental reforms. The Government of India set up a National Police Commission in 1977 to review the entire system. The Commission Functioned till 1982 and submitted 8 comprehensive reports to the Government, containing recommendations covering almost all aspects of police organization and work. However, such as the cloak of secrecy over them that the Peoples Unions for Civil Liberties and others had to move the Supreme Court for making the reports public, in the face of the stout resistance from the then Government.
- The State Security Commission should be headed by the Minister in charge of Police as ex-officio Chairman and six more members. Two of these should be from the respective State Legislature (one from the ruling side and the other from the opposition). 4 should be appointed by the Chief Minister, subject to the State legislature's approval, amongst retired High Court Judges, retired Government officers, and eminent social scientists or academicians.
- The National Human Rights Commission (NHRC) had also called for reforms. It was felt that "an efficient, honest police force is the principal bulwark of the nation against violations of human rights". Moreover, one

of the measures was to provide a statutory tenure of office for the Chief of Police in the State.

Que. "Police reforms in India have remained a contentious issue." Critically analyze. (2016)(10M)

- About 20 years ago, the National Police Commission (NPC) made a series of recommendations for police reforms, some aimed at insulating the Police from illegitimate outside control, pressure and interference (a summary of a few significant recommendations is given below.)

Summary of significant recommendations of the NPC

1. Police tasks are of three types-

- (i) investigative;
- (ii) preventive;
- (iii) service oriented;

The investigative tasks of the police are beyond intervention by the executives or non-executives. In executing preventive and service-oriented functions, the directions should be openly given and made known to the State Legislatures.

2. To aid the State government in discharging their superintending responsibility openly under the framework of a law, a State Security Commission should be established statutorily in each State.

The Minister should head the Commission in Charge of Police as its ex-officio chairman and six more members. Two of them should be from the respective State Legislature (one from the ruling and the other from the opposition party), and four should be appointed by the Chief Minister, subject to the approval of the State Legislature, amongst retired judges of the High Court, retired government officers and eminent social scientists or academicians. The State Security Commission should:

- Lay down broad policy guidelines for the performance of preventive and service-oriented functions by the police;
- Evaluate the performance of the State Police each year;
- act as a forum of appeal to dispose of representations from officers regarding they being subjected to illegal orders and their promotion; And
- review the functioning of the State Police Force.

3. The Chief of Police should be assured of a fixed tenure in office. The tenure may be of four years or a period extending up to retirement, whichever is earlier. The removal of the Chief of Police from his post before the expiry of the tenure should require approval of the State Security Commission.

4. The Chief of the State Police Force should be selected from a panel of three IPS officers. The panel should be prepared by a committee headed by the Chairman of the UPSC.

5. The Police Act of 1861 should be replaced by a new Police Act, which not only changes the system of superintendence and control over the police but also enlarges the role of the police to make it function as an agency that promotes the rule of law in the country and renders impartial service to the community.

- Political Will is crucial for police reforms in the country. Asking the judiciary to pinpoint the causes of delay in resolving cases and Fixing accountability. Such delays led even to witnesses falling prey to corruption which, in turn, resulted in criminals going scot-free.
- Any initiative aimed at police reforms by the Centre met with opposition from the state governments, under the pretext that law and order are state subjects. Police being the foundation of the criminal justice system, police reforms were vital.
- Police accountability would depend on eliminating corruption, proper recruitment and training of police, greater awareness among the citizens about their rights, ensuring the independence of police function without their position compromised by the political leadership and using information technology to bring transparency in the entire police operations.
- Finally, the NPC recommended replacing the Police Act of 1861 with a new Act that takes care of the current times when we need swift-acting police that are not hampered by an obstructive Executive Magistrate, especially during significant law and order situations. The NPC went to the extent of drafting a model Police Act, which plugged several lacunae in the old Act and submitted it for government acceptance. The mandarins in North Block have been dragging their feet over this since 1981 because the new Act makes the police primarily free from the Executive Magistrate and the political executive.
- While the first two recommendations need action by State Chief Ministers, in respect of the third, both Parliament and the State legislatures are competent to bring forward a Bill that could become the new Police Act applicable to the whole country.
- NPC recommendations are not a panacea for all the ills of the police. Present and past police leaders have undoubtedly failed to bring about an ambience in which the executive could have been convinced of the need for reforms. The gulf of a lack of trust between the two remains

unbridged. But this is not a sufficient argument for stalling reforms. The silent majority in the country needs the reforms badly.

- Nearly 90 per cent of the police forces in the country are constabulary. Unlike in the past, more and more educated men and women are voluntarily joining the police at this entry level, expecting a satisfying career. This precious resource will have to be protected. This is impossible under the existing State of affairs, where obedience and servility to the senior officers and the political masters are the main criteria for advancement and placement in meaningful jobs within the police.

Recent Initiatives:

- some positive and significant developments aimed towards breaking the Government's resistance to introduce police reforms.
- Ribeiro Committee on Police Reforms: In pursuance of the directions issued by the Court in the above case, the Central Government set up in July 1998 a Committee on Police Reforms under the chairmanship of Mr J. F. Rebeiro, former Director General of Police, Punjab. The Rebeiro Committee finalized its report regarding the establishment of the State Security Commission besides setting up standardized procedures to select the Chiefs of Police Forces and providing minimum security of tenure to them. It has also urged insulating the investigating wing of the police rather than overburdening the police force with duties related to law and order functions in October 1998.
- There has been fair use of scientific technology by law enforcement agencies in the country. While this is a matter of satisfaction, yet the need is felt that there has to be a sharper focus. The MHA has generally been positive and has ordered an incredible increase in the allocation of grants (Rs.1,000 crores annually) under the police modernization scheme. It is expected that police forces will take advantage of this and not fritter away this money by merely buying vehicles or weapons.
- Police leaders will have to make the criminal investigation more science-aided to decrease the incidence of third-degree methods during interrogations. DNA testing is the new tool that has revolutionized crime investigation in most parts of the Western world. While such testing is a costly proposition, funds should not stand in the way of expanding the facility available for this. We have only a few laboratories in the country undertaking this work.
- In communication, the ambitious project of linking all police stations through the Polnet is still to be implemented in full. Like these, several

other projects can transform policing and render it a state-of-the-art professional service.

- In 2005, the Central Government set up a Police Act Drafting Committee (PADC) commonly known as the Soli Sorabjee Committee tasked to draft a new Model Police Act. The PADC was mandated to consider the changing role and responsibilities of the police and the challenges before it and draft a model act that could guide states while adopting their legislation. Shortly after the Supreme Court delivered its landmark judgment, the PADC submitted its Model Police Act, 2006. The Model Police Act largely complements the Supreme Court judgment.
- The Supreme Court required all governments to comply with the seven directives at the centre and state levels. State responses varied tremendously, from complying with several directives through executive orders to strongly objecting to some, a large number of states requested the Court to grant them more time to comply with the directives.

The SC directives can be broadly divided into two categories:

1. those seeking to achieve functional autonomy for the police
2. those seeking to enhance police accountability.

PART I: Functional Autonomy

- Policing is an essential public service, and every State must provide its people with the best police service possible. Good policing is what the public wants. Good policing is a policing that protects everyone's person, property and rights. Good policing is designed to work impartially and efficiently for the benefit of all. To function even-handedly and in service to all, the police must be able to do their work free from extraneous pressures while at the same time being accountable in various forums for individual actions and overall performance.
- This requires that the police be given clear direction and role to perform without fear or favour. Good policing requires that the political executive's role be carefully defined to direct the outcomes of policing without interfering unduly in its institutional and operational functioning. In India today, questionable political interference in policing is typical.
- Some trends comprise manipulating police recruitment, promotion and transfer processes to suit political motives, bringing political elements into crime control and investigation, or using the strong hand of the police to endanger communal harmony in the worst cases. The result is public disappointment and a demonstrable breakdown in safety and security. This needs to change. Yet, there is a danger that too much autonomy can lead to blatant misuse of power, while too little can create a police force that is pliant to the political class.

State Security Commission- Supreme Court directive:

- The State Governments are directed to constitute a State Security Commission in every State to ensure that the State Executive does not exercise unwarranted influence or coercion on the State police and for laying down the broad policy guidelines so that the State police always act according to the laws of the land. This watchdog body shall be presided by the Chief Minister or Home Minister as ex-officio Chairman and have the DGP of the State as its ex-officio Secretary.
- To shield the police from the excessive interference of politicians and ensure appropriate policy directions, the Supreme Court requires establishing a State Security Commission.

Director-General of Police (DGP): Supreme Court directive:

- The State Government shall select the Director-General of Police of the State from amongst the three senior-most officers of the Department. They have been empanelled for promotion to that rank by the Union Public Service Commission based on their length of service, outstanding record and range of experience for leading the police force. And, once he has been appointed for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation.
- To assure that there is no arbitrariness in the appointment of the highest-ranking police officer, the Supreme Court has laid down the procedure for selecting the Director General of Police (DGP).

Minimum tenure for other police officers: Supreme Court directive:

- Police Officers on operational duties in the field like the Inspector General of Police in charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge district and Station House Officer-in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities. This would be subject to the promotion and retirement of the officer.
- Security of tenure is similarly important for other police officers on operational duties in the field. To help them withstand undue political interference, have time to properly understand the needs of their jurisdictions and do justice to their jobs, the Supreme Court provides for a minimum tenure of two years.

Police Establishment Board: Supreme Court directive

- There shall be a Police Establishment Board in each of the State which shall authorize all transfers, postings, promotions and other service-related matters of officers of and below the rank of Deputy Superintendent of Police. The Establishment Board shall be a departmental body comprising the Director-General of Police and four other senior officers of the Department. The State Government may interfere with the Board's decisions in extraordinary cases only after recording its reasons for doing so.
- The Board shall also be authorized to make suitable recommendations to the State Government regarding the posting and transfers of officers of and above the rank of Superintendent of Police. The Government is expected to give due significance to these recommendations and shall normally accept them. It shall also work as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above regarding their promotion, transfer, disciplinary proceedings, or being subjected to illegal or arbitrary orders and generally reviewing the functioning of the police in the State.
- To counter the prevailing practice of subjective appointments, transfers and promotions, the Supreme Court provides to create a Police Establishment Board. In effect, the Board brings these crucial service-related matters largely under police control. Notably, a trend in international best practice is that the Government has a role in appointing and managing senior police leadership. Still, service-related matters of other ranks remain internal matters.

National Security Commission: Supreme Court directive

- The Central Government shall set up a National Security Commission at the Union level to prepare a panel before the appropriate Appointing Authority for selection and placement of Chiefs of the Central Police Organizations (CPO). They should also be given a minimum tenure of two years.

Accountability:

- Functional autonomy must be coupled with the responsibility to secure high principles of policing. At present, there is very little demonstrable accountability for malfeasance. Rather, there is a general understanding that neither the internal disciplinary mechanisms, the existing external oversight agencies, nor the criminal justice system can properly and unfailingly address the issue of police accountability.

Police Complaints Authority: Supreme Court directive:

- There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police

Complaints Authority at the State level to look into complaints against officers of Superintendent of Police and above. The district-level Authority may be presided by a retired District Judge, whereas the State level Authority may be presided over by a retired Judge of the High Court/Supreme Court.

- The head of the State level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice; the head of the district level Complaints Authority may also be chosen out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him. The panel may include members from amongst retired civil servants, police officers or officers from any other department or the civil society.

Separation of investigation and law and order police: Supreme Court directive

- The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport. It must, however, be ensured that there is full coordination between the two wings. The separation, to start with, maybe effected towns/urban areas with a population of ten lakhs or more and gradually extended to smaller towns/urban areas.
- What is needed is a vision and a new level of dedication to upgrading police skills and morale.

Que. There has been a long-standing demand for separation of police investigation from prosecution. Analyze its merits and demerits. (2020) (10M)

Policing in India: The System, Inadequacies and Impediments

The System: The General Perception

- The Indian Police, over the years, has made great strides in different spheres of its work, work-culture and delivery system. For instance, the level of police training today is surely not what it was, say a decade or two earlier. In crime detection and investigation works, its methods have changed vastly, which are much more scientific and modern. Its equipment, communication network, and transport system are highly sophisticated now.
- All over India, crime records, criminal intelligence, fingerprints are computerized; border policing is better organized, structured and streamlined. Crowd management work is vastly improved and systematic. Its intelligence organizations have developed advanced and reliable systems. Organizations like the Intelligence Bureau, the Central Bureau of Investigation, Border Security Force and Training Institutions like The National Police Academy at Hyderabad are comparable to the best ones

in the world. Police officers from all over Asia, Africa and even some western countries are coming here for basic and advanced training and liaison work and coordination in the worldwide fight against terrorism, narcotics and drug abuses.

Structure and pattern of Policing in India

- Coming to the police, it would be appropriate to be clear about the structure and pattern of Policing in India and the legal and constitutional framework under which it is required to function. India is a quasi-federation comprising states and union territories. Under the Constitution, 'Police order' are state subjects under List II of the Seventh Schedule. The total number of policemen in the country is estimated to be about 2 million, the bulk of which are understates. The state Police Forces, therefore, are the mainstay of the country's police system.
- The rank and administrative structure of the Police organization is based on a vertical pyramid. The state forces, which largely function under the Police Act of 1861, are headed by the Director General of Police, who is responsible to the state government for administering the police force throughout the State and advising on policy matters. The states are divided into districts, which Superintendents of Police head. A group of districts form a range, which is looked after by a Deputy Inspector General Police. In some bigger states, police Zones comprise two or more ranges, headed by officers in the rank of Inspector General of Police.
- The administration of police throughout the local jurisdiction of the Magistrate of a district is, under the general control and direction of such Magistrate, vested in a District Superintendent and such Assistant/Deputy Superintendents as the state government considers necessary. Each district is divided into subdivisions in charge of Assistant or Deputy Superintendent of police. Generally, these subdivisions are further divided into police circles in charge of Inspectors. The circles are subdivided into several police stations, which have Urban/rural outposts under them.

Que. At the district level, police function under the overall supervision and control of the District Magistrate. Comment. (2020) (10M)

- All states have criminal investigation departments, intelligence departments, training and modernization wings. Policing on the railways within the states is the responsibility of the state government for which they have government railway police.
- Although 'police' and 'public order' are included in the state list under the Constitution, the Central Intelligence Bureau and the Investigation Bureau are listed in the Union list in the 7th schedule of Article 246. Also

included in the Union list are subjects such as the training of police officers, scientific or technical assistance in the investigation or detection of crime, and extension of powers and jurisdiction of members of the police force of any state to any area outside the State. The Central Government thus has very clear responsibility for coordination amongst states, in investigation by the CBI, police training and scientific investigation and intelligence gathering.

- For assisting the central Government in coordinating the efforts in the field of training, research and modernization of police forces, there is a Bureau of Police Research and Development (BPR&D) which undertakes systematic studies of police problems and is responsible for promoting the application of science & technology to the police works, improving and development of training program of police forces at the Centre and states. Under entries 2 & 2-A in list 1 of the Seventh Schedule of the Constitution, the Centre maintains armed forces, such as Border Security Force, Central Reserve Police Force, for assistance to states and guarding borders.
- Recruitment into police organizations, both at the central as well as state levels, is made in three ranks, namely (1) Constable, (2) Sub Inspector and (3) Assistant Commandants and Deputy Superintendent of Police. The Government of India does the recruitment and training of IPS officers, who are supposed to provide leadership to police forces both in states and central police organizations. The service is known as an all-India service.

Inadequacies and Impediments: Constitutional Safeguards and the Police

- In keeping with democratic principles, the Indian Constitution guarantees its citizen's justiciable fundamental rights, i.e. legally enforceable. This Constitution also provides for "safeguards" against encroachments on their life, liberty and freedom and vexatious actions by enforcement agencies, including the police.
- According to Article 20, no person can be compelled to be a witness against himself; Article 21 guarantees that no person can be deprived of life and liberty except according to procedure established by the law. Article 22 states that any person taken into custody shall be produced before the nearest Magistrate within 24 hours of such an arrest. Constitution.

The Penal System

- Apart from minor acts, both at central and State levels, the police in India are supposed to prevent and, in case of occurrence, investigate offences

under the Indian Penal Code, which are cognizable. This work is required to operate according to the procedure laid down in the Code of Criminal Procedure, originally framed in 1898 but replaced with a new act in 1973. Another major act, promulgated in 1872, lays down the law of evidence for criminal jurisprudence in the country.

- The Indian Penal Code was enforced in 1862. This code which defines the basic crimes and punishments have, over the years, undergone many changes. It is noteworthy that some of the social evils, such as marriage offences, such as dowry deaths or sexual offences, have been made more severe, and their ambit widened. Regarding some of these offences, like dowry deaths under section 304b, at par with the prevention of corruption act, the presumption of innocence of the accused has been done away with.
- Although a new Criminal Procedure Code came into effect in 1973, it has made the task of police more difficult in many ways. More importantly, the code has not helped much in making the justice delivery system speedier. The accused, particularly powerful ones, very often succeed in delaying the trials through interlocutory petitions. Section 438 of the new code provides the grant of anticipatory bail to the accused in non-bailable offences, which was not there earlier. The idea was laudable, no doubt, i.e. to protect the weak and poor against malafide action by the police or from actions arising out of the nexus of Police with the Mafia.
- But the advantage of this provision has been more often than not taken by "Chandra Swami" and the like rather than weaker sections of the society. Liberal grant of bail to many has further added to the problem of police and the enforcement agencies. In a limited study done by BPR & D. some years ago, it was noticed that the percentage of persons released on bail in non-bailable offences was 77.5, 6.5 of whom had previous criminal records. In Tamil Nādu in 1993, 83.5% of persons involved in committing non-bailable offences were released on bail. In the Metropolitan city of Delhi, 80.4% of persons who committed non-bailable offences in 1993 were released on bail, of whom 12.2% had previous criminal records.
- The Indian Police continues to be distrusted by large sections of society, including lawmakers. In other democratic countries, including the UK, confessions made before police are admissible subject, of course, to scrutiny and cross-examination in the trial court. However, section 25 of the Indian Evidence Act prohibits any confession made to a Police Officer from being proved against an accused.
- In other words, a confession made to a Police Officer is inadmissible. However, legitimate, helpful, and convincing that evidence could provide

a criminal charge against an accused. Significantly, confessions made before other enforcement agencies, like, Income Tax, Central Excise, Enforcement directorate, even Railway Protection force, are admissible. The Law Commission and National Police Commission of 1979 had recommended that confession made before a senior Police Officer be made permissible, but in vain.

Que. The police-public interface is punctuated with distrust and fear. Suggest how the police can reform its image in the eyes of the public. (2019) (10M)

- Right to know: The right to know helps people about their candidates and make an informed choice. The affidavit declaring the candidate's criminal, financial and educational record is a right of the voters so that they can decide whom to vote for. The Supreme Court has only affirmed the people's right to know under Article 19 (1) of the Constitution. The Returning Officer has the right to reject the nomination papers if the candidate fails to provide such information by affidavit. Simply putting, while furnishing criminal records, poor educational qualifications or vast wealth may not invite rejection, but refusing to provide details could. The idea behind the testimony is that the candidate himself makes a voluntary disclosure.
- SC intervention: Amazingly, political parties have not approved the progressive intervention of the Supreme Court. All parliamentarians dismissed the court directive. On August 16, 2002, the Government brought up an Ordinance, having diluted the court directive. It says that information about a candidate's assets can be made only after he gets elected. This deprives the people's right to know about the candidate before the election. Secondly, the Ordinance says that after a candidate gets elected, the statement of assets and liabilities has to be given to the Presiding Officer of the two Houses and the State Legislatures.
- Any infringement will not come before the courts but will come before the Privileges Committee of the House. Ponder how political parties are protecting the corrupt in their ranks. There is no comment about the candidate's income either in the Supreme Court's directive or in the Ordinance though this will help people know the candidate's degree of corruption at the end of his five-year tenure.
- Criminal record: The Court's directive on the disclosure of criminal records before the Returning Officer would have helped voters know their candidates' antecedents before making their choice. The Supreme Court expected the following declaration by candidates:

- Whether the candidate was convicted, acquitted or discharged in any criminal offence; if sentenced, whether he/she has been sentenced, imprisoned or fined;
- Whether the candidate was indicted of any offence punishable with imprisonment for two years or more.
- President's queries: President A. P. J. Abdul Kalam put forward certain points and sent back the Ordinance to the Union Government for reconsideration. However, the Government returned it to him the same day for his assent. The President had no choice but to ratify.
- Collective experience: With the scuttling of the Supreme Court's directive on electoral reforms, the political parties have only jeopardized themselves before the people. They cannot do away with the corruption and criminality in public life. Most political parties are not amenable to any appeals, protests or recommendations by citizens' groups and NGOs. Our collective understanding suggests that even appeals to voters "not to vote for the corrupt people and criminals" do not yield outcomes, as there are barely any honest and decent candidates in the elections. Both the possibilities have failed to accomplish.
- Therefore, an independent mass movement has become indispensable. The people should assert their sovereignty. A united people's movement has to make it clear to our political leaders that they cannot ignore the people anymore; they can penalize the criminals and the corrupt in politics. Changes will have to come through peaceful, democratic and constitutional methods. Only an independent mass movement can assert the people's power.
- Independent movement: An independent mass movement will neither have big money nor big muscle power. Such a movement has to be cost-effective and manageable. With determination and focused effort, it is achievable. This is the most cost-effective way to get decent people elected and eliminate corruption and criminalization of politics.
- It is possible to form a ground force of 20,000. There are well-meaning organizations among youth, students, women, senior citizens, professional organizations and NGOs. The collective strength of these organizations plus a new mass movement can organize more than 20,000 members. Unity of purpose and focus can be achieved amongst the existing organizations and new members enrolled through a mass movement.
- Pressure groups: Concerned citizens of eminence and NGOs like AGNI, Citizens for National Consensus (CNC), Dignity Foundation, A Hundred Citizens, Lok Satta, Nagar, Citispace, PROUD and many such other organizations and NGOs can be involved in the mass movement. Pressure

groups at the top can induce changes in the electoral laws, viewpoints in governance and Parliament and state legislatures. Such protests will also encourage and motivate the masses. The next is to jointly organize a mass movement for cleaning up criminalization and corruption in politics.

- Mumbai has started many historical movements. It can once again be the torch-bearer of streaking another success story. Let us think of the enormous resources released in a corruption-free India for the growth and development of the entire country and for lifting up the quality of life to human levels for those co-citizens who regardless live in sub-human conditions. Tremendous resources, siphoned off in corruption, can be utilized for human resource development and the growth and development of rural and urban India. There is a need for a new beginning to make India corruption-free.

Que. "Police-Public relations are a story of insincere efforts made on both sides." Elaborate. (2014)(10M)

- The growing criminalization and corruption of politics in India, the desire of the masses of people to put an end to it and the inability of the bourgeoisie to provide any solution reflect the acuteness of the crisis of Indian parliamentary democracy. It is a factor contributing to the further deepening of the crisis of political theory and practice in India.
- The domination of the polity by criminal and corrupt parties and individuals has become an accepted fact in the fiftieth year of the Indian Republic. The response of the ruling circles is to lament about it, on the one hand, and to use the occasion to settle scores with their rivals, on the other hand. As a result of the acute rivalry, leading political figures of the major parties in the Parliament are getting exposed for corrupt and criminal deeds, one after another. However, the quality of the system remains the same.
- The economy continues to be a system of plundering the land and labour of the people by Indian and international monopolies. In contrast, political power continues to reside in the hands of an exclusive caste of politicians and "recognized" political parties, excluding the vast majority.
- "It is up to the major parties not to field criminals as candidates", says the Election Commission. In other words, it is being revealed for all to see that under the existing political system, while the people have the right to vote, they have no means to effect any control over the selection or conduct of their elected representatives; they have to place their hopes in the very parties that are criminalizing the polity in the first place!
- At the end of a 65-hour marathon debate in Parliament at the end of August, a plan was adopted unanimously by all the parliamentary parties.

This "Agenda for India" is supposed to reflect the commitment of these parties to decriminalize politics and ensure integrity in public life. However, it is openly admitted even in the bourgeois media that this plan has nothing of substance to offer to the people.

- The broad masses of people who were left out of this "historical debate" are supposed to believe that even though the polity will remain dominated by the same parties as before, serving the same vested interests in society, they will henceforth not field criminals as candidates. After fifty years of betrayal of promises by these parties, the people are being asked to place their faith in yet another promise that these parties will henceforth eschew criminal and corrupt activities.
- While the Prime Minister and other esteemed Members of Parliament called for a "war against criminalization and corruption", not one of them specified exactly what was the source of the problem and against whom this "war" should be directed. The Prime Minister announced during the parliamentary debate that he was with the Election Commission on the issue of tackling the criminalization of politics. In other words, he believes that action should be confined to the legal sphere of banning criminals from the electoral arena, creating the impression that there is nothing wrong with the political system; only some individuals are misusing the system.
- The "Agenda for India", to which all the parliamentary parties are signatories, has not been set by the people of India. It has been set by the Members of Parliament, acting as trustees of the people. But who gave these MPs the power to set the agenda in the name of the people? Did the people give this power to them in the first place?
- As long as the people have no say in selecting candidates for election, they do not have the right to elect and be elected. Hence the people's plan will need to assert the right of the electors to select the candidates. The question of selection can no longer be left in the hands of privileged elites who claim to be the people's trustees. This also implies that political parties need to be subordinated to the people's will instead of the people being subordinated to the will of the political parties and their respective high commands.
- In practical politics, the broad masses of people need to assert their right to control the selection of candidates, demanding that this cannot be left in the hands of political parties. United political action on this question would be an important step in empowering the people to achieve the qualitative transformation of society.

Model Answers

Que 1. "The AFSPA debate reveals that the Indian paramilitary forces are caught between the imperatives of national security and protection of human rights." Discuss. (2018) (10M)

The armed forces (special powers) Act (AFSPA) was enacted in 1958 by Parliament. AFSPA is invoked when a case of militancy or insurgency takes place, and the territorial integrity of India is at risk. It grants extraordinary powers and immunity to the armed forces to bring back order in the disturbed areas.

The powers conferred by AFSPA include:

- Fire upon anyone after warning anyone who is acting against law and order in the disturbed area.
- Arrest anyone without a warrant.
- Stop and Search any vehicle or vessel.
- Armed forces personnel have legal immunity for their actions.

Extra information:

Some Key Provisions of the AFSPA Act

- Governor of a State and the Central Government are empowered to declare any part of or any state as a "disturbed area" if, according to their opinion that it has become indispensable to disrupt the terrorist activity or any such activity that might impinge on the sovereignty of India or cause disrespect to the national flag, anthem or India's Constitution.
- Section (3) of AFSPA states that if the governor of a state issues an official notification in The Gazette of India, the Central Government has the Authority to deploy armed forces to assist the civilian authorities. Once a region is declared 'disturbed', then it has to maintain the status quo for a minimum of three months, as per The Disturbed Areas Act of 1976.
- Section (4) of AFSPA gives special powers to army officers in disturbed areas to shoot (even if it kills) any individual who violates law / or is presumed to be violating the law (this includes assembly of five or more people, carrying of weapons) etc. The only limitation is that the officer has to give a warning before opening fire.
- Security forces can arrest anybody even without a warrant and carry out searches without consent.
- Once a person is taken into custody, he/she has to be handed over to the nearest police station as soon as possible.
- Prosecution of the officer on duty for alleged violation of human rights requires the prior permission of the Central Government.

The AFSPA debate:

AFSPA has been used to combat insurgency in the states of the North East and Jammu & Kashmir. However, the Act has been criticized by many as providing carte blanche to the security forces and enabling human rights violations.

Arguments against the Act are:

- The Act fails to protect and uphold human rights; this can be observed in the case of multiple allegations of custodial rape and killing.
- The Act reinforces a militarized strategy to security that has proved to be inefficient and counterproductive in tackling security challenges, as it can lead to further radicalization of victims and strengthen insurgents. The Act has failed in its objective of restoring normally in disturbed areas although being in existence for almost 50 years.
- Against the idea of separation of powers, soldiers act as judge, jury, and executioner when given the power to shoot at sight. This runs contrary to Articles 20 and 21.
- Against the ideas of a limited state and accountability, soldiers are given blanket immunity against their actions in disturbed areas (though diluted by a supreme court ruling in 2017).

Arguments for this Act

- The AFSPA is applied to an area only when the ordinary laws of the land are ineffective to deal with the extraordinary situation perpetrated by insurgents spreading terror. It is applied when, in the terror-stricken area, the police force is found wanting and incapable of dealing with the terrorists. Thus, the induction of the armed forces becomes imperative to battle the terrorists and maintain the country's territorial integrity.
- The paramilitary forces must operate under highly strenuous conditions where insurgents could use the local civilians as shelter and wage guerrilla war. In such conditions, extraordinary powers are needed, in the absence of which forces face a disincentive against action.
- Insurgent movements in India have more or less been proxy-wars being waged against India by external actors. This necessitates the deployment of armed forces in a counter-insurgency role with enhanced legal protection.
- The armed forces have repeatedly made it clear that they cannot operate without the AFSPA. They need special powers to tackle homegrown and as well as foreign terrorists to ensure national security.

The debate highlights the competing imperatives of safeguarding human rights vs maintaining national security.

Thus, the strategy to deal with issues of insurgency and military needs to be revised where people are not alienated but play an active participatory role. This can be done via the use of community outreach programs by the paramilitary and sensitivity training. The strategy of winning hearts and minds should be pursued as far as possible with the deployment of armed forces as a last resort.

Que 2. Macaulay's ideas on Indian Civil Service Corresponded to the elite theory of bureaucracy, which persists. Do you agree? Justify. (2019)(10M)

Macaulay's ideas on Indian civil services formed the foundation of the British Indian administration, whose legacy continues to some extent even today. The Macaulay committee report came in 1854, which was rooted in the elite theory of bureaucracy. This elitism was reflected in,

- Explicit Racial superiority where Indians were considered suitable for lower jobs while whites manned higher positions.
- Recruitment through scholastic exams based on merit ensured that the cream of the talent pool was attracted.
- The nature of the exam also exuded elitism: examinations being held in London, papers like Persian literature, knowledge of Latin, etc., ensured that only the economically upper class could participate in it.
- The training was undertaken in Oxford – an institute well known for being for the elites.

This elitist nature was supposed to change independence, but experience shows that much of it is still retained today. The Indian bureaucracy suffers ills such as indifference to people, ivory tower thinking, alienation from masses, etc., which reflect elitism. Graduates of premier institutes dominate even the recruitment.

However, there have been many changes that have stepped away from Macaulay's elitist ideas:

- Civil service exams can be given in all languages in Schedule 8; not only elites but everyone can compete.
- Measures towards affirmative action have ensured that members of scheduled castes, tribes, backward classes and economically weaker sections have representation in the civil services.
- The optional paper with a vast selection of subjects ensures people of almost any educational background can compete to enter the service.
- The bureaucracy operates under political direction towards achieving socio-economic development for all. This is different from the bureaucratic State of British India.

Though the civil services in India began as a British transplant, it has been indigenized since then. While further reforms are needed to ensure responsive bureaucracy, the elitist theory is definitely on the wane.

Chapter 14- Significant issues in Indian Administration

Syllabus: Values in public service; Regulatory Commissions; National Human Rights Commission; Problems of administration in coalition regimes; Citizen-administration interface; Corruption and administration; Disaster management.

Values in public services:

- The Public Service is a vital national institution that forms part of the foundation of parliamentary democracy. Public servants contribute fundamentally to good government, democracy, and society through the assistance they provide to duly elected governments.
- The role of the public sector is to assist the government in maintaining peace, order, and good governance. The Constitution and the principles of responsible government serve as the foundation for the roles, responsibilities, and values of the Public Service. The democratic mission of the Public Service is to assist Ministers in serving the public interest in accordance with the law.

Objectives of this Code:

- The Values and Ethics Code for the Public Service establishes public service values and ethics to guide and support public servants in all of their professional activities.
- It will serve to maintain and enhance public trust in the integrity of the Public Service.
- The Code will also help to increase respect for and appreciation for the role of the public sector in democracy.
- The Code establishes Public Service values, as well as Conflict of Interest and Post-Employment Measures.

Ministers are responsible for maintaining public trust in the integrity of management and operations within their departments, as well as for upholding the Public Service's tradition of political neutrality and its on-going ability to provide professional, candid, and frank advice.

Public Service Values:

- A balanced framework of public service values, including democratic, professional, ethical, and people values, shall guide public servants in their work and professional conduct.
- These value families are not distinct, but rather overlap. They are vantage points from which to view the universe of Public Service values.

Democratic Values: *Helping Ministers, under law, to serve the public interest.*

- Public servants must provide honest and impartial advice and make all relevant information to Ministers available.
- Public servants must faithfully carry out ministerial decisions that have been made in accordance with the law.

- Public servants must support both individual and collective ministerial accountability and provide information to Parliament and the public about the results of their work.

Professional Values: *Excellence, Efficiency, Serving with competence, Objectivity and Impartiality.*

- Public servants must follow the laws of the land and uphold the Public Service's tradition of political neutrality.
- Public servants must make every effort to ensure that public funds are spent properly, effectively, and efficiently.
- In the public sector, how goals are met should be as important as the goals themselves.
- Public servants should renew their commitment to serving people on a regular basis by continuously improving service quality, adapting to changing needs through innovation, and improving the efficiency and effectiveness of government programmes and services offered in both official languages.
- Public servants should also strive to maintain the value of transparency in government while adhering to their legal confidentiality obligations.

Ethical Values: These values compel us to act in such a way that the public trust is enforced at all times.

- Public servants must carry out their duties and conduct their personal lives in such a way that public confidence and trust in the integrity, objectivity, and impartiality of government are preserved and enhanced.
- Public servants must always act in a way that will stand up to the most intense public scrutiny; this is an obligation that cannot be fully met by simply following the law.
- In carrying out their official duties and responsibilities, public servants must make decisions in the public interest.
- If a public servant's private interests conflict with his or her official duties, the conflict must be resolved in favour of the public interest.

People Values: These are the values which need to be upheld while *dealing with both citizens and fellow public servants. Ex: Demonstrating respect, fairness and courtesy in their*

- Respect for human dignity and the value of every person should always inspire the exercise of authority and responsibility.
- People's values should reinforce the broader set of values held by the Public Service. Those who are treated fairly and civilly will be motivated to exhibit these values in their own behaviour.

- Public service organisations should be led through participation, openness, and communication, as well as with a respect for diversity and the country's official languages.
- Appointments in the public sector must be made on the basis of merit.
- Values in the public sector should play an important role in recruitment, evaluation, and promotion.

Sevottam model:

It is a Service Delivery Excellence Model. It was felt that Citizen Charter would not alone lead to desired results. It works as an evaluation mechanism to assess the quality of service delivery.

Que. ‘Sevottam Scheme’ had great potential to reform service delivery, but opportunity is frittered away. Comment (2019)(10M)

Regulatory Commission:

- Telecom Regulatory Authority of India (TRAI) is the independent regulator of the telecomm business in India. It is statutory, established in 1997 by an Act of Parliament to regulate telecom services and tariffs in India. In Jan-2000, TRAI was amended to establish the Telecom Disputes Settlement Appellate Tribunal (TDSAT) to take over the adjudicatory functions of the TRAI.
- The TDSAT was established to resolve any dispute between a licensor and a licensee, two or more service providers, or a service provider and a group of consumers. Furthermore, any direction, TRAI orders, or decisions can be challenged by filing an appeal with TDSAT.
 - The economic reforms of 1991 were expected to increase private domestic and foreign investment. Decisions related to terms for investment, tariffs, licensing, etc, were to be made transparent. Consultation and full disclosure was to be the rule. Legislation creating statutory regulatory commissions were passed during this time.
 - There are over 60 regulatory bodies at central and state level, including bodies created by the Constitution like CAG. Moreover, governments have transferred some of their regulatory powers like licensing, tariff setting, ensuring competitive markets, to these regulatory agencies created by statute with an intention to recognise the technical nature of the subject under regulation, and provide clarity and transparency since large sums of money are involved. For regulatory bodies; jurisdiction, extent of their powers, the manner of exercising them, penal powers, etc, are laid down by the statutes that created them.

But they are quite dissimilar in functioning due to the jurisdiction they operate in.

- None of the agencies is a model for others, as each is created by the concerned ministry. For instance, Trai is a recommendatory body, whereas the electricity commissions are still trying to get authority over their forward markets. Besides, penal powers for non-compliance are weak in most cases except Sebi and the Competition Commission. Some of the commissions have appellate tribunals over them, while appeals from others go directly to the High Courts.
- There is little information on comparative powers and performance. Nor is there any attempt to study whether different commissions follow a common approach on similar issues.
- In addition to statutory bodies, legislatures have given charters to self-regulatory bodies in select areas like sports. There are over 24 sports bodies like IOA, AILTA, BCCI, etc. There are also some professions that have self-regulatory powers over their members in relation to their profession. For instance, MCI (medical education); ICAI (accounting), ICWA (costing), Institute of Architects, Bar Council of India, etc.
- It is a generally accepted notion, that self-regulated regulators do not perform all their functions satisfactorily. There are allegations of malfeasance against almost all of them. The professional ones (like ICAI or MCI) are not known for stringent actions against members flouting the norms. The sports organisations, on the other hand, tend to have people running them for their entire life and there are doubts about their financial integrity.
- The statutory regulators appointed by the government also do not enjoy an infallible position. In the case of electricity, telecommunications, competition, securities, the appeals against the orders of the concerned commissions are to Appellate Tribunals, and not directly to the High Courts. This has often led to delays and the dilution of the original intent of the Commission. This is especially the case with competition where the Commission had received far stronger penal powers than other regulatory bodies. Its severe punishments on erring enterprises in violation of the law were diluted by the Competition Appellate Tribunal. The Securities Appellate Tribunal (SAT) has been similar in its functioning, though not to the same extent. Trai, on the contrary, can be overruled by the ministry since it is a recommendatory body. Government departments in the regulated sectors have not diminished and they continue to influence most regulatory bodies.
- In many instances, the government departments especially in state governments, get the regulatory commission to act at the behest of the government, and not independently. One reason for this is the selection

process of Chairman and members of the regulatory bodies. The selection committees specified in the legislation are invariably composed of administrators, many from the concerned ministry, invariably after retirement, and in some cases out of the same ministry whose sector they are to regulate. These are obnoxious practices that are against the original intent of statutory independent regulation. Such appointees mostly bring to the regulatory assignments, the baggage of their administrative mindsets, the procedures and rules that go with them, and an ingrained culture of subservience to the government. They have little commercial or management attitudes and knowledge.

- Thus, no state electricity regulatory commission has ever objected to the free power given to agriculture and other select consumers. These loss making supplies have been met by cross-subsidies, i.e., higher tariffs to other consumers which has led to wrong cropping patterns, depletion of ground water and growing salinity of land. Another instance: The Electricity Act mandates open access in order to optimise the use of available electricity in the country. State governments prefer to make supply from local electricity generators. No regulatory commission has protested or denied the prevention of such open access of electricity between states.
- With most regulatory bodies, the staff is on deputation from other departments of the government. They do not regard themselves as having a career in regulation. Few if any, rise to become members or chairmen of these bodies.
- There are regulatory bodies, like RBI and Sebi, that have had much impact on the economy, but most are content with submission to the government's desires.
- So, has the statutory regulatory process been successful? It has not done what was expected from it, namely create transparency and clarity in licensing, tariff setting, etc. This is mainly due to the key positions in these bodies becoming post-retirement perquisites for retiring bureaucrats and government servants resulting in little independence, courage or knowledge in regulating the concerned sectors. They largely operate as just another government layer.
- Special benches in the High Courts, can certainly replace the appellate tribunals as they would focus on law and leave ascertaining facts to the Commissions.
- It would be better if all the commissions have a uniform structure and if they can follow each others' orders to ensure that there is a body of regulatory law and precedents that can enrich the whole business of regulation.

Que. "In the Network Era the TRAI has the challenging task of protecting Net Neutrality from digital aggression." Comment. (2018)(20M)

Que. Discuss, with suitable examples, the emerging challenges faced by the Regulatory Commissions as to the arbitrary agents between the State and the market forces (2017) (20M)

National Human Rights Commission:

- NHRC is a statutory body which was set up in October, 1993 under the Protection of Human Rights Act, 1993. (PHR Act).
- Autonomous - operational & financial autonomy.
- Independence through appointment and dismissal of its Members, own mechanism for disposal of complaints, pluralistic composition.
- Chairperson, retired Chief Justice of the Supreme Court, four Members, two from the Judiciary (one retired Supreme Court Judge and the other retired Chief Justice of a High Court) - other two Members appointed from persons with knowledge of or practical experience in human rights matters.
- Members of the Commission are the chairs of the National Commissions for Women, Minorities, and Scheduled Castes and Tribes.
- As outlined in the Paris Principles, it embodies a true National Human Rights Institution.
- Appointment of Chairperson/Members is based on the recommendations of a Committee comprised of the Prime Minister, Speaker of the House of People, Minister In-charge of Home Affairs in the Government of India, Leader of Opposition in the House of People, Leader of Opposition in the Council of States, and Deputy Chairman of the Council of States.
- Enjoys financial autonomy, gets consolidated grants-in-aid from the Central Government, spent by the Commission as it thinks fit for performing the functions under the PHR Act.
- Independent to recruit its own staff for proper functioning.
- The Chief Executive Officer, designated as the Secretary General, officer of the rank of Secretary to the Government of India.
- Investigative Department, headed by an officer of the rank of Director General of Police.
- Every proceeding, deemed to be a judicial proceeding - u/s 193 and 228 for the purpose of Section 196 of the Indian Penal Code.

Powers:

- As granted to a Civil Court trying a case under the Civil Procedure Code of 1908.
- To maintain its own procedure for handling complaints.

- To use the services of any officer or investigation agency of the Central/State Government - with permission - to conduct any investigation related to any inquiry.
- Make recommendations to the appropriate government authority on how to deal with disgruntled public employees.
- Recommend that victims receive relief/compensation.
- Request appropriate directions/orders/writs from the Supreme Court or High Courts.
- Distribute the inquiry report to the petitioner/victim/representative and the government authority for comments/action taken/proposed.
- Publish the inquiry report with comments/action taken/proposed.

Functions:

- Inquiry is done on petition or suo moto, against complaint of violation of human rights/abettment of violation/negligence in prevention of violation by a public servant.
- Intervention is done in any proceeding before a court with its approval, involving allegations of violation of human rights.
- Visit to any jail/other institution to the persons detained/lodged for treatment/reformation to study living conditions of inmates and make recommendations.
- Review the safeguards under the Constitution/any law for protection of human rights and recommend measures for its effective implementation.
- Review the factors and also acts of terrorism which inhibit the enjoyment of human rights and then recommend appropriate remedial measures.
- Study treaties/international instruments on human rights and make recommendations for effective implementation.
- Undertake and promote human rights-related research.
- Disseminate human rights literacy and raise awareness of available safeguards for protection through publications, media, seminars, and other means.
- Encourage the efforts of non-governmental organizations/institutions involved in human rights work.
- Other responsibilities deemed necessary for the advancement of human rights.

Responsibility of Government authority:

- The Central/State Government/Authority has to indicate its comments including action taken on the report/recommendations of the Commission within a period of one month in respect of complaints against public servants other than members of the armed forces.
- In the case of complaints against members of the armed forces, the Central Government must notify the Commission within three months of taking action on the recommendations.
- Issue of the one year limitation period.

- Purpose is not to have another judicial body but an institution which will give sharper focus on the allegation of violation of human rights and provide quicker redressal, and other redressal mechanisms. District Courts to the Supreme Court are always available to the people, the Commission's role not to replace these mechanisms.
- Reason for prevention of over-burden with large number of old complaints, thus not to curtail jurisdiction.

Important Steps Taken by NHRC:

- Requested that all state governments report cases of custodial deaths or rapes within 24 hours of the occurrence, failing which it would be assumed that an attempt was made to cover up the incident.
- Visits to detention facilities have been made.
- Legislative and other measures to improve conditions in prisons and lock-ups are proposed.
- Child labour and child prostitution are frequently emphasised.
- Instituted efforts with police, paramilitary forces and the Army to impart human rights education to the staff and officers, including human rights in the curriculum during initial/in-service training.
- Signed a Memorandum of Understanding with the National Law School of India University in Bangalore to establish a Chair in Human Rights.
- In 1996, he was appointed Chair of the International Coordinating Committee of National Institutions, a position he still continues to hold.

Evaluation:

On Human Rights Day 2020, the Commission boasted of having registered 19,50,695 cases while disposing of 19,32,533 cases. It also paid close to ₹2 billion to victims of human rights violations across various state agencies on the recommendations of the Commission. On its 28th Foundation Day, the Commission took pride in the fact that it has disposed of 20 lakh cases and awarded ₹205 crores to the victims of violations.

Drop in Suo Motu Cases

The declining registration of complaints at the NHRC is no surprise as the data are updated monthly on its website. However, in the long term, from a total of 96,267 complaints registered in the year 2016, the figure fell to 75,064 in 2020, recording a sharp decline of 32.78%.

[28 Years of NHRC: A Look at the ‘Achievements’ the Rights Body Boasts Of](#)
Less-than-stellar data and fading autonomy highlight serious issues about the Commission.

As the National Human Rights Commission (NHRC) turns 28, it's important to assess the ‘achievements’ the Commission boasts of on every possible occasion.

The Global Alliance of National Human Rights Institutions (GANHRI) accreditation is also due next year, and the NHRC is straining every nerve to regain its barely saved ‘A’ status.

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Full Capacity, Dismal Performance

With the appointment of Justice Arun Mishra as the Chairperson of the Commission and three other members, the NHRC today is working at full capacity. However, in the short four-month tenure of the Commission working at full strength, the watchdog remains as toothless as before with, in fact, an increase in pendency (32.75%) and a decrease in disposal (8.35%).

Under Section 12(1) of the Protection of Human Rights Act, 1993, one of the primary functions of the NHRC is to handle complaints received from individuals against public servants alleging human rights violations. The Commission has received over 84,000 cases every year on an average in the last five years, which are categorised as per the nature of the incident. A closer data analysis, along with rising allegations of fading autonomy and increased interference, reveal serious issues about its contribution to the human rights framework in the country.

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(Data: www.nhrc.in)

Other than improved access to the Commission, the rate of suo motu cognisance of cases is also dismal. The number of suo motu cases taken up by the Commission has almost halved, with a reduction rate of 46.32% between 2012-16 and 2016-20.

The downswing in the registration of complaints is a cause of worry when seen with state-wise representation. As highlighted on the website of the Commission, 38.1% of the complaints are from Uttar Pradesh alone.

Besides Delhi, Odisha, Bihar, and Tamil Nadu, which form the top five states, all the other states are covered under the 34.6% bracket. When it comes to taking suo motu cognisance, Uttar Pradesh also seems to be on the Commission's priority list, as 50% of such complaints are from that state.

A decrease in registration with a subsequent increase in pendency is also worrying, as it questions the efficiency of the complaint handling mechanism. As of September 2021, the Commission recorded a pendency of 20,806 cases.

A Pattern of Impulsive Disposal of Cases

The data also reveal a pattern of impulsive disposal of complaints. In 2020 alone, a total of 68,130 cases have been disposed of, where disposal would not necessarily mean deciding on merit.

It is appalling to note that last year, of the complaints received, 97% were dismissed even before being afforded a preliminary hearing on merits. For the mere 3% cases that the Commission takes up, there are varying reasons for the closure, developed out of practice.

A Tardy Framework

The statute empowers the Commission to enquire into complaints in which the public authorities fail to take the required action. However, as per the data, it seems that the Commission has failed to make use of this power, as is evident from the reduced number of interventions. In the year 2016-2017, the number of investigations taken up was 7,865. This has halved in 2020-2021 and stands at approximately 3,000 cases.

The need is to ensure qualitative disposal of complaints rather than closing them on a procedural basis. Further, the NHRC alone can't save the human rights situation in the country — Parliament has an equally important role to play. It's high time that the Procedure Regulations proposed by the Commission see the light of the day.

Relations between Political and Permanent Executives:

Max Weber outlined the following powerful historical currents running beneath the surface of events while referring to the choices confronting post-war Germany in 1918:

- The rise of modern bureaucracy, steered by professional career administrators
- The emergence of a new class of professional politicians whose influence were based on the suffrage of lakhs of ordinary citizens rather than inherited social status.

In the modern government, the levers of power are held by two unreliable partners: the elected party politician and the professional civil servant. The problematic relationship between these two is the contemporary State's distinguishing puzzle, reflecting the clash between the dual and conflicting imperatives of technical effectiveness and democratic responsiveness.

Both civil servants and politicians contribute to policymaking, but they do so in different ways. Civil servants bring facts and knowledge, while politicians bring their interests and values. Will it work if civil servants bring natural expertise? - Will it be acceptable if politicians bring political sensitivity?

In the Indian context, the vice of the supposed lack of trust melted away with the warmth of repeated emphasis on the necessity of close coordination between the two peer groups by the utterances and conduct of Pandit Nehru and Sardar Patel during the two decades after independence.

The preferred work culture of civil servants includes prudence, practicability, moderation, and risk avoidance. Only a politician would consider extremism to be a virtue and moderation to be a vice.

- The real difference between politicians and bureaucrats is that politicians articulate broad-based interests of unorganised clients, whereas bureaucrats mediate narrowly focused interests of organised clients. Politicians are zealous, partisan, and idealistic, whereas bureaucrats are prudent, centrist, practical, and pragmatic. Politicians seek attention and raise novel issues, whereas bureaucrats prefer the backroom, where they can manage incremental changes.
- Both in the pre- and post-legislative stages, public servants have contact with pressure groups that are susceptible of being affected by the changes proposed, are given detailed information on proposed changes-gathering information on the likely consequences of the new rules, are negotiated for knowledge on what is likely to be the final position of their minister, and are granted prior consent.
- A striking difference between bureaucrats and politicians observed on a cross-national basis is one of temperament. Politicians—quite a good number of them—have ideals and party passions to a degree quite alien to civil servants.

The relationship between administrator and politician has, necessarily, a behavioural dimension. The Kothari and Roy Study rightly assumes that there is occasionally a very thin line between policy determination and policy implementation resulting in overlap between the two in a very confusing and complicated manner.

- While administrators do not see their role as subordinate to political leaders, they must still reconcile themselves to their prerequisites of representative policies; political leaders, on the contrary, seem to be more aware of representative politics' operational conditions, and are more willing to enter into cooperative relations with administrators.
- The inapplicability of traditional notions of responsibility distribution among administrators and political leaders in concrete empirical situations. For example, when it comes to the distribution of loans, grants, and subsidies, or the allocation of sites for the poor, both groups have different perspectives.
- According to administrators, the three most common items brought to them by political leaders are administrative delays, people's economic problems, and problems arising from group conflicts in the areas of law and order.
- When confronted with the administrator's refusal to concede their demands, politicians believe it is either due to a flaw in the system or to the administrators' prejudice or disinclination to do real hard work.

Recommendations to reform Indian Politics and Permanent Executives:

- Implementing electoral reforms to reduce the influence of money and muscle power in influencing election results.
- Making necessary changes to the Official Secrets Act.
- Effectively ensuring the probity and integrity of bureaucrats and politicians at all levels, including the highest political and administrative levels.
- Improving the functioning of institutions such as the UPSC, the CVC, and the judiciary.
- Persuading political parties to effectively screen their candidates for sponsorship for elections-at the local, state, and central levels-of various decision-making bodies and to educate them, both in terms of the functions that they must carry out and the need to confine themselves to the legitimate sphere and the assigned role.
- Ensuring that the media plays a significant and positive role in ensuring that peer groups play their legitimate roles without fear or favour.
- To expose, condemn, and curtail the unholy nexus of politicians, bureaucrats, and criminals as effectively as possible.
- Effective implementation of Lok Pal.
- To take appropriate steps to protect and encourage comparatively honest functionaries in both the civil service and among political leadership, so that such elements are not left to defend their actions in public or otherwise.
- To eschew, to the extent practicable, the considerations of caste, religion and other factors in the functioning of services as also in the selections of candidates for various electoral posts in the legislatures.

- To effectively organise and streamline the grievance redressal system, as suggested in the Estimates Committee of Parliament reports in 1992.
- Conduct a full-scale review of party systems in order to propose a provision for internal party democracy, registrations, de-registration, and de-recognition of parties, open declaration of their funding sources, and independent audit of party accounts.
- To make appropriate modifications in anti-defection laws.

To conclude, both the civil servants and politicians are for the welfare of the people and they should realise the fact that in the changed global scenario, the expectations of the people have changed considerably and people are not in a position to accept anything that is less than the best. Due to liberalisation of the economy, and decentralisation of political power, people have realised their rights and it is in the best interests of the country that both the politician and civil servants work in tandem to achieve the desired results.

Responsive Administration: Citizen Administration Interface

Citizen friendly administration

Democracy is the most recent form of government practised by mankind. The modern institutional form of democracy originated in the United Kingdom. However, democracy is only able to acquire its representative character in the twenty-first century. This democracy was an open-ended oligarchy in its earlier stages. Blacks were denied the right to vote. Only between the two World Wars were women granted the right to vote in a number of countries. Women in France were granted the right to vote as late as 1945. In 1949, Belgium granted women the right to vote.

The United Nations Educational, Scientific, and Cultural Organization conducted a cross-cultural study on democracy in 1951. (UNESCO). It concluded triumphantly, 'For the first time in history, democracy is claimed as the proper, ideal description of all systems of political and social organisation.' Democracy has proven to be a growing phenomenon.

Democracy, as envisioned and practised, was political, with its external symbols being periodic elections based on adult franchise and no discrimination based on religion, race, gender, or beliefs. The right to free expression was unabridged.

Que. "Public Administration today tends to be less public quantitative terms, but more responsive to public needs than before in qualitative terms."

Examine with reference to citizen-centric administration. (2013) (10M)

Que. Ideally the citizen-administration interface is supposed to be based on trustworthiness and purposefulness, in reality it is observed to be plagued by suspicion, conflicts, stresses and strains. Do you agree? Elaborate. (2020) (10M)

Paradigm Shift:

Responsive administration is not the same as responsible government. These two terms are inextricably linked and intertwined. They are, however, distinct.

Responsible government is a political concept with a specific meaning. It is a broad concept. At the cutting edge of public administration, responsive administration is essentially animated. It is a micro level concept that derives its credibility and validity from a country's public administration's delivery system. Mahatma Gandhi best defined responsive administration.

Responsive administration appears to be a moral concept in public administration because it requires public functionaries to report directly to the people. A mechanism for grievance redressal is also part of responsive administration. Thus, Mahatma's talisman is the litmus test for responsive administration. Citizen empowerment is the single most important component of responsive administration.

Que. Accountability of regulatory bodies would address the problem of over regulators and help make them truly facilitators. Analyze the present status of regulators and suggest measures to induce accountability in the mechanism. (2019) (10M)

Hindrance:

The problems associated with administrative responsiveness are needs to be addressed within the larger social context. The current national scenario must account for certain parameters, the most important of which are the two.

- First is economic liberalisation to which India has firmly committed since the nineties.

The constitutionalisation of local government as a result of the 73rd and 74th constitutional amendments is the second parameter in the governing framework.

Contents of Responsive Administration:

- Even in Western industrialised countries, the quality of public administration is reported to be poor, and worse, it is deteriorating despite the existence of a free market. The quality of services in developing countries such as India is appalling.

- Responsive administration explicitly acknowledges the citizen-sovereignty in administrative dealings and relationships. This orientation is its chief component, the other being well-defined constitutional mechanisms for redress of citizen grievances.

Representative bureaucracy, lok adalats, consumer courts, citizens' charters, and other devices are already emerging in public administration. These need to be strengthened and made more effective. A citizens' charter established a code of conduct for delivery systems. It aims to re-define the citizen as a customer while also improving responsiveness and performance in government services. It establishes minimum standards of public service reflecting the following six principles of social rights: fair treatment, entitlement, participation, openness, public administration, and cooperation.

Performance Appraisal System:

The Performance Appraisal System has been defined in many ways. The simplest way to understand the meaning of performance appraisal is as follows:

- "A regular and continuous evaluation of the quality, quantity and style of the performance along with the assessment of the factors influencing the performance and behavior of an individual is called as performance appraisal."

The performance appraisal is expected to result in an assessment of:

- The employees growth potential.
- corresponding training needs for the employees.
- The capabilities of the employees for their placement in higher posts.
- The conduct and discipline of the employees.
- Need of the organization to evolve a control mechanism.

Performance appraisal also aims to assist management in carrying out their duties more effectively. A good performance appraisal system results in the following policies:

- Formation of a good selection policy.
- An effective promotion and placement policy.
- An improved system of career and manpower planning.
- A realistic training programme; e. A good reward and punishment system.
- An effective control and discipline system in the organisation.

Que. "Performance management requires identification of indicators and measures to ensure that goals are achieved efficiently." Discuss. (2018)(10M)

Right To Information Act 2005:

The era we live in is also referred to as the information age. The technological revolution has resulted in an era in which information can be easily transmitted from one end of the world to the other. However, the government's functioning is still hampered by the lingering effects of the permit licence raj, and there is an inherent reluctance among government employees to share information about how the government works. However, in recent years, there has been an increasing demand for greater access to information, primarily to combat corruption and promote greater accountability of government agencies to citizens.

The Supreme Court of India ruled in the case of State of UP vs. Raj Narain in 1975 that the right to information is implicit in the right to freedom of speech and expression, which is explicitly guaranteed in Article 19 of the Indian Constitution. Following that, the Court upheld the decision in a number of cases, even linking the right to information to the right to life enshrined in Article 21 of the Constitution.

Every citizen has the right to know how their government works. Every citizen has the right to seek any information from the government, inspect any government documents, and obtain certified photocopies of them.

The preamble to the Right to Information Act of 2005 sums up the need for a right to information law very succinctly.

'Whereas the Constitution of India has established Democratic Republic; And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed; And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information; And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal; Now, therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it.'

For the following reasons, citizens of a truly democratic state must have Right to Information:

- To ensure a transparent government this is accountable to the people.
- To establish a two-way dialogue between the citizens and the government.
- To enable a citizen to make well-informed decisions.

- To tackle corruption.
- To ensure better monitoring of the services provided by the government.

As per the RTI Act 2005, the right to information includes the following rights:

- Inspection of documents, works and records.
- Taking notes, extracts or certified copies of documents or records.
- Take certified samples of material; and
- Obtaining the information in form of printouts, tapes, video cassettes diskettes, floppies or in any other electronic mode or through printouts

The Right to Information Act of 2005 is a watershed moment in legislation. If properly implemented, it could be a significant step toward a more accountable and transparent government. However, given the culture of secrecy in the government sector and the unwillingness of government employees to share information, the task is far from easy. This is exacerbated by the general public's lack of understanding of the legislation's potential benefits.

However, if the government is to process requests for information under the Act, it will need to improve its information management. Information must be kept in a format that allows it to be easily formatted and easily accessible. This may entail a significant amount of digitisation and computerisation of information, which will help the government function better because officials will be able to access information more easily and quickly. This will result in increased transparency and more effective monitoring.

Que. "The RTI has started its journey, but is far from its destination." In the view of the statement, examine the present's status of the RTI movement (2019)(10M)

Que. The Right to Information Act is a path-breaking legislation which signals the march from darkness of secrecy to dawn of transparency." What hurdles do the citizens face in obtaining information from the government? Explain how the reluctance of the government to part with information under R.T.I. can be addressed (2016) (20M)

Excellence of Administration:

Responsive administration is a concept that all administrations should strive to emulate. Its importance is clearer in a developing country like India, which has a long colonial history based on stiff-necked bureaucracy and lacks responsive administration. Thus, citizen-friendly administration pervades all levels and sectors of public administration, but the need for citizen-friendly administration

is most pressing at the cutting edge of administration: the numerous points where administration and citizen meet on a daily basis.

At the moment, in most parts of the country, the points of contact between citizens and administration are essentially a hacking point: a source of seemingly endless harassment for the people, particularly those on the fringes of development.

Changing Face of Public Administration in the Context Of Liberalisation, Globalisation And Privatisation

Since 1991, the administration's context has changed as a result of the New Economic Policy. Concepts such as 'Globalisation,' 'Liberalisation,' and 'Privatisation' have gained widespread currency, indicating greater openness of government to international competition, deregulation and dismantling of a series of government controls, and downsizing of government by handing over selected activities to the private sector, as well as encouraging non-governmental organisations to work more and more efficiently.

Implementation Analysis and Research:

The first generation implementation was essentially top-down. In a top-down approach the top-level goals have given special importance. It was assumed that the top-level goals and objectives were the only legitimate ones, and that any deviation from these exemplified implementation failures. This top-down vision has resulted in the recommendation for fewer and clearer goals, as well as the virtual exclusion of politics from the administrative process.

Whereas second-generation implementation research challenged the top-down view, arguing that changes in programmes are natural and even desirable during implementation. This resulted in the development of the 'bottom-up' approach, which recognised the need to find effective ways of achieving policy objectives in a variety of local contexts.

In this approach, the priority is given to the local needs of clients. In a hierarchical structure, field workers are not regarded as inert and passive; rather, they are regarded as possessors of critical policy insights that top management generally lacks. This viewpoint, known as "backward mapping," contends that workers on the ground are more familiar with the issues that arise during programme implementation, and that their role in policy formulation must be recognised. The bottom-up approach has undoubtedly made the administration aware of the importance of local level autonomy.

Distinction between Macro and Micro Administration:

Another distinguishing feature of modern public administration is the distinction between public macro and micro administration. Classical public administrative principles, administrative structural concepts, and human relational ideas were all developed with reference to an organization's internal design and working conditions. The classical public administration theorists were concerned with micro-administration. The central goal of classical administrative theory had been to explain how people in an organisation worked toward achieving top management-set goals.

However, later public administration focused on macro-administration, which consists of a collection of organisations and agencies interacting with one another to achieve programme goals. As a result, there would be numerous decision points, numerous participants, and a plethora of agencies. In such a case, planning necessitates the coordination of the activities of several organisations.

New Paradigm of Public Administration:

For the first time in the Commonwealth's history, a high-level conference devoted solely to issues of public management in today's context, dubbed "government in transition." There was widespread agreement that strong environmental forces have buffeted the public sector, and governments all over the world are being forced to deal with them. Some of the impinging forces are,

- Knowledge-based production
- The Communication revolution
- Massive explosion in world trade

The 'new paradigm' emphasised:

- The role of public managers in providing high-quality services valued by citizens.
- Advocates for greater managerial autonomy.
- Control of Central Agencies is being reduced.
- Demands, measures, and rewards are based on both organisational and individual performance.
- Recognizes the significance of providing managers with the human and technological resources they require to meet their performance goals.
- Is open to competition.
- Is agnostic about which public functions should be performed by public servants as opposed to private-sector employees.

Corruption in Administration: Need for Effective Vigilance

At the present level, corruption is rampant and wide-spread in both the public services and also among holders of high political offices. It is undoubtedly a matter of serious national concern. Despite the brave words of all top leaders of different political parties in power at the Centre and in the States to 'wage war' against corruption, 'no compromise' on corruption, and 'not to spare any corrupt person, no matter how high', there has been little dent on corruption or corrupt individuals. In fact, corruption has become more prevalent and pervasive.

During the last decade, it has also engulfed a greater number of people in positions of power. It is now galloping unabated and unafraid. Many recent scams and scandals have been extensively reported in the press, demonstrating the ever-worsening situation caused by a near total lack of effective vigilance.

Corruption in Post-Independence Period

This position, however, changed radically after the Independence assumption of power by the elected leaders. The beginning of economic development from 1951 to the Five-Year Plans (FYP) have dramatically increased government spending.

The banking and insurance sectors were taken over and controlled by the government. A large number of large and medium-sized power supply units (PSUs) were installed. "Licence, quota, and Permit Raj" arose in areas of the economy that had previously been left open to the private sector.

All of this provided ample opportunities for corruption-prone ministers and public servants at all levels to make large illegal gains by abusing their offices and powers. A slew of "middlemen" and "influence peddlers" have also emerged to facilitate corruption and share the spoils at the expense of the public purse.

Many new fiscal laws, such as the Foreign Exchange Regulation Act (FERA), the Import Export (Control) Act, the Customs and Excise Act, the Income Tax Act, the Industrial Licensing Act, and others, opened up new avenues for corruption.

Remedial Measures since Independence

Santhanam Committee Report:

The Santhanam Committee, appointed in 1962 to study the growing problem of corruption and to suggest remedial measures stated in its report of 1964 as below: "We heard from all sides that corruption has in recent years spread even to those levels of administration from which it was conspicuously absent in the past". It also reported: "There is a widespread impression.....that some ministers who have held office during the last 16 years have enriched themselves illegitimately, obtained good jobs for their sons and relations

through nepotism, and have reaped other advantages inconsistent with any notion of purity in public life".

Diluted Version of Central Vigilance Commission:

To combat high-level administrative corruption, the Santhanam Committee recommended the establishment of an independent Central Vigilance Commission (CVC), which would exclude ministers but include all public servants of the Central Government and its PSUs.

A suitable parliamentary law was to provide the Commission with a statutory foundation "after a suitable period of experimentation." The Committee recommended that the Commission be given the authority to investigate complaints "that a public servant:

- has exercised his powers for improper or corrupt purposes;
- has unjustifiably or corruptly refrained from exercising his powers".

After preliminary investigation of the complaints by the Commission, the Commission was to be legally empowered "to initiate, conduct, and complete such action as may be considered appropriate, including prosecution against a public servant found guilty." By removing these powers from the currently vested government, the Commission was to be given the authority to initiate disciplinary action or prosecution.

Furthermore, it was suggested that the CVC be given powers that could be exercised by a Commission of Inquiry appointed under the Commission of Inquiry Act 1952, allowing him to conduct "any inquiry relating to transactions in which public servants are suspected or alleged to have acted improperly or in a corrupt manner."

Measures Necessary to Effectively Tackle Corruption:

As a result, there is currently no effective and independent vigilance mechanism that can inspire public trust in the prevention of political or administrative corruption. If the current government is serious about addressing the problem of "widespread" corruption, the following steps must be taken:

- Establishment of the Lokpal institution to deal with political corruption, with the suo-moto power to initiate action against corrupt central ministers and MPs.
- The Lokpal should have its own independent investigative and prosecutorial agency, rather than relying on the CBI.
- The Lokpal should have legal authority to prosecute an accused minister in specially designated courts if the Lokpal's own investigation establishes a prima facie case against him.
- Following the filing of the charge-sheet in the trial court, the charged minister must resign compulsorily.

- The Central Lokayukta could be appropriately linked to the Lokpal by making provisions of sharing or having common officers, staff, investigating and prosecuting agencies.
- The proposed Central Lokayukta should have the powers to finally decide on initiation of disciplinary action or prosecution against any public servant after a *prima facie* case is established by his own inquiry.

Que. "The basic ethical problem for an administrator is to determine how he/she values." Comment with reference to corruption in administration. (2013) (20M)

Que. "There are adequate legal mechanisms to address corruption and malpractices in administration, but they have failed to curb the menace to any noticeable degree." In the light of this statement, discuss the efficacy of the institution of Lokayukta in Indian States. (2020) (20M)

Que. "The 'policy of non-action' regarding the institutional mechanisms and legal provisions to eradicate corruption is a feature of Indian Administration." Critically examine (2017) (20M)

Que. Minimal accountability being the dominant norm in the political system, the Lokpal can only be an ideal institution with limited effectiveness. Explain. (2019) (20M)

Use of Policy only Under Judicial Control:

The police's use for surveillance, detection and investigation of corruption suspect persons should be on the approval of the appropriate civil or judicial authorities only. Unfortunately, the police in India, validly or otherwise, do not enjoy the reputation of being objective, just and fair-minded.

Features Contributing to Administrative Efficiency since Independence:

The Efficiency Unit's report, titled "Improving Management in Government: the Next Step," recommended that the following three main priorities be pursued with vigour in service delivery, in the department and in the Central departments of Whitehall, the Treasury, and the Cabinet Office:

- Each department's work must be organised in a way that focuses on the task at hand; systems and structures must improve the effective delivery of policies and services.
- Each department's management must ensure that their employees have the necessary experience and skills to perform the tasks required for effective government.

- There must be real and sustained pressure on and within each department to improve the value for money obtained in the delivery of policies and services on a continuous basis.

Introduction of Information Technology:

With the introduction of information technology in administration, a new vista on the Indian administration scenario has opened. It has greatly increased efficiency and has accelerated decision-making. Information technology has arrived in India and is now an integral part of Indian administration, from the grassroots to the highest levels of government. It will become an essential component of our administrative machinery in the coming decades.

Need to take Closer Look at Policies of Transfers and Postings:

Transfer policies implemented by various governments are one factor that has harmed performance and efficiency. It has been observed that transfers are generally used on the eve of elections to place obedient officers in sensitive areas. The frequent changes in government also result in a large number of transfers.

It is important to emphasise that administration must be viewed holistically, which implies that both regulatory and developmental functions must be integrated and viewed as interdependent. It is not enough to have 'growth with justice,' but also 'growth with stability,' and this is where the administration's strength and efficiency must reveal its true character.

The government can accomplish this by trimming the fat from its bloated bureaucracy, slipping down administrative overheads in the form of reduced inputs, and instituting a strict regime. Efficiency has taken on a new meaning in the form of a leaner and fitter bureaucracy. Saving encourages and improves efficiency and effectiveness. It can be stated that reducing money and manpower inputs directly reduces costs and stimulates productivity, as well as forcing officials to cut waste and irrelevant expenditure, resulting in greater harmony, more disciplined performance, and increased efficiency.

Coalition Governments and their impact on Administration:

Government by a coalition of political parties is considered normal in many democratic countries, including Germany, France, Australia, India, Israel, and Italy. In such countries, there are frequently numerous political parties with significant popular support in elections. This means that no single party can usually win more than 30% of the seats in the parliament or national assembly, so several parties must work together to form a viable government, usually under the premiership of the leader of the largest party involved.

In other countries, such as the United Kingdom, the United States, and Japan, there are fewer significant political parties, and coalitions are uncommon, because after an election, the winning party is able to form an effective government without the assistance of others. This debate is closely related to voting reform issues, because countries with some form of proportional representation have more political parties in parliament than those with a first-past-the-post system, and thus are more likely to have coalition governments.

A coalition government is a parliamentary government's cabinet in which several parties work together. The usual justification for this arrangement is that no single party can achieve a majority in parliament. A coalition government may also be formed in times of national difficulty or crisis, such as during wartime, to provide a government with the high level of perceived political legitimacy it seeks while also helping to reduce internal political strife. Parties have formed all-party coalitions in such times (national unity governments, grand coalitions). If a coalition collapses a confidence vote is held or a motion of no confidence is taken.

Coalition cabinets are common in countries with a proportionally representative parliament and several organised political parties represented. It is rarely seen in countries where the cabinet is appointed by the executive rather than by a lower house, such as the United States (however, coalition cabinets are common in Brazil). Coalition governments are common in semi-presidential systems such as France, where the president formally appoints a prime minister but the government must still maintain the confidence of parliament.

Citizen Charter:

Citizen Charter is a voluntary commitment made by government institutions to citizens of the country regarding activities to be performed by them within a specific time.

Citizen Charter had its origins in the UK. John Major who was the PM of the UK in early 1990s who introduced the Citizen Charter to ensure accountability, also to ensure participation of citizens in government. The citizens' charter experiment had become extremely successful in the UK, as citizens were aware about their rights and the government was willing to make itself accountable to citizens even though it was voluntary in nature. By considering themselves as servants of people and are willing to implement Citizen Charter in both letter and spirit.

In India CMs conference was held in 1997 to discuss the problem of corruption in administrations. The conference suggested implementation of Citizen Charter to eradicate the menace of corruption.

Once Citizen Charter is formulated and departments/institutions take the responsibility for implementing those Citizen Charter, Social Audit comes will review performance of Citizen Charter in terms of its objectives. Social audit Committees can submit their recommendations and reports to their higher authorities. Higher authorities are expected to take decisions on the basis of reports submitted by social audit. The objective of the Citizen Charter is to ensure participation of citizens in governance and to make them accountable for their performance.

Reasons for failure of Citizen Charter:

- Citizen Charter in India has become a misnomer. None of the government departments and ministries has formulated Citizen Charter by involving the stakeholders, citizens.
- Since it is a voluntary commitment, departments never took Citizen Charter seriously.
- Performance of the department by implementation of Citizen Charter has no impact on their career. Their promotions, transfers, suspensions do not depend on their ability to implement Citizen Charter.
- Social Audit Committees which are expected to participate actively in formulation of Citizen Charter could not do so because of lack of knowledge and experience regarding administration.
- As rightly pointed out by 2nd ARC in its report on citizen centric administration, Citizen Charter are nothing but pious statements with noble intentions lacking any practical significance. For example, Railways has promised safe and comfortable travel for customers but never defined what safety is and what is comfort, in quantifiable terms.
- Most of the Citizen Charters are formulated in English. It has become almost impossible for people from rural areas to benefit out of Citizen Charter due to linguistic barriers.
- Citizen Charter can be successful only when there is willingness to share the information with the stakeholders. Failure to implement section 4 for of RTI, according to which civil servants are expected to share the information, had become a major obstacle in implementation of Citizen Charter.
- Absence of Grievance Redressal Mechanisms. If the Citizen Charter is not implemented citizens do not have any mechanism to address their grievances.

SOLUTIONS:

- It should be made mandatory for all ministries and departments to formulate Citizen Charter in consultation with stakeholders.
- Citizen Charter can only be formulated in local languages.
- Social Audit Committees should be given proper training in administration so that they can actively participate in formulation of Citizen Charter.
- It should be mandatory that all flagships schemes of government should have Citizen Charter
- Citizen Charter should really define outcomes & outputs in a quantifiable manner. Service should be defined on the basis of globally accepted norms.

Que. Do you think that the Public Service Guarantee Act passed by various State Governments is an extension to the Citizen Charter? Give reasons (2017)(10M)

SOCIAL AUDITS:

In India, auditing is a function which is exclusively performed by government agencies. Auditing literally means evaluation of performance. It is CAG which is responsible for evaluating performance of ministries & departments but auditing done by CAG has many weaknesses.

As the name itself indicated Social Audit is auditing done by society/people/stakeholders.

Social Audit Committees (SAC) are formed at the lowest level. It consists of members from CSOs & NGOs beneficiary groups, local prominent Businessmen, local media personnel, civil servants from the state & others. These Social Audit Committees must formulate Citizen Charter with the help of stakeholders.

Evaluation criteria for Social Audit Committees are Economy, efficiency, effectiveness & equality. These SAC should verify whether outlays transformed into outcomes or not. They perform what is popularly known as concurrent audit, wherein auditing takes place simultaneously as and when money is spent.

Que. "Social audit has lent a critical edge to the implementation of programmes such as MGNREGA." Comment (2018)(10M)

Que. "The concept of social audit is more comprehensive than that of

traditional audit.” Comment. (2013)(10M)

National Green Tribunal:

It was established by the NGT Act of 2010 to deal with the cases involving environmental protection and the conservation of forests and other natural resources in a timely and effective manner. Its functions include

- The enforcement of any legal right relating to the environment and giving relief and compensation for damages to persons and property.
- It is not bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice.
- Its dedicated jurisdiction in environmental matters shall provide speedy environmental justice and help reduce the burden of litigation in the higher courts.

It is mandated to make and endeavour for disposal of applications or appeals finally within 6 months of filing of the same

The NGT has the authority to hear all civil cases involving environmental issues and questions concerning the implementation of the laws listed in Schedule I of the NGT Act.

These include the following:

- The Water (Prevention and Control of Pollution) Act, 1974;
- The Water (Prevention and Control of Pollution) Cess Act, 1977;
- The Forest (Conservation) Act, 1980;
- The Air (Prevention and Control of Pollution) Act, 1981;
- The Environment (Protection) Act, 1986;
- The Public Liability Insurance Act, 1991;
- The Biological Diversity Act, 2002.

Members:

- Currently, the sanctioned strength of the tribunal is 20. This includes the 10 expert members and 10 judicial members. (The act allows for up to 20 of each).
- The Chairman of the tribunal (who is the administrative head of the tribunal) serves as a judicial member.
- Every tribunal bench must include at least one expert and one judicial member. The tribunal's Chairman must be a serving or retired Chief Justice of a High Court or a judge of the Supreme Court of India.
- A selection committee (headed by a sitting judge of the Supreme Court of India) reviews applications and conducts interviews to select members.
- The Judicial members are chosen from applicants who are either serving or retired High Court judges. Expert members are chosen from applicants who are either serving or retired bureaucrats with a minimum administrative experience of five years dealing with environmental issues

and who are not below the rank of an Addl Sec to the Government of India (not below the rank of Principal Secretary if serving under a state government). Alternatively, the expert members must hold a doctorate in a relevant field.

Que. "The National Green Tribunal is viewed by many critics as a hindrance to economic development." Evaluate the statement and give arguments in support of your answer. (2016) (10M)

Disaster management

It is the ability to deal with and avoid risks. It is a discipline that entails disaster prevention as well as disaster response. For example, emergency evacuation, quarantine, mass decontamination, and so on, as well as assisting and rebuilding society following natural or man-made disasters.

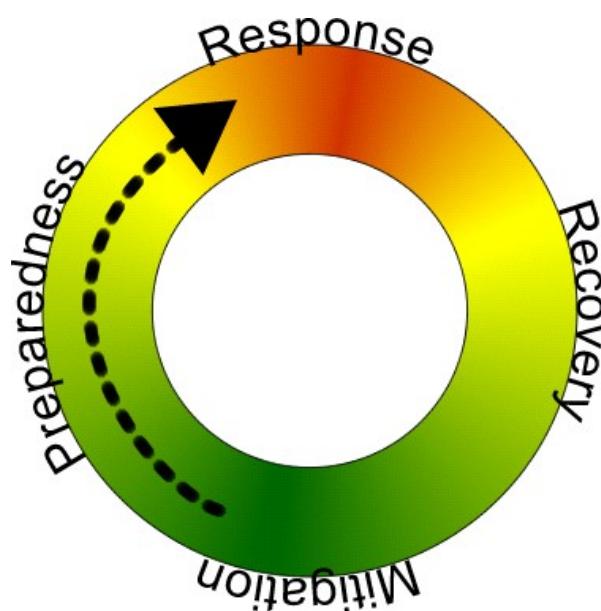
In general, emergency management is the on-going process by which all individuals, groups, and communities manage hazards in order to avoid or mitigate the impact of disasters caused by the hazards. Actions taken are influenced in part by those exposed perceptions of risk. Effective emergency management is dependent on the thorough integration of emergency plans at all levels of government and non-government participation.

Activities at each level (individual, group, and community) have an impact on the others. It is common to place responsibility for governmental emergency management with civil defence institutions or within the traditional structure of the emergency services. Emergency management is also known as business continuity planning in the private sector.

Disaster management is one of several terms that have largely replaced civil defence, which was originally focused on protecting civilians from military attack, since the end of the Cold War. Modern thinking focuses on a broader goal of protecting civilians in times of peace as well as times of war. Another current term, Civil Protection, is widely used within the European Union and refers to government-approved systems and resources whose primary mission is to protect civilians in the event of natural and man-made disasters. Within the EU, the term Crisis Management emphasises the political and security dimensions rather than measures to fulfil the immediate needs of civilians. An academic trend is to use the term disaster risk reduction, particularly in the context of emergency management in development management. This focuses on the emergency cycle's mitigation and preparedness aspects (see below).

Phases and Professional Activities:

The nature of management is determined by the economic and social conditions of the local community. Some disaster relief experts, such as Fred Cuny, have stated that the only true disasters are economic in nature. Long-term work on infrastructure, public awareness, and even human justice issues, according to experts such as Cuny, must be included in the emergency management cycle. This is especially important in developing countries. There are four stages involved into the emergency management process: mitigation, preparedness, response, and recovery.



A graphic representation of the four phases in emergency management.

Mitigation

Mitigation strategies can be either structural or non-structural. Structural measures, such as flood levels, rely on technological solutions. Legislation, land-use planning (e.g., designating non-essential land such as parks to be used as flood zones), and insurance are examples of non-structural measures. Mitigation is the most cost-effective method of reducing the impact of hazards, but it is not always appropriate. Mitigation does include providing evacuation regulations, imposing sanctions on those who refuse to follow the regulations (such as mandatory evacuations), and informing the public about potential risks.

Some structural mitigation measures may be adverse to the ecosystem.

Preparedness

During the preparedness phase, emergency managers devise plans of action for when a disaster strikes. Typical preparedness measures include:

- Communication strategies that use simple terminology and methods.
- Emergency services, including mass human resources such as community emergency response teams, must be properly maintained and trained.

- Development and testing of emergency population warning systems, as well as emergency shelters and evacuation plans.
- Disaster supplies and equipment must be stockpiled, inventoried, and maintained.
- Develop organizations of trained volunteers among civilian populations. (Professional emergency workers are rapidly overwhelmed in mass emergencies so trained; organized, responsible volunteers are extremely valuable. Organizations like Community Emergency Response Teams and the Red Cross are ready sources of trained volunteers. Its emergency management system has gotten high ratings from both California, and FEMA).

Another aspect of preparedness is casualty prediction, which is the study of how many deaths or injuries to expect from a specific type of event. This provides planners with an idea of what resources are required to respond to a specific type of event.

Que. “Disaster preparedness and management has become an important component of district administration in India.” Discuss with suitable illustrations (2017) (20M)

Response

The response phase includes the mobilisation of emergency services and first responders in the disaster area. It is likely that the first wave of core emergency services, such as firefighters, police, and ambulance crews, will arrive. It is known as a Disaster Relief Operation (DRO) when carried out as a military operation, and it can be a follow-up to a non-combatant evacuation operation (NEO). Secondary emergency services, such as specialised rescue teams, may be called in to help.

Recovery

The recovery phase's goal is to return the affected area to its previous state. Its focus differs from that of the response phase; recovery efforts are concerned with issues and decisions that must be made after immediate needs are met. Recovery efforts are primarily focused on actions involving the reconstruction of destroyed property, re-employment, and the repair of other critical infrastructure. Taking advantage of a "window of opportunity" for the implementation of mitigating measures that would otherwise be unpopular is an important aspect of effective recovery efforts. Citizens of the affected area are more likely to accept more mitigating changes when a recent disaster is in fresh memory.

Que. “Bureaucratic agencies, characterized by established procedures, specialization, leadership, and clear objectives, are not ideal to handle disaster management.” Examine with reference to the need for administrative flexibility in managing disaster. (2013) (20M)

International organizations working in Disaster Relief work

- International Association of Emergency Managers
- Red Cross/Red Crescent
- United Nations
- World Bank

Disaster Management India

Because of its unique geo-climatic conditions, India has historically been vulnerable to natural disasters. Floods, droughts, cyclones, earthquakes, and landslides are all common occurrences. Approximately 60% of the landmass is vulnerable to earthquakes of varying intensities; over 40 million hectares are vulnerable to floods; approximately 8% of the total area is vulnerable to cyclones; and 68 percent of the area is vulnerable to drought. Every year from 1990 to 2000, an average of 4344 people were killed by natural disasters, and an estimated 30 million people were affected. The loss of private, community, and public assets has been enormous.

Over the last few years, the Government of India has ushered in a paradigm shift in disaster management. The new approach is based on the belief that development cannot be sustainable unless disaster mitigation is incorporated into the development process. Another tenet of the approach is that mitigation must be multidisciplinary, encompassing all sectors of development. The new policy is also based on the belief that investments in mitigation are far more cost effective than investments in relief and rehabilitation.

Disaster management is important in this country's policy framework because the poor and underprivileged are the ones who suffer the most as a result of calamities/disasters.

The steps taken by the government are a result of the above-mentioned approach. The approach has been translated into a National Disaster Management Act as well as a National Disaster Framework [a road map] that includes institutional mechanisms, disaster prevention strategy, early warning system, disaster mitigation, preparedness and response, and human resource development.

The roadmap identifies and lists the expected inputs, areas of intervention, and agencies to be involved at the national, state, and district levels. This roadmap has been distributed to all state and union territory governments. Government of India Ministries and Departments, as well as State Governments/UT Administrations, have been advised to develop their respective roadmaps using the national roadmap as a broad guideline. As a result, there is now a common strategy guiding the actions of all participating organizations/stakeholders.

The new approach is being implemented through:

- (a) institutional changes.
- (b) Policy formulation.
- (c) Legal and technological-legal framework
- (d) Integrating Migration into the Development Process
- e) The funding mechanism
- (f) Specific mitigation strategies.
- (g) Measures of preparedness.
- (h) Capacity development.
- (i) Human Resource Development and, most importantly, community participation.

The National Disaster Management Authority (NDMA)

The Government of India enacted the Disaster Management Act on 23 December 2005. The act envisaged the creation of National Disaster Management Authority (NDMA), headed by the Prime Minister, and State Disaster Management Authorities (SDMAs) headed by respective Chief Ministers, to spearhead and implement a holistic and integrated approach to Disaster Management in India.

The NDMA, as the apex body, is committed to developing policies, plans, and guidelines for disaster management in order to ensure a timely and effective response to disasters. It is responsible for the following tasks in this regard:

- Establish disaster management policies.
- To approve the National Plan for disaster management.
- Approve plans prepared by the Government of India's Ministries or Departments in accordance with the National Plan.
- Establish guidelines for the State Authorities to follow when developing the State Plan.
- Establish guidelines for the various Ministries or Departments of the Government of India to follow in order to incorporate disaster prevention or mitigation measures into their development plans and projects.
- Coordinate the enforcement and implementation of disaster management policies and plans.
- Recommend provision of funds for the purpose of mitigation.
- As determined by the Central Government, provide assistance to other countries affected by major disasters.
- Take any other measures deemed necessary for disaster prevention, mitigation, or preparedness and capacity building for dealing with threatening disaster situations or disasters.
- Establish broad policies and guidelines for the National Institute of Disaster Management's operation.

Que. Explain how the National Disaster Management Plan (NDMP) provides a framework and direction to the government agencies for all phases of disaster management cycle. (2016) (20M)

Que. The National Policy on Disaster Management envisages a paradigm shift from hitherto reactive post-disaster relief centric regime to more proactive and enabling environment. Examine the responses of State Governments in this regard. (2019) (20M)

From FM Sitharaman's 2019 budget speech, in which she envisioned a "pollution-free India with green Mother Earth and blue skies," to PM Modi's pledge at the UN Climate Action Summit to double India's non-fossil fuel target to 450 GW by 2022, the political climate in India is enthused about the country's green growth. Achieving these ambitious goals, however, will necessitate unprecedented levels and sizes of investment, starting with \$2.5 trillion until 2030, according to India's Nationally Determined Contribution.

While there may be a consequential shift away from a focus on clean energy investment, the pandemic has highlighted the importance of mitigating the effects of climate change at the forefront of economic growth. This is an excellent time to assess whether we have systems in place for tracking and reporting mitigation-related finance flows, as this is critical for increasing trust and accountability in country data on climate-related commitment.

While various national and state-level government schemes are aimed at combating climate change or promoting green technologies, there is no mechanism in place to assess the climate relevance of projects, label them as 'green,' and conduct a thorough review of the expenditure. Because of this omission, budgeting the country's mitigation action in its annual financial plan is difficult.

Since several countries, including neighbours Nepal and Bangladesh, have already begun to assess and review their climate-related expenditures using UNDP's methodology, India must also implement a "Climate Budget Tagging (CBT)" tool. It aids in identifying, categorising, weighing, and marking climate-relevant expenditures in the fiscal budget, allowing for estimation, monitoring, and tracking of those expenditures.

It took India a decade to raise awareness and capacity for gender budgeting at the national and state levels. We cannot afford to spend the same amount of time developing a tagging tool. Climate change has already caused catastrophic devastation and threatens to take lives across the country.

Que. Climate change issues pose new challenges for district administration to be proactive.” Elaborate (2018) (20M)

Model Answers

Que 1. “Laws are enacted without involving the police in the conception stage, with the result implementation of these laws leaves much to be desired.” Examine the role of police in protection of children. (2013) (20M)

The police is the organ that enforces laws and is the visible arm of the state. In this context, the police play an important role in the protection of children as well.

Responsibilities of police in protection of children:

- Setting up of a Special Juvenile Police Unit in every district under Juvenile Justice act to deal with issues related to children in conflict with the law as well as aiding children in need.
- Identification of missing children and reuniting them with their guardians.
- Preventing child abuse and its perpetuation in homes
- Implementation of POCSO Act to prevent creation and dissemination of child pornography as well as stopping child sexual abuse, investigation of violations, etc Police are also expected to record evidence in 30 days under POCSO act.
- Identifying and putting a stop to child labour as well as preventing forced labour.
- Identifying and preventing child trafficking under The Immoral Traffic (Prevention) Act
- Protecting children from harmful effects of narcotics via implementation of Narcotic Drugs and Psychotropic Substances Act, 1985.
- Investigating juvenile crime and accosting juvenile criminals.
- Ensuring a peaceful surrounding where children can grow to their fullest potential.

Despite such huge responsibilities of police in protection of children, the performance has not been completely satisfactory. This can be chalked to the following factors:

- Lack of consultation during policy formulation. Most laws are made and passed “from the top” and the police have less said in how to improve implementation.
- Lack of awareness of policy in implementation. For example, reports have indicated how police were not familiar with the POCSO Act.

- Police personnel who hail from the locality may carry certain parochial ideas, which causes them to not act upon certain issues. For example, in case of physical assault on children by relatives, they would prefer to create an intermediary and end the issue rather than file FIR.
- Police are already overburdened due to low strength. They will not be able to adequately implement new laws, when their focus is already on more “high profile” activities like curbing organized crime.
- Police procedures tend to be brusque, bureaucratic and not child friendly. A policy is only as good as its implementation. Thus, while policies for protection of children are well-intentioned, they should be drafted after consultation with the police who will implement them. This requires a robust feedback mechanism between policymakers and policy implementers. This will allow the policies to be implemented better, as well as identifying shortcomings and focus areas for reform in the police.

Que 2. Examine the National Health Policy in the context of the current pandemic situation. Identify the problems and suggest improvements. (2020) (20M)

Winston Churchill famously said that one should never let a good crisis go to waste. As we emerge from the COVID pandemic crisis, we should use this opportunity to examine the health framework in India and its shortcomings that were highlighted by the crisis.

India's current health policy is the National health Policy,2017.

Extra information:

Salient features of National Health Policy, 2017:

- The National Health Program (NHP) of 2017 aims to reach out to everyone in a comprehensive, integrated manner in order to help them move toward wellness. The policy is intended to achieve universal health coverage and provide high-quality health-care services to all at a low cost.
- The policy aims to achieve the highest possible level of health and well-being for all ages through a preventive and promotive health care orientation in all developmental policies, as well as universal access to high-quality health care services for all without financial hardship.
- This would be accomplished by improving access, raising quality, and lowering healthcare delivery costs.
- Investment: The policy proposes a potentially achievable goal of increasing public health spending to 2.5 percent of GDP in a time-bound manner.
- Preventive and promotional health: The policy articulates the need to institutionalise inter-sectoral coordination at the national and sub-national

levels in order to optimise health outcomes, through the formation of bodies with representation from relevant non-health ministries. The policy identifies seven priority areas for coordinated action to improve the environment for health:

- The Swachh Bharat Abhiyan.
- Balanced, healthy diets and regular exercises.
- Addressing alcohol, tobacco and substance abuse.
- Yatri Suraksha – preventing deaths due to rail and road traffic accidents.
- Nirbhaya Nari – action against gender violence.
- Reduced stress and improved safety in the workplace.
- Reducing indoor and outdoor air pollution.
- Policy recognizes the need to tackle zoonotic diseases, occupational health and promotion of traditional medicinal systems (AYUSH).
- Policy recognizes the need for “Health in all” along with “health for all”.
- 8. Time-bound targets must be met, such as increasing life expectancy at birth from 67.5 to 70 by 2025; lowering under-five mortality to 23 by 2025; and lowering infant mortality to 28 by 2019.
- 9. Public Health Care Delivery Organization: The policy proposes seven major policy shifts in the organisation of health care services.
 - From selective care to assured comprehensive care with links to referral hospitals in primary care.
 - In secondary and tertiary care, strategic purchasing is shifting from an input-oriented to an output-based approach.
 - In public hospitals, everything from user fees and cost recovery to free drugs, diagnostics, and emergency services for all is guaranteed.
 - In infrastructure and human resource development, the approach has shifted from a normative to a targeted approach to reach underserved areas.
 - In urban health, from token interventions to large-scale assured interventions, the goal is to organise Primary Health Care delivery and referral support for the urban poor. Collaboration with other sectors to address wider urban health determinants is encouraged.
 - In National Health Program integration with health systems for program effectiveness and in turn contributing to strengthening of health systems for efficiency.
 - In AYUSH services – from stand-alone to a three-dimensional mainstreaming

The NHP, 2017 and the pandemic

- The pandemic dealt a massive blow to a healthcare system already stretched thin.
- The pandemic exposed the inadequacy of availability of government hospitals and thus reduced access to health for the poor.
- The crises related to unavailability of ventilators, oxygen cylinders and medicine, highlight an important shortcoming in the goal of “Health for all”
- The shortage of health personnel was also keenly felt.
- Safety of health personnel
- About 85.9% of rural India and 80% of urban India do not have dedicated health insurance.
- The inability of providing “health for all” due to inadequate infrastructure led to prolonged lockdown.

Problems:

- Low governmental investment in health: majority of secondary and tertiary healthcare in India is led by the private sector. Even the goal of investment in health of 2.5% of GDP has not been met. In 2020, it was around 1.6%.
- While private healthcare is sought to be utilized via schemes like PM- Jan Arogya yojana, empanelment of hospitals was slow and many could not avail of it.
- Lack of supporting infrastructure – in the form of manufacturing of ventilators, oxygen, etc.
- The parliamentary standing committee on health highlighted the lack of preparedness in India against zoonoses and potential biological weapons.
- Issues in regulation of medicines: traditional medicines have come under criticism due to false claims of effectiveness against covid.
- Focus of medicine has been on curative rather than preventive.
- Issues in coordination – the pandemic was a disaster. But unlike other natural disasters, the existing Disaster Management Act was inadequate as it centralized power too much. This led to issues of coordination between state and center.

Improvements needed

- Enhanced spending on an unhealthy nation cannot meet its potential. Thus, public spending on health should achieve NHP’s goal of 2.5% and even go beyond it. Countries like Cuba, Sri-Lanka, etc spend about 4% of GDP on health and therefore have better health outcomes.
- Investments are needed in healthcare personnel, healthcare infrastructure and supply chains.
- Central role of governmental options- Government presence in secondary and tertiary care should be enhanced, while empanelment of private hospitals should be fast-tracked.

- Promotion of tele-health and use of ICT to improve evidence-based decision making in health. To this end, the National Digital Health Mission has already been launched.
- The parliamentary standing committee recommended legislative measures for combating bioweapons and bioterrorism.
- The National Health Policy will also have to focus on behavioral aspects of health such as social distancing and the like will remain important in years to come.
- Improving doctors to patient's ratio and population to hospital bed ratio, in accordance with WHO guidelines.

The pandemic has exposed the seams of the national health policy. They should be reformed to ensure that Health for all is not a goal but a reality in India.

Appraisal of the Existing Framework of Centre-State Relations

The Constitutional scheme of governance at the Centre and in the States is provided in Part XI (Articles 245 to 263), and Part XII (Articles 264 to 298), with few related provisions on trade and Commerce in Part XIII and on All India Services in Part XIV. Broadly it deals with three types of relations namely (a) Legislative Relations (Articles 245-255); (b) Administrative Relations (Articles 256-263); and (c) Financial Relations (Articles 264-293). The Report is prepared following this scheme and analyzing the issues and challenges under each of the three types of Centre-State relations.

The Scheme on legislative relations is largely based on the federal principle of "subsidiarity" under which what can best be administered from the Centre are kept with the Union (Union List) and those which are more of regional or local interest are assigned to the Units (State List) with some items of common concern in what is called in the Concurrent List. Part XI distributes the legislative powers between the Union and the States. The subject-matter of legislation are listed rather exhaustively in the three Lists given in the Seventh Schedule. Constitution gives autonomy to Centre and States within their respective fields. Parliament may make laws for the whole or any part of the territory of India and the State Legislature for the whole or any part of that State. However, applying the doctrine of territorial nexus, State laws having extra-territorial operation have been held valid by the court. There are several judicial doctrines evolved by the Supreme Court to interpret possible overlapping of jurisdictions in the matter of legislative powers of Centre and States. By and large the scheme worked reasonably well, though States have complained about the Union transferring items from the State List to the Concurrent List without adequate consultation.

In the event of a conflict between a Union law or State law, Article 254 stipulates that the Union law will prevail irrespective of whether the Union law is enacted prior to the State law or subsequent to the State law. This means in effect that Parliament can repeal a State law at any time with respect to a matter in the Concurrent List, even if made with consent of President. Parliamentary supremacy in matters falling under List I and III is secured by the Constitution. Furthermore residuary powers of legislation is exclusively with the Union (Article 248).

The supremacy of the Union in legislative matters is further clear from the extent of powers the Union enjoys to legislate on subjects in the State List under certain circumstances. These include:

- (i) Power of Parliament to legislate in national interest under a Resolution of the Upper House (Article 249)
- (ii) Power of Parliament to legislate during operation of Emergency (Article 250)
- (iii) Parliament's power to legislate with the consent of States (Article 252)
- (iv) Legislation for giving effect to international treaties and agreements (Article 253)
- (v) Power to legislate in case of failure of Constitutional machinery in States (Article 356)

Again, another issue in respect of legislative relations which caused friction between Centre and States is the power of Governor to reserve any Bill passed by the State Assembly for consideration of the President, sometimes for an indefinite period! A law adopted, sometimes more than once, by the Assembly can therefore become a law in the State only if assented by the President (Articles 200, 201).

It is more in the sphere of administrative relations; the scheme was put to test on several occasions. The scheme is aimed to facilitate implementation of Union laws in States, achieving co-ordination for administrative efficiency, resolving disputes when they arise and to ensure that the Union intervenes whenever a State is threatened by external aggression or internal

disturbance.

The division of executive power is co-extensive with the division of legislative power of both the Governments (Article 73 and 162).

The issue of Centre-State co-ordination in administrative matters has been a complex issue though the Constitution did provide some mechanisms. For example, by agreement or legislation (Article 258) delegation of administrative powers is provided for. Greater inter-state co-ordination is also sought to be achieved through All India Services the control on which vests jointly on Union and States.

Article 257(1) says that the executive power of the State shall be so exercised as not to impede or prejudice the exercise of executive power of the Union. The Centre is empowered to give directions to States in this regard. If directions are not complied, emergency provisions may be invoked by the Centre. The Constitution thus provides a coercive sanction against any disobedience of the Central directions by the States.

On conflict resolution outside courts, the Constitution envisaged some administrative and quasi-judicial arrangements which seem to have made little impact in smoothening relations. Article 263 provides for an Inter-State Council which was invoked only in 1990 after the Sarkaria Commission recommended the same. It is supposed to be a body for intergovernmental consultation and co-operation. It is to inquire and advise on disputes between States, investigate and discuss subjects of common interest and make recommendations on any subject for better co-ordination and action. It, however, meets rarely and has not been able to work to its full potential.

The other body for conflict management is what is provided for in Article 262 for the resolution of inter-state water disputes which also failed to contain many disputes which reached it despite repeated hearings and decisions.

In short, the survey of existing arrangements on administrative relations leaves one to wonder whether there are gaps and inadequacies in the matter of administrative co-ordination and conflict management. Informal methods outside the Constitutional scheme are often pressed into service to keep governance going despite the shortcomings.

Another issue which opened up a set of administrative problems is about the role of Centre in accomplishing effective decentralization under the 73rd and 74th Amendments to the Constitution. The States which are supposed to make law in this regard have been slow in the matter of empowering Panchayats with functions, funds and functionaries. Meanwhile through Court interventions and otherwise, Panchayats have elected representatives who are not able to organize governance at local levels as expected. There is a feeling that the existing arrangements need a fresh look to put the third level of governance back on rails to make democracy function.

The scheme of financial relations is another vexed issue which, in spite of the elaborate provisions on division of taxing powers and the intervention of the mechanism of the five-yearly Finance Commission, continue to be a friction point in Centre-State relations. The scheme contemplates complete separation of taxing powers between the Union and the States, mechanism for sharing of revenue, and a system of grants-in-aid to bridge gap between fiscal capacity for administration and for making intergovernmental financial adjustments.

While the taxes levied by the States are collected by them and entirely go to their Consolidated Fund, the taxes levied by the Centre are sharable with the States. The distribution of revenues raised by Union is regulated through assignment, compulsory sharing, permissible sharing and grants-in-aid (Articles 268-281).

The method usually adopted to adjust the imbalances between the functions and financial resources of the two layers of governments in a federal system is the transfer of funds from Union to States. While safeguarding the autonomy and stability of State Governments, the scheme of financial devolution must bring about financial equalization with a sense of fiscal responsibility and promote the welfare of the country as a whole. A purely discretionary system is unacceptable in a federal framework. Therefore an independent agency like the Finance Commission is proposed to assess the changing needs of the States and imbalances between the richer and poorer States.

The borrowing powers of the Central and State Governments are regulated by Articles 292 and 293 under which States can borrow from sources outside India only with the prior consent of the Government of India.

In the division of taxing power, generally speaking, taxes that have an inter-state base are under the legislative jurisdiction of the Union, while those that have a local base (land, agricultural income etc.) fall under the legislative jurisdiction of the States.

Concluding Remarks

A remarkable feature of the Indian federal scheme is its capacity to give expression to regional, linguistic and other sub-national identities of vast sections of Indian humanity. Re-organization of states, breaking up of larger states and creation of more number of smaller ones, introduction of a third-tier of governance in the form of Panchayats and municipalities are examples of the deepening of the regional and local structures of democratic governance. Rule of law and guaranteed rights of individuals also helped to articulate and reinforce the multiple identities that make the Republic of India.

However, the process of this massive social and political transformation has not been without hiccups and turmoil. Sub-national identities were strengthened by political parties floated around them and seeking to influence governmental decision-making. If in the first General Election India had only 14 national parties and two dozen regional parties, today the number of parties has grown to over 250 of which only half a dozen are named national parties. One of the direct consequences of this development is the emergence of unholy coalitions in government formation and unprincipled divisions and defections affecting political stability and good governance. Local power elites, sometimes formed on caste and class considerations, have managed to capture power and influenced policies not always promotive of the Constitutional purpose. While democracy has taken deep roots, development has suffered in pace and direction. Economic liberalization however has led to some degree of integration of the market and a new cohesion cutting across political divisions and regional sentiments.

An interesting by-product of these political and economic developments is an increasingly stressful relationship between the Union and the States as well as states inter-se. The strong centre concept advanced by the Constitution makers came under challenge particularly vis-à-vis fiscal arrangements and financial devolution. Significant transfers taking place through channels and mechanisms designed by the Union and not envisaged by the Constitution angered the States. The way the Union exercised emergency provisions was successfully challenged in the Courts and powers got circumscribed. The role of the Governor and the process

of implementation of decentralized governance came in for criticism and occasional conflicts. These could have been effectively mediated through political processes in the legislative assemblies and parliament. Unfortunately, the credibility of legislatures evolving compromises through consultations and debates has declined over the years and issues were taken to the streets or the courts straining Centre-State relations and weakening governance. Rule of law was disturbed on many occasions and the institutional mechanisms for conflict resolution outside the judiciary have been found wanting to smoothen relationships.

India today presents the picture of a functioning democracy performing reasonably well in economic development but unable to sustain good governance for the welfare of all people, particularly the weak and marginalized sections. The Union in theory continues to be strong in Constitutional terms; but in practice it is unable to deliver the way it could have done. The States have become strong not so much in governance but in politics and power play. The Panchayats remain weak despite all good intentions. In this milieu, Centre-State relations present a mixed picture of promise and performance far from its full potential.

ISSUES AND CONCERN IN INTERGOVERNMENTAL RELATIONS

Key Concepts and Founding Principles:

Every Constitution has its own unique character reflecting the history and disposition of its people. It forms, as it were, the basic features which do not change even with the passage of time. Republicanism, rule of law, independent judiciary and guaranteed individual rights are inter-alia, inherent characteristics of the Indian Constitution. These features form part of the Founding Principles which keep together over a billion people of diverse faith, language, religion and race striving for a common destiny under the Constitutional framework. WE, THE PEOPLE have reiterated our aspirations as a nation in the form of a Preamble which talks about constituting India into a Sovereign Socialist Secular Democratic Republic and securing to all its citizens:

"Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity;
And to promote among them all

Fraternity assuring the dignity of the individual and the unity and integrity of the Nation".
..... give to ourselves this Constitution".

These objectives, in short, contain the basic structure of our Constitution, which the Supreme Court declared cannot be amended in exercise of the power under Article 368 of the Constitution. (Kesavananda Bharathi v. Union of India AIR 1973 S.C. 1461). These objectives in essence consist of Unity in diversity, shared exercise of power between the Union and the States, respect for rule of law and individual rights and social transformation for a just, egalitarian social order. To achieve these objectives, parliamentary democracy and co-operative federalism have been adopted for structuring the Government.

Federal, Quasi-Federal or Unitary with Federal Features:

An issue often raised by commentators of the Indian Constitution is the federal nature of the Indian Union. Some say that it is a quasi-federal arrangement. Others call it more unitary in nature with many federal features. The Constitution does not expressly declare it as a

federation. However, the very first Article stipulates that India shall be a Union of States, the fundamental feature of any federal set up. At the same time India avoided the tight mould of federalism existing in some other countries for valid historical reasons. The overriding concern at the time of drafting the Constitution was the "unity and integrity of India". This led to a number of factors that gave the Indian Constitution a decidedly unitary tilt with several provisions in favour of the Union which, in later period, unfortunately led to some distortions in Centre-State relations.

The Constitution makers were convinced that pluralism and diversity of such dimensions which are captured in the idea of India could not be sustained excepting through a federal arrangement. They felt that Indian federalism has to grow organically providing space for unity in diversity. The notable feature of Indian federalism is its accommodation of a vast array of ethnic, cultural and linguistic diversities, no matter how small and fragile the units might be. With smaller and weaker units co-existing with larger and stronger units, the responsibility of the Centre naturally increased in the matter of democratic governance and Constitution did make provisions accordingly. Naturally, the financial-fiscal aspects of Centre-State relations became the most important of all issues between the Centre and the States.

Federalism in its fundamentals is an outlook of a community in the accommodation of multiple identities. Democracy makes it possible in operational terms. The legal structure only reflects this outlook on peaceful co-existence and sharing of power in governance. As late as 1988 the first Commission on Centre-State Relations (Sarkaria Commission) reiterated the paramountcy of the Centre terming the structure to be more unitary than federal. Constitution is an instrument of governance and the structure has to be accepted as it is, rather than trying to equate it with federal structures elsewhere. The system of governance does divide power between the Union, States and Panchayats/ Municipalities which makes the federal scheme.

Given the degree of permanency of the federal structure, the questions which arise for consideration are (a) How does the scheme manage to resolve intergovernmental conflicts and how effectively? (b) How satisfactory is the mechanism available to overcome backwardness in some regions towards a more equitable distribution of socio-economic goods and services? (c) What kind of relationship is built between village governments and the State Government and how it strengthened or weakened the federal scheme of governance?

States in India are not sovereign political entities. Though there is a clear-cut distribution of legislative and executive powers between the Union and the States, the powers of states vis-à-vis the Union are constrained. For example, Article 3 empowers Parliament to reduce the area of any State, alter its boundaries and change its name even if the state and its inhabitants oppose it. As observed by the Supreme Court (State of West Bengal v. Union of India AIR 1963 S.C. 1241) "Our Constitution adopted a federal structure with a strong bias towards the Centre, and that under such a structure, while the Centre remains strong to prevent the development of fissiparous tendencies, the States are made practically autonomous in ordinary times within the spheres allotted to them" (per Subba Rao J.). A leading commentator noted, "... No chronicler of the Supreme Court's decisions on Centre-State disputes can fail to notice that it has not decided a single major issue directly arising between the Centre and a State in favour of the State. Even where the claims have arisen indirectly, the occasions when power to the Centre has been denied vis-à-vis the States have been few". (Fali S. Nariman, The Federal Way Forward, in India Today, August 20, 2007).

In spite of the Centrist bias of the Constitution largely founded for preserving unity and integrity of the country, the Court had to concede in S.R. Bommai V. Union of India (AIR 1994 S.C. 1918) that federalism like secularism is a basic feature of the Constitution. With

increasing emphasis on decentralization of powers to better address local needs and aspirations and with a large body of elected representatives (nearly a million at the village level) finding political space in governance, the federal aspects are likely to be strengthened in future. Globalisation and investment from abroad also tend to reduce the financial dependency of States on the Centre. There are other forces also in operation which make states more and more politically and financially independent. This may promote States becoming more strong along with strong Centre which truly will make India a Union of States as declared by Article 1 of the Constitution.

Friction Points in Federal Relations and their Management

The Indian Constitution has functioned without any serious impediment during the last 60 years and more, which shows the strength of its fundamentals. Of course, there were difficulties experienced which were overcome either through judicial interpretations or conventions or through Constitutional amendments. The need to quicken the pace of socio-economic transformation and the compulsions to preserve the unity and integrity of the Nation did throw up challenges to the harmonious development of Centre-State relations. The Parliamentary system of democracy could resolve some of those challenges and keep the country together on the path of economic progress and social well-being.

The first Commission on Centre-State Relations (Sarkaria Commission) appointed by the Government in 1983 to examine and review the working of the existing arrangements between the Union and the States made certain significant recommendations to address several points of friction having direct impact on Union-State relations. These include emergency provisions, the role of the Governor, deployment of Union Armed Forces in a State for public order duties, inter-state river water disputes, economic and social planning, All India Services etc. It is interesting to note that these are the very same items which continue to plague Centre-State relations and they form the terms of reference of the present Commission as well. In addition, the issues of control of prolonged communal conflicts, effective decentralization of powers through Panchayats/ Municipalities and the development of common market are the additional terms referred for examination. This is indicative of the fact, either of the inadequacy of the measures recommended (assuming that they have been honestly implemented) or that the circumstances have changed warranting fresh solutions to restore the balance in federal governance.

It is important to notice that between the two Commissions on Centre-State Relations (first one in 1983 and the present one in 2007) there has been another National Commission to Review the Working of the Constitution appointed in 2000 (Venkatachaliah Commission) which submitted its report in 2002 containing several recommendations to smoothen Union-State relations. The points of friction identified also broadly coincided with those referred to the Second Commission on Centre-State Relations. Given the continuing tensions around the same issues, it is necessary to think of some permanent solutions in the interest of the federal polity, good governance and faster socio-economic transformation.

LEGISLATIVE RELATIONS BETWEEN THE UNION AND STATES

Evolution of Legislative Relations

To be able to appreciate the background of the scheme of legislative relations under the Constitution, it is necessary to keep in mind how the British Colonial rulers established under the Government of India Act, 1919 a highly centralized power structure to keep effective

control of the whole of British India. A more liberalized framework proposed under the Government of India Act, 1935 was never brought into force fully for a number of historical reasons. In the circumstances when the Union Powers Committee discussed the future set up of the Republic, it found that the "soundest frame-work for our Constitution is a Federation, with a strong Centre". A purely centralized unitary structure was decidedly abandoned. A strong Centre, however, was an imperative necessity to keep the country together and to co-ordinate policy and action between the Union and the States on basic issues of national concern¹.

Admittedly, the framers of the Constitution were not inclined to develop a design on the model of classical federation though they were clear that a federal system alone will suit to accommodate the plural and diverse regions of the country. The key element they felt, was to ensure healthy intergovernmental dependence and co-operation with shared responsibilities, transcending the formally demarcated frontiers. They acknowledged the fact that even in classical federations the trend has been towards centralization making a strong centre inevitable in a federal set-up. What is important is whether it is functional and inter-dependent in the pursuit of common goal - the Welfare of the People . In this context, the framers of the Constitution came to assign the Union a pre-eminent role in all spheres of governance.

Undoubtedly, distribution of legislative powers is the distinguishing feature of a federal polity. This can be done in several ways. The American Constitution specifically enumerates the powers of the Federal Government and leaves the rest to the States. The same approach is adopted by the Australian Constitution, which enumerates the powers of the Commonwealth and leaves the residue to the States. There is no Concurrent List in this model. However the Canadian Constitution adopted a three-fold enumeration of powers in the scheme of distribution between the Union and the Provinces. Following it, the Government of India Act, 1935, made a comprehensive enumeration of subjects in three Lists - Federal, Provincial and Concurrent, giving the residuary powers to the Governor General. For the Constitution makers the scheme provided by the 1935 Act appeared appropriate for distribution of legislative powers to achieve the national goal. A strong Union did not appear to them as inconsistent with a strong States. For the whole body to be strong, the parts have to be necessarily strong, was the logic.

Constitutional Scheme of Distribution of Legislative Power

Legislative jurisdiction is organized in Articles 245 and 246 under the principle of supremacy of the Union over States. The powers of legislation are identified in Seventh Schedule under the three Lists, namely, Union List (List I), State List (List II) and Concurrent List (List III). The Concurrent List containing subjects in which the Union and States can legislate reflect the key areas in which nation building, social welfare and good governance have to take place through the joint efforts of the Union and the States. Obviously, they could not be allocated to the exclusive jurisdiction of the States or the Union. For example, the subjects covered in Part IV of the Constitution which are addressed to the "State" for progressive implementation are meant to be the responsibility of all levels of Government. They directly relate to the welfare of people everywhere. A broad uniformity of approach in legislative policy is essential in the matter of education, health, employment, housing, nutrition etc. to be able to fulfil the care obligations of the Directives. At the same time the specific requirements of different states need to be separately addressed by the States themselves while relating them to national goals and standards. Hence the rationale of the Concurrent List.

Views of States, Union and Political Parties on Legislative Relations

Some States and their supporting political parties have expressed reservation to the existing system of division of legislative powers and sought a fresh look. Over a period of time,

they felt, the Union has enriched its powers at the cost of the States. This has weakened the federal structure. They wanted the Commission to recommend steps for restoring the balance. It was their view that the case for centralization which existed at the time of framing the Constitution does not exist anymore and what is needed now is a conscious policy for strengthening the States by enriching the State List and following the principle of "Subsidiarity". These type of criticisms were made by States even to the first Commission on Centre-State Relations (1988). On a closer look, the Sarkaria Commission found some merit on the grievance of States and recommended some changes not so much in the scheme but in the way the power is exercised.

- (i) In matters of concurrent or overlapping jurisdiction, a process of mutual consultation and co-operation has to be put in place to achieve co-ordination of policy and action. It must be evolved as a convention or rule of practice rather than a rigid Constitutional requirement.
- (ii) Ordinarily, the Union should occupy only that much field of a concurrent subject on which uniformity of policy and action is essential in the larger interest of the nation leaving the rest for State action within the broad framework of the policy laid down by the Union Law. Furthermore, whenever the Union proposes to legislate on a matter in the Concurrent List, there should be prior consultation. A resume of the views of the State Governments and the comments of the Inter-State Council should accompany the Bill when it is introduced in Parliament.
- (iii) Residuary powers (now exclusively with the Union) excepting matters relating to taxation, should be placed in the Concurrent List.

Transfer of Entries in the Lists, from List II to List III

Article 368(2) empowers Parliament to amend any provision of the Constitution in accordance with the procedure laid down therein. Should Parliament deplete or limit the legislative powers of the States through this process unilaterally or otherwise? In a federal system, the existence of the power in the Union does not by itself justify its exercise and it is the considered view of the Commission that the Union should be extremely restrained in asserting Parliamentary supremacy in matters assigned to the States. Greater flexibility to States in relation to subjects in the State List and "transferred items" in the Concurrent List is the key for better Centre-State relations.

In respect of transferring matters from the State List to the Concurrent List and thereby eroding the exclusive jurisdiction of States, the mechanism provided under Article 368 clause (2) is robust and sufficiently consultative that it does not pose any threat to Centre-State relations. It cannot happen unilaterally without the support and co-operation of states. Such a mechanism is desirable to afford flexibility while retaining the required rigidity in such matters of federalism in order to maintain the balance for good governance.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Consultation with States while legislating on matters in Concurrent List

List III includes subjects on which the Union and the States can both legislate. For cultivating better Centre-State relations and to facilitate effective implementation of the laws on List III subjects, it is necessary that some broad agreement is reached between the Union and States before introducing legislation in Parliament on matters in the Concurrent List. The existing arrangements in this regard require institutionalization through the Inter-State Council. The Council, if found necessary, may use an independent mechanism like a Committee of State

Ministers to thrash out contentious issues in the Bill so that there is a measure of support among the States to the administrative and fiscal arrangements the Bill ultimately proposes to Parliament. It is important that the record of proceedings in the Council/Committee including views of States are made available to Parliament while introducing the Bill on Concurrent List subjects.

Transfer of Entries in the Lists, from List II to List III

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In this context, it is worthwhile to examine through a joint institutional mechanism whether the administration of the relevant subject under the Central law (on the transferred subject) has achieved the objects and whether it is desirable to continue the arrangement as an occupied field limiting thereby the exclusive jurisdiction of the States. If the findings are not positive it may be worthwhile to consider restoration of the item to its original position in State List in the interest of better Centre-State relations. Such a step hopefully will encourage the States to devolve the powers and functions on that subject to the Panchayats and Municipalities as stipulated in Parts IX and IX-A of the Constitution. In short, the Commission is of the opinion that the Union should occupy only that much of subjects in concurrent or overlapping jurisdiction which is absolutely necessary to achieve uniformity of policy in demonstrable national interest.

Management of matters in concurrent jurisdiction

Given the joint responsibility of the Centre and the States it is imperative that legislation on matters of concurrent jurisdiction generally and transferred items from the State List in particular, should be managed through consultative processes on a continuing basis. The Commission recommends a continuing auditing role for the Inter-State Council in the management of matters in Concurrent or overlapping jurisdiction.

Bills reserved for consideration of the President

Article 201 empowers the President to assent or withhold assent to a Bill reserved by a Governor for the President's consideration. If the President returns the Bill with any message, the State Legislature shall reconsider the Bill accordingly within a period of six months for presentation again to the President for his consideration.

States have expressed concern that Bills so submitted sometimes are indefinitely retained at the Central level even beyond the life of the State Legislature. Allowing the democratic will of the State Legislature to be thwarted by Executive fiat is questionable in the context of 'basic features' of the Constitution. Therefore the President should be able to decide consenting or withholding consent in reasonable time to be communicated to the State. In the Commission's view, the period of six months prescribed in Article 201 for State Legislature to act when the Bill is returned by the President can be made applicable for the President also to decide on assenting or withholding assent to a Bill reserved for consideration of the President.

Treaty making powers of the Union Executive and Centre-State Relations

Entering into treaties and agreements with foreign countries and implementation of treaties, agreements and conventions with foreign countries are items left to the Union Government (Entry 14 of List I). Article 253 confers exclusive power on Parliament to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

In view of the vastness and plenary nature of the treaty making powers with the Union Government notwithstanding the scheme of legislative relations between the Union and States (Article 253), the Commission recommends that Parliament should make a law on the subject of Entry 14 of List I (treaty making and implementing it through Parliamentary legislation) to streamline the procedures involved. The exercise of the power obviously cannot be absolute or unchartered in view of the federal structure of legislative and executive powers. Several states have expressed concern and wanted the Commission to recommend appropriate measures to protect States' interests in this regard. The Commission recommends that the following aspects may be incorporated in the Central law proposed on the subject of Entry 14 of List I:

1. In view of the fact that treaties, conventions or agreements may relate to all types of issues within or outside the States' concern, there cannot be a uniform procedure for exercise of the power. Furthermore, since treaty making involves complex, prolonged, multi-level negotiations wherein adjustments, compromises and give and take arrangements constitute the essence, it is not possible to bind down the negotiating team with all the details that should go into it. Nonetheless, the Constitutional mandates on federal governance cannot be ignored; nor the rights of persons living in different regions or involved in different occupations compromised. Therefore there is need for a legislation to regulate the treaty making powers of the Union Executive.
2. Agreements which largely relate to defense, foreign relations etc. which have no bearing on individual rights or rights of States of the Indian Union can beReport of the Commission on Centre-State Relations put in a separate category on which the Union may act on its own volition independent of prior discussion in Parliament. However, it is prudent to refer such agreements to a Parliamentary Committee concerned with the particular Ministry of the Union Government before it is ratified.
3. Other treaties which affect the rights and obligations of citizens as well as those which directly impinge on subjects in State List should be negotiated with greater involvement of States and representatives in Parliament. This can assume a two-fold procedure. Firstly, a note on the subject of the proposed treaty and the national interests involved may be prepared by the concerned Union Ministry and circulated to States for their views and suggestions to brief the negotiating team.
4. There may be treaties or agreements which, when implemented, put obligations on particular States affecting its financial and administrative capacities. In such situations, in principle, the Centre should underwrite the additional liability of concerned States according to an agreed formula between the Centre and States.
5. The Commission is also of the view that financial obligations and its implications on State finances arising out of treaties and agreements should be a permanent term of reference to the Finance Commissions constituted from time to time. The Commission may be asked to recommend compensatory formulae to neutralize the additional financial burden that might arise on States while implementing the treaty/agreement.

Appointment and Removal of Governors

Given the status and importance conferred by the Constitution on the office of the Governor and taking into account his key role in maintaining Constitutional governance in the State, it is important that the Constitution lays down explicitly the qualifications or eligibility for being considered for appointment. Presently Article 157 only says that the person should be a citizen of India and has completed 35 years of age.

The Sarkaria Commission approvingly quoted the eligibility criteria that Jawaharlal Nehru advocated and recommended its adoption in selecting Governors. These criteria are:

- He should be eminent in some walk of life
- He should be a person from outside the State
- He should be a detached figure and not too intimately connected with the local politics of the States; and
- He should be a person who has not taken too great a part in politics generally and particularly in the recent past.

The words and phrases like "eminent", "detached figure", "not taken active part in politics" are susceptible to varying interpretations and parties in power at the Centre seem to have given scant attention to such criteria. The result has been politicization of Governorship and sometimes people unworthy of holding such high Constitutional positions getting appointed. This has led to some parties demanding the abolition of the office itself and public demonstration against some Governors in some States. This trend not only undermines Constitutional governance but also leads to unhealthy developments in Centre-State relations.

The Commission is of the view that the Central Government should adopt strict guidelines as recommended in the Sarkaria report and follow its mandate in letter and spirit lest appointments to the high Constitutional office should become a constant irritant in Centre-State relations and sometimes embarrassment to the Government itself.

Governors should be given a fixed tenure of five years and their removal should not be at the sweet will of the Government at the Centre. The phrase "during the pleasure of the President" in Article 156(i) should be substituted by an appropriate procedure under which a Governor who is to be reprimanded or removed for whatever reasons is given an opportunity to defend his position and the decision is taken in a fair and dignified manner befitting a Constitutional office.

It is necessary to provide for impeachment of the Governor on the same lines as provided for impeachment of the President in Article 61 of the Constitution. The dignity and independence of the office warrants such a procedure. The "pleasure doctrine" coupled with the lack of an appropriate procedure for the removal of Governors is inimical to the idea of Constitutionalism and fairness. Given the politics of the day, the situation can lead to unsavory situations and arbitrariness in the exercise of power. Of course, such impeachment can only be in relation to the discharge of functions of the office of a Governor or violations of Constitutional values and principles. The procedure laid down for impeachment of President, mutatis mutandis can be made applicable for impeachment of Governors as well.

Governors' discretionary powers

Article 163(2) gives an impression that the Governor has a wide, undefined area of discretionary powers even outside situations where the Constitution has expressly provided for it. Such an impression needs to be dispelled. The Commission is of the view that the scope of discretionary powers under Article 163(2) has to be narrowly construed, effectively dispelling the apprehension, if any, that the so-called discretionary powers extends to all the functions that the Governor is empowered under the Constitution. Article 163 does not give the Governor a general discretionary power to act against or without the advice of his Council of Ministers. In fact, the area for the exercise of discretion is limited and even in this limited area, his choice of action should not be nor appear to be arbitrary or fanciful. It must be a choice dictated by reason, activated by good faith and tempered by caution.

In respect of Bills passed by the Legislative Assembly of a State, the Governor is expected to declare that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President. He has the discretion also to return the Bill (except Money Bill) for re-consideration of the House together with the message he might convey for the purpose. If on such reconsideration the Bill is passed again, with or without amendments, the Governor is obliged to give his assent. Furthermore, it is necessary to prescribe a time limit within which the Governor should take the decision whether to grant assent or to reserve it for consideration of the President. The Commission had earlier recommended that the time limit of six months prescribed for the State Legislature to act on the President's message on a reserved Bill should be the time limit for the President also to decide on assenting or withholding of assent. The Governor accordingly should make his decision on the Bill within a maximum period of six months after submission to him.

On the question of Governor's role in appointment of Chief Minister in the case of an hung assembly there have been judicial opinions and recommendations of expert commissions in the past. Having examined those materials and having taken cognizance of the changing political scenario in the country, the Commission is of the view that it is necessary to lay down certain clear guidelines to be followed as Constitutional conventions in this regard. These guidelines may be as follows:

1. The party or combination of parties which commands the widest support in the Legislative Assembly should be called upon to form the Government.
2. If there is a pre-poll alliance or coalition, it should be treated as one political party and if such coalition obtains a majority, the leader of such coalition shall be called by the Governor to form the Government.
3. In case no party or pre-poll coalition has a clear majority, the Governor should select the Chief Minister in the order of preference indicated below:
 - (a) the group of parties which had pre-poll alliance commanding the largest number
 - (b) the largest single party staking a claim to form the government with the support of others.
 - (c) A post-electoral coalition with all partners joining the government
 - (d) A post-electoral alliance with some parties joining the government and the remaining

including independents supporting the government from outside.

On the question of dismissal of a Chief Minister, the Governor should invariably insist on the Chief Minister proving his majority on the floor of the House for which he should prescribe a time limit.

On the question of granting sanction for prosecution of a State Minister in situations where the Council of Ministers advised to the contrary, the Commission would endorse the interpretation given by the Supreme Court to the effect that "if the Cabinet decision appears to the Governor to be motivated by bias in the face of overwhelming material, the Governor would be within his rights to disregard the advice and grant sanction for prosecution". The Commission recommends that Section 197 Criminal Procedure Code may be suitably amended to reflect the position of law in this regard.

Governors as Chancellors of Universities and holding other Statutory Positions

To be able to discharge the Constitutional obligations fairly and impartially, the Governor should not be burdened with positions and powers which are not envisaged by the Constitution and which may expose the office to controversies or public criticism. Conferring statutory powers on the Governor by State Legislatures have that potential and should be avoided. Making the Governor the Chancellor of the Universities and thereby conferring powers on him which may have had some relevance historically has ceased to be so with change of times and circumstances. The Council of Ministers will naturally be interested in regulating University education and there is no need to perpetuate a situation where there would be a clash of functions and powers.

The Commission is also of the view that Governor should not be assigned functions casually under any Statute. His role should be confined to the Constitutional provisions only.

Obligation of the Union to protect States from external aggression and internal disturbance

Concern for the unity and integrity of India is the rationale for the obligation put on the Union to protect States even against internal disturbances which ordinarily is a matter for the states to handle. This obligation is coupled with the power to enforce that duty, if necessary without any request coming from the State. This is consistent with the federal scheme of the Constitution. Having examined similar provisions in other federal Constitutions and looking at socio-political developments in the country, the Commission is of the view that a whole range of action on the part of the Union is possible under this power depending on the circumstances of the case as well as the nature, timing and the gravity of the internal disturbance. The Union can advise the State on the most appropriate deployment of its resources to contain the problem. In more serious situations, augmentation of the States' own efforts by rendering Union assistance in men, material and finance may become necessary. If it is a violent or prolonged upheaval (not amounting to a grave emergency under Art. 352), deployment of the Union forces in aid of the police and magistracy of the State may be adopted to deal with the problem. Action to be taken may include measures to prevent recurring crises.

When does a situation of public disorder aggravate into an internal disturbance as envisaged in Art. 355 justifying Union intervention is a matter that has been left by the Constitution to the judgement and good sense of the Union Government. Though this is the legal position, in practice, it is advisable for the Union Government to sound the State Government and seek its co-operation before deploying its Forces in a State.

The Commission is also of the view that when an external aggression or internal disturbance paralyses the State administration creating a situation of a potential break down of the Constitutional machinery of the State, all alternative courses available to the Union for discharging its paramount responsibility under Article 355 should be exhausted to contain the situation and the exercise of the power under Art. 356 should be limited strictly to rectifying a "failure of the Constitutional machinery in the State".

Conditions for exercise of power under Article 356

On the question of invoking Article 356 in case of failure of Constitutional machinery in States, the Commission would recommend suitable amendments to incorporate the guidelines set forth in the landmark judgement of the Supreme Court in S.R. Bommai V. Union of India (1994) 3 SCC 1). This would remove possible misgivings in this regard on the part of States and help smoothen Center-State relations. Of course, the proper use of Article 356 can ultimately be governed by the inherent decency and honesty of the political process.

"Local emergency" under Article 355 and 356

Given the strict parameters now set for invoking the emergency provisions under Articles 352 and 356 to be used only as a measure of "last resort", and the duty of the Union to protect States under Article 355, it is necessary to provide a Constitutional or legal framework to deal with situations which require Central intervention but do not warrant invoking the extreme steps under Articles 352 and 356. Providing the framework for "localized emergency" would ensure that the State Government can continue to function and the Assembly would not have to be dissolved while providing a mechanism to let the Central Government respond to the issue specifically and locally. The imposition of local emergency, it is submitted, is fully justified under the mandate of Article 355 read with Entry 2A of List I and Entry 1 of List II of the Seventh Schedule. It is submitted that Art. 355 not only imposes a duty on the Union but also grants it, by necessary implication, the power of doing all such acts and employing such means as are reasonably necessary for the effective performance of that duty.

It is however necessary that a legal framework for exercising the power of "localized emergency" is provided by an independent Statute borrowing the model of the Disaster Management Act, 2005 and the Prevention of Communal Violence and Rehabilitation Bill, 2006. Only exceptional situations which fall within the scope of "external aggression" or "internal disturbance" should be considered for the purposes of separate legislation under the mandate of Article 355. Such situations include (a) separatist and such other violence which threatens the sovereignty and integrity of India, (b) communal or sectarian violence of a nature which threatens the secular fabric of the country, and (c) natural or man-made disasters of such dimensions which are beyond the capacity of the State to cope with. With regard to item (c) a Statute is already in place (Disaster Management Act, 2005) and in respect of situations contemplated in item (b), it is learnt that a revised Bill is being proposed. What is therefore required is a legislation to provide for Central role in case of separatist and related violence in a State which participates the nature of "external aggression" or "internal disturbance" contemplated in Article 355. The Commission has provided a detailed list of specific conditions to be considered for such a framework legislation enabling invocation of "localized emergency". It is important that the legislation provides for appropriate administrative co-ordination between the Union and the State concerned. It may also need consequent amendments to certain sections of the Criminal Procedure Code as well. The subject is discussed in greater detail in Volume VI of the Commission's report on the subject of Criminal Justice, National Security and Centre-State Co-operation.

Power of Union to give directions to State

Though States have raised objections to the power exercisable by the Union under Articles 256 and 257 on the ground that they are destructive of not only the autonomy of States but also inimical to the very foundation of a federal arrangement, the Commission is of the considered view that there is no case for amendment of these provisions. It must, however, be clarified that favouring the retention of these provisions is entirely different from advocating easy or quick resort to them. Articles 256 and 257 may be viewed as a safety valve, one which may never come into play but which is nevertheless required to be retained.

The above view is substantiated by recent experiences where the Centre had to give directions on containing communal violence or insurgency in certain areas. The question that remains is about the consequence of non-compliance by a State of the Centres' directions in this regard. Though the Constitution has not provided any explicit course of action to such an eventuality, the obvious answer appears to be recourse available under Article 356 which indeed is an extreme step. In the existing scheme of things such a development is unlikely to happen which may explain why the Constitution makers avoided making remedial provision. The Commission is of the view that healthy conventions respecting the autonomy of states and restrained use of the power on behalf of the Union can go a long way to address the concern expressed by States in this regard.

Another related issue is about the term 'existing laws' used in Article 256 which are in addition to laws made by Parliament to which the executive power of State shall ensure compliance. The Commission is of the view that these relate to other laws including Presidential Ordinances and international treaties and customary international law applicable to the State concerned. Rule of Law demands executive compliance of all laws. Article 51 warrants it and there can be no exception unless a law specifically authorizes deviation.

A question is raised whether the scope of Article 257 Clause (3) should be widened besides railways to include other vital installations like major dams, space stations, nuclear installations, communication centres etc. The Commission is of the opinion that the executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of Union property declared by the Union Government to be of national importance. Clause (3) of Art. 257 should accordingly be amended.

Co-ordination between States, Centre-State Relations and Inter-State Council

Federalism is a living faith to manage diversities and it needs to be supported by institutional mechanisms to facilitate co-operation and co-ordination among the Units and between the Units and the Union. Co-operative federalism is easily endorsed but difficult to practice without adequate means of consultation at all levels of government.

The Constitution has provided only limited institutional arrangements for the purpose and regrettably they are not adequately utilized. In this context, the Commission strongly recommends the strengthening and mainstreaming of the Inter-State Council to make it a vibrant forum for all the tasks contemplated in Clauses (a) to (c) of Article 263.

Though the Article does not provide a dispute settlement function to the Council, it envisages the Council to inquire into and advise on disputes between States towards settlement of contested

claims. The Commission is of the view that the Council should be vested with the powers and functions contemplated in Article 263(a) also as it would further enhance the capacity of the Council to discharge its functions in Clauses (b) and (c) more effectively and meaningfully. The Council can further have expert advisory bodies or administrative tribunals with quasi-judicial authority to give recommendations to the Council if and when needed. In short, it is imperative to put the Inter-State Council as a specialized forum to deal with intergovernmental relations according to federal principles and Constitutional good practices.

The Commission is of the view that the Council is an extremely useful mechanism for consensus building and voluntary settlement of disputes if the body is staffed by technical and management experts and given the autonomy required for functioning as a Constitutional body independent of the Union and the States. It should have sufficient resources and authority to carry out its functions effectively and to engage civil society besides governments and other public bodies. It needs to meet regularly with adequate preparation of agenda and negotiating points and position papers from parties involved. The Secretariat of the Council may have joint staff of the Union and States to inspire confidence and enhance co-ordination. Negotiation, mediation and conciliation to find common points or agreement and narrowing of differences employed in international intercourse and in judicial proceedings can usefully be cultivated in the Council Secretariat for advancing the cause of harmonious intergovernmental relations. Towards this end, the Commission would recommend suitable amendments to Article 263 with a view to make the Inter-State Council a credible, powerful and fair mechanism for management of inter-state and Centre-State differences.

Zonal Councils and Empowered Committees of Ministers

The need for more consensus building bodies involving the Centre and the States has been canvassed before the Commission because of a wide spread perception that governance is getting over-centralised and states are losing their autonomy in their assigned areas. While legislative powers are clearly demarcated and the fiscal relations are subject to periodic review by the Finance Commission, the fear on the part of States is more on administrative relations and it is here the need for more forums for co-ordination is felt.

Under the States Re-organization Act, 1956 five Zonal Councils were created ostensibly for curbing the rising regional and sectarian feelings and to promote co-operation in resolving regional disputes. Later the North Eastern Council was created under the North Eastern Council Act, 1971. In each of these Zonal Councils, Union Home Minister is the Chairman and the Chief Ministers of the States in the Zones concerned are members. The Commission is of the view that the Zonal Councils should meet at least twice a year with an agenda proposed by States concerned to maximize co-ordination and promote harmonization of policies and action having inter-state ramifications. The Secretariat of a strengthened Inter-State Council can function as the Secretariat of the Zonal Councils as well.

The Empowered Committee of Finance Ministers of States proved to be a successful experiment in inter-state co-ordination on fiscal matters. There is need to institutionalize similar models in other sectors as well. A Forum of Chief Ministers, Chaired by one of the Chief Minister by rotation can be similarly thought about particularly to co-ordinate policies of sectors like energy, food, education, environment and health where there are common interests to advance and differentiated responsibilities to undertake. Implementation of Directive principles can be a standing agenda for the Forum of Chief Ministers which can make recommendations to the National Development Council, National Integration Council, Planning Commission etc. on these Directives which, incidentally constitute the Millennium Development Goals set by the United Nations as well. It is pertinent to note that other federations like USA, Australia and Canada do have similar forums to

facilitate public policy development and good governance. This Forum of Chief Ministers can also be serviced by the Inter-State Council.

Adjudication of disputes relating to waters of inter-State rivers

The Commission has examined the issue in detail in a separate volume of the report. The present state of affairs is obviously unsatisfactory as it is dilatory, time-consuming and seldom gets settled. Therefore change in the law and procedure is warranted. The possible courses of action are dealt with in volume seven of the Report.

All India Services and Centre-State Co-operation for better Administration

The Constitution of All India Services is a unique feature of the Indian Constitution. The broad objectives in setting up All India Services relate to facilitating liaison between the Union and States, promote uniform standards of administration, enabling the administrative officers of the Union to be in touch with field realities, helping the State administrative machinery to obtain the best available talent with wider outlook and broader perspectives and reduce political influence in recruitment, discipline and control in administration. Considering the importance of these objectives, the Commission strongly recommends the constitution of few other All India Services in sectors like Health, Education, Engineering and Judiciary. They existed prior to Independence which contributed significantly to the quality of administration.

There are many issues relating to the administration of All India Services which are appropriately discussed in the report of the Administrative Reforms Commission and they are not discussed herein. However, the Commission would recommend proper integration of All India Services in the context of the introduction of the third tier of governance. The local bodies are in dire need of building capacities and strengthening the planning process for which the officers of All India Services can play a lead role.

Equally important is the system of encadrement of officers of state Governments and local bodies into the All India Services. Structural integration at all three levels requires clear demarcation of criteria for encadrement of posts, objective performance appraisal system, systematic career development and professionalisation plans and a rational system of postings and transfers. For this purpose, the Commission would suggest constitution of an Advisory Council under the Chairmanship of the Cabinet Secretary with the Secretary Personnel and the concerned Chief Secretaries of States.

Rajya Sabha to be a Chamber to protect States' rights

The essence of federalism lies in maintaining a proper balance of power in governance and in this respect the Council of States (Rajya Sabha) occupies a significant role. There is no doubt that Rajya Sabha is representative of States of the Union and is supposed to protect States' rights in Central policy making. The Commission is of the considered view that factors inhibiting the composition and functioning of the Second Chamber as a representative forum of States should be removed or modified even if it requires amendment of the Constitutional provisions. This is felt more important now when centralization tendencies are getting stronger and fragmentation of the polity is becoming intense.

Whenever Central policies are formulated in relation to one or more States, it is only proper that Committees of Rajya Sabha involving representatives of concerned States are allowed to discuss and come up with alternate courses of action acceptable to the States and the Union. Thus,

compensating the mineral rich States or the Hill States can well be negotiated in the Rajya Sabha Committee. Similarly, States adversely affected by the Centre entering into treaties or agreements with other countries can get appropriate remedies if the forum of the Rajya Sabha is utilized for the purpose. In fact, Rajya Sabha offers immense potential to negotiate acceptable solutions to the friction points which emerge between Centre and States in fiscal, legislative and administrative relations.

Equal representation of States in Rajya Sabha

The principle of equality and equal representation in institutions of governance is as much relevant to States as to individuals in a multi-party, diverse polity. Equally applicable is the idea of preferential discrimination in favour of backward States in the matter of fiscal devolution from Union to States. There are other federations which give equal number of seats to the federating units in the Council of States irrespective of the size of their territory and population. The number of seats in the House of People (Lok Sabha) anyway is directly linked to the population and there is no need to duplicate the principle. A balance of power between States inter se is desirable and this is possible by equality of representation in the Rajya Sabha. If the Council of States has failed to function as representative of States as originally envisaged, it is because of the asymmetry of coalition politics and the way the party system developed. The functioning of Rajya Sabha can be reformed to achieve the original purpose of federal equilibrium. The Commission, therefore, strongly recommends amendment of the relevant provisions to give equality of seats to States in the Rajya Sabha, irrespective of their population size.

The Commission is also of the considered opinion that the reasoning of the Supreme Court in *Kuldip Nayyar V. Union of India* [(2006) 7sccl] rejecting the status of Rajya Sabha as a Chamber representing the States in the federal Union is faulty and deserves review. Meanwhile, Parliament should act restoring section 3 of the Representation of People Act as it originally stood to redeem the federal balance in shared governance. The territorial link as prescribed by the Representation of People Act is necessary and desirable to let the States realize that they are equal partners in national policy making and governance.

Relationship of Article 246(3) and 162 with Articles 243G and 243W

The detailed analysis and recommendations of the Commission on decentralized governance under the 73rd and 74th Constitutional Amendments are discussed elsewhere in the Report. However, an aspect of Constitutional relevance on intergovernmental relations arising out of the 73rd Amendment alone is stated here for appropriate action through a fresh Constitutional amendment.

Articles 243G and 243W are sometimes read to mean that they leave it to the discretion of States whether or not to devolve any powers and functions to the local bodies. Such a reading makes the Constitutional Amendments superfluous defeating the whole purpose of the exercise. Although States have the discretion to decide and vary the subject matters in respect of which it wants to devolve powers and responsibilities, States are not free to decide not to devolve anything at all. After all, local bodies have been given the status of "self-government" which term unfortunately has not been defined in the Constitution.

The Commission is of the view that the scope of devolution of powers to local bodies to act as institutions of self-government should be constitutionally defined through appropriate amendments, lest decentralised governance should elude realization indefinitely. The approach should be on the principle of "subsidiarity" which is implicit in the scheme of Constitutional

Amendment and letting the State Government confine itself only to matters of policy that cut across the entire domain of local governments. Articles 246(3) and 162 have to be read down in the light of the Amendment giving meaning and content to the expression "as may be necessary to enable them (Panchayats and Municipalities) to function as institutions of self-government.

Governments' obligation to support court expenditure when laws are made

The Financial Memorandum attached to Bills usually do not provide for adjudication costs involved in enforcement of the new law. This puts the Subordinate Courts with little or no resources to cope up with additional workloads directly resulting from new legislations put on the Statute Book. An expert Committee has recommended to the Government that judicial impact assessment should be made whenever legislations are proposed and the Financial memorandum should reflect judicial costs as well. This Commission endorses the proposal.

The Commission is of the view that in view of Article 247 read with Entry 11A of the Concurrent List, Government of India is Constitutionally obliged to make financial provision for implementation of Central laws through State Courts in respect of subjects in Lists I and III of the Seventh Schedule.

Judicial Councils to advise Centre-State share in judicial budgets

Enabling the justice system to discharge its functions efficiently is the joint responsibility of Central and State Governments. While the administrative expenses of the Supreme Court and High Courts are charged upon the Consolidated Funds of the Centre and States respectively, there is no such financial arrangement guaranteed by the Constitution for subordinate judiciary. Judicial planning and budget making ought to be undertaken jointly by the judiciary and the executive for which some joint forum needs to be established. An expert committee set up by the Union Law Ministry recommended the setting up of "Judicial Councils" at the State and Central levels for the purpose which the Commission endorses. These Councils should not only prepare the judicial budget for approval by the Legislature but also decide on the proportion of sharing the budget expenditure between Centre and States on the basis of the data on the workload of courts under Lists I, II and III.

The idea is not to make the States bear the entire expenditure on Subordinate Courts which devote substantial time and resources to enforce the laws made by Parliament under List I and List III.

Finally, the Commission is of the view that Central Government must make an assessment of the number of courts needed for efficient adjudication of disputes arising out of Central laws and establish the required number of Additional Courts as stipulated under Article 247 of the Constitution.

Need for continuing emphasis on federal balance of power

On the question whether a fresh balance of power is needed to take governance forward on the path set by the Constitution, the Commission is of the view that the framers of the Constitution, taking note of the pluralistic identities of the people and the diverse historical traditions of the polity, have correctly come to the conclusion that a federal system alone can take the country forward as a united, democratic republic. The Commission, however, is convinced that the tilt in favour of the Union has increasingly accentuated over the years even outside the security needs

of the country. This has led to avoidable over-centralisation even in developmental matters. These emerging contradictions in federal constitutional practice have to be addressed early in the interest of not only better Centre-State relations but also to sustain the very unity and integrity for which the tilt in favour of the Centre was originally conceived.

The Commission believes that this balancing of powers and functions which assumed added significance after the introduction of the 73rd and 74th Constitutional Amendments can largely be accomplished through administrative arrangements supported by adequate devolution of finances for which the Finance Commission is a key institution. While security concerns might warrant greater powers to the Union, on the development front (education, health etc.) the Centre should respect the autonomy of the other two levels of government and consciously avoid the tendency to centralize powers and functions. Its role is to be limited in laying down policies, devolving funds and facilitating co-ordination leaving implementation entirely to States and Local Bodies.

Streamlining Administrative Relations

On the more problematic issue of the nature and scope of Centre's directions to the States in matters which are in the domain of States' executive power, the Commission, after having examined the views expressed by the States, has come to the conclusion that the powers under Articles 256 and 257 are necessary to remain with the Centre in order to ensure that the Centre's legislative and executive powers are duly honoured by the States. What directions are to be given by the Centre to the States and when, is for the Central Government to decide, keeping in view the exigencies of the circumstances and administrative necessities.

Fiscal Relations to be largely decided by the Finance Commission

On the interplay of Fiscal Federalism and Centre-State Relations, the views of stakeholders and the recommendations of the Commission in this regard are given in the volume on Fiscal Relations. The Commission would like to emphasise here the importance of strengthening the Constitutional scheme of fiscal transfers through Finance Commissions and reduce the scope of other forms of devolution which leads to complaints from States.

There is a case to make the Finance Commission to be a permanent body with membership changing every five years and with a regular Secretariat. The Centre should find a methodology to allow State participation in its Constitution and in formulation of terms of reference so that it may not appear to be a creation entirely of the Centre which is an interested party in the division of the kitty.

Need to strengthen and empower the Inter-State Council

On the issue of creating a forum for co-ordination of intergovernmental relations, this Commission is of the considered view that the Inter-State Council (ISC) need to be substantially strengthened and activated as the key player in intergovernmental relations. It must meet at least thrice a year on an agenda evolved after proper consultation with the states.

If decision by consensus does not work in the Inter-State Council, it may be taken by majority in matters of national concern. In other areas, an Empowered Committee of ministers may be asked to study and report within a prescribed time-frame a more acceptable way of resolving the problem. The ISC must be empowered to follow up the implementation of its decisions for which appropriate statutory provisions should be made.

The Government will be well advised to evolve an appropriate scheme to utilize the full potential of ISC in harmonizing Centre-State relations which has become urgent in the changed circumstances. Issues of governance must as far as possible be sorted out through the political and administrative processes rather than pushed to long-drawn adjudication in Court. Inter-State Council appears to be the most viable, promising Constitutional mechanism to be developed for the purpose provided it is properly re-structured and duly empowered.

The present status and function of the Inter-State Council set up through a Presidential Order in 1990 are as follows:

The Council is a recommendatory body. The meetings of the Council are held in camera, and all questions, which come up for consideration of the Council in a meeting, are decided by consensus, and the decision of the Chairman as to the consensus is final.

The following duties have been assigned to the ISC:

Investigating and discussing such subjects, in which some or all of the States or the Union and one or more of the States have a common interest, as may be brought up before it;

Making recommendations upon any such subject and in particular recommendations for the better coordination of policy and action with respect to that subject; and

Deliberating upon such other matters of general interest to the States as may be referred by the Chairman to the Council.

Article 263 of the Constitution namely, inquiring into and advising upon disputes, which may have arisen between States as recommended by the Sarkaria Commission.

Very recently (2008) the Administrative Reforms Commission recommended that the conflict resolution role envisaged for the ISC under Art. 263 (a) of the Constitution should be effectively utilized to find solutions to disputes among States or between all or some of the States and the Union. It further added that the composition of Inter State Council (ISC) (of which there can be more than one) may be flexible to suit the exigencies of the matter referred to it under Article 263.

The Supreme Court even suggested an adjudicating role to the Council in certain types of disputes involving the Union and the States. Particularly on matters of policy where a consensual settlement is desired, the ISC could negotiate a more acceptable resolution of the dispute among the Constitutional entities.

The Council is empowered under the Presidential Order of 1990 to work out its own procedures with the approval of the Government.

Together with the full range of functional empowerment under Article 263, the Council should have functional independence with a professional Secretariat constituted with experts on relevant fields of knowledge supported by Central and State officials on deputation for limited periods. The Secretary of ISC should be designated ex-officio Secretary of the Department of States reporting directly to the Union Home Minister who is to be ex-officio Deputy Chairman of the Council. Given the Constitutional and quasi-judicial tasks, the Council should have experts in its organizational set up drawn from the disciplines of Law, Management and Political Science besides the All India Services. The proposed legislation should give the ISC an organizational and management structure different from the Government departments and flexible enough to accommodate management practices involving multidisciplinary skills conducive to federal governance under the Constitution.

PUBLIC POLICY, CONSTITUTIONAL GOVERNANCE AND PUBLIC ADMINISTRATION

Policy making to be more Inclusive and Consultative

Admittedly, in organizing governance, development of policy plays a crucial role. More so, in a federal system where implementation of policies are in the hands of multiple layers of government having diversified powers and responsibilities. Converting policies into legislative measures and executive programmes becomes easier if policy making is preceded by consultation with all stakeholders. It is imperative for good governance in a democratic polity that all major policies should be finalized only after ‘mandatory consultation’ through a series of public hearings in all parts of the country. This is not impossible or impractical since, at present, ‘Environment Impact Assessment’ of major projects mandates such public hearings. At least in area-specific matters, a beginning could be made in evolving development policies which affect the common people through public hearings or other forms of civil society consultation.

Given the realities of elections in the country, dominated as they are by religion, caste, money and muscle power, results cannot be construed as endorsement of party manifestos, especially when the winner need not secure a majority of total votes polled. It is true today that several bills on sensitive matters are referred to Committees of Parliament which in turn, hold wide consultations with individuals and organizations before submitting their reports to Parliament. But on strictly policy issues, consultations are not well structured nor made intensive and inclusive. Instead of courts intervening at every instance, through PIL or otherwise the scheme of constitutional governance itself should provide for such mandatory consultation with all the stakeholders who are affected by important public policy concerning livelihood and social security issues. The idea of bottom-up planning process envisaged by the Panchayati Raj amendments to the Constitution is supposed to strengthen the policy making in this regard

The policies themselves should clearly identify the different categories of stakeholders who would be affected, in one way or other by the policy. The governments, both at the Centre and in the States, should clearly respond to the views expressed and concerns raised at these public hearings before finalizing the policies for adoption. The Report of the Commission on Centre-State Relations policies should also contain clear guidelines on implementation and monitoring with reference to identified parameters and targets. All this would help formulation of socially acceptable policies which will have the support of the people and hence easier and effective to be implemented.

Another important aspect of policy formulation will be to build in flexibilities necessitated by the diversities in the Indian polity, among regions and states. “One policy fit all” approach would sooner or later end in local agitations, ad hoc amendments and emergent modifications which sometimes lose of sight of the original objectives of the policy itself.

A related issue is whether we can believe that all matters of public interest would be catered for by the political system through the executive and legislative arms of the ‘State’. We should have, in the Constitution, a provision for the citizens to seek policies in areas of concern to them which, very likely, may be of little priority to the political parties. An instrument is required to be constitutionally established through which a prescribed minimum number of citizens could ask governments to come forth with policies on the subject(s) specified. This would be better than, the action, at present being resorted to, where citizens seek Public Interest Litigations (PILs) and requesting Courts to direct governments to frame policies. Citizens petitioning to the governments would be more legitimate and democratic and is in accordance with the constitutional scheme of separation of powers between the three arms of the ‘State’.

Constitutional Governance and the Culture of Public Administration

The Constitution took for granted that if public power is exercised in the spirit of the Preamble, Fundamental Rights and Directive Principles, good governance would be the natural result. It would then be unnecessary to stipulate good governance as an independent right of citizens. That is why in Article 37 the Constitution declared that the Directives are fundamental in the governance of the country.

Unfortunately, the way public administration came to be organized in different states and at the centre on the mould of the colonial regime proved to be ineffective and non-accountable in several respects. There is no commitment or consistent effort on the part of governments to improve the quality of governance. Today it has become necessary to put good governance as part of the rights of citizens and to seek a mechanism to monitor progress in this regard. As a first step, it may be added as one of the Directive Principle so that governments may not ignore it altogether. That would give the necessary mandate and authority to the Central Government to set certain minimum standards of public administration both in Central Government departments, in State and local bodies and seek compliance incrementally. In this regard, the Central and State Governments be asked to give to Parliament and State Assemblies respectively a status report on implementation of Directive Principles every two years. This is on the model followed by the Human Rights Committee of U.N. to extract accountability from Member States.

The introduction of the Right to Information Act did bring about a sense of urgency for being transparent and accountable in governmental decision-making. What is now required is to demand efficiency from civil servants for which the rules of recruitment, remuneration and career progression need to be completely revamped on the lines recommended by the Second Administrative Reforms Commission. The civil servants need also to be insulated from political pressures to be able to perform their functions objectively and fairly. It is sad that the Supreme Court had to intervene repeatedly to bring about elementary reforms in the police which have been recommended by several committees and commissions appointed from time-to-time by the Government itself. Still State governments are reluctant to implement the Supreme Court orders or give the police the necessary freedom and wherewithal to operate as a service agency under rule of law.

Public administration is organized under a set of rules and procedures which need constant revision with a view to update and simplify them to be citizen-friendly. Too many levels for processing cases breed delay and corruption. Performance evaluation systems need to be revamped to make them more objective, transparent and reliable. Then only rewards and punishments would become meaningful to make the system more efficient. The use of information and communication technology at all levels of government has become imperative to improve efficiency and accountability of the system.

The reluctance on the part of an increasing number of officers of the All India Services to be politically neutral and professionally independent has become a matter of serious concern to those who seek good governance under rule of law. The matter needs immediate attention of government if the momentum in economic development were to be converted into the improvement of quality of life of the people. The Panchayati Raj institutions can also help in the transformation provided functions and finances are duly devolved and the civil servants co-operate for better delivery of public services to the people. The Vigilance structure in the Centre and States along with Lok Ayuktas have to take a proactive role to improve the administrative system to ensure timely delivery of services to the people. Despite the presence of the laws and the

institutions, the system is faltering because of governance failures in many States and in basic sectors of public administration. It will be desirable to disseminate the achievements and good practices of better performing States through publicity campaigns and conferences to make citizens realize what their fellow citizens in some other States have been able to achieve much better services from Governments with same or less resources. Unless such civil society pressures are created, the administration will not wake up from slumber and business as usual attitude will continue. The Indian problem, Nehru had stated, was not to foster stability in the system but to transform it. The “law and order” mindset and pre-occupation of the bureaucracy mind, it is said, led to the entrenchment of the system which the Constitution has promised to transform in the service of people. A fundamental flaw vitiating governance emanated from the lack of conviction that the consent of the people is the basis of exercising public power and governmental decision-making.

Citizen's Charters and Public Accountability

Article 350 of the Constitution speaks about citizen representations for redress of grievances. Every person is entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

Delivery of public services is the most neglected area of public administration. Good governance in these sectors requires that the Service Providers prepare and publish the entitlements of citizens in the form of a Citizens' Charter and the time schedule under which he could expect the services. To ensure that citizens receive public goods and services as per the Charter, governments should set up mechanisms like Ombudsman to be moved for redressal in case the person fails to receive the services in the manner and to the extent set out in such Charters.

Enormous sums are being transferred from Centre to States and local self-government institutions for social development. There is no effective and verifiable accountability system to ensure that the benefits reach the targeted population. Oversight mechanisms at the village level are imperative to monitor these schemes and prevent leakages. Social audit on the working of these schemes be made mandatory and there should be third party inspections and assessments on a regular basis.

Conclusions and Recommendations

Policy making to be more inclusive and Consultative

In a large, complex and diverse country like India, policy making on major issues affecting the lives and livelihoods of people to be acceptable and practical need to be not just consultative but perceived to be so. It is therefore recommended that in sector-specific subjects, mechanisms like public hearings may be statutorily employed involving Panchayats and Municipalities. This should be done through holding of ‘mandatory consultation’ wherein the governments, both at the Centre and in the States, should clearly respond to the views expressed and concerns raised at these public hearings before finalizing the policies for adoption. The Commission also recommends that the policies themselves should clearly identify the different categories of stakeholders who would be affected, in one way or other by the policy. Further, the policies should contain clear guidelines on implementation and monitoring with reference to identified parameters and milestones.

The Commission emphasizes the need to have flexibility in the policies with the object of catering to the diversity. The Commission strongly suggests stopping the “one policy fit all” approach.

As a corollary to the above approach, the Commission also recommends constitutional empowerment of the people to petition the appropriate government for making or amending policies wherever needed. Today this is happening through the intervention of the Court in public interest petitions. Article 350 does envisage such a procedure for redressal of grievance in respect of delivery of public services. This approach would have a two-fold purpose: first, would help to preserve the separation of powers, and second, would enable the policies to be citizen-centric.

Need to improve Vigilance Systems in public administration

Civil Society involvement in public policy and administration is the best strategy for good governance. What is important therefore is to maximize opportunities therefore while making policies and programmes. In this regard, the Commission recommends, *inter alia*, the following steps:

- (a) Let “good governance” be introduced as a Directive Principle of State Policy.
- (b) The citizen’s right to have a corruption-free government be acknowledged as part of administrative law.
- (c) To increase the efficiency from civil servants, the rules of recruitment, remuneration and career progression need to be completely revamped on the lines recommended by the Second Administrative Reforms Commission (2008). The civil servants need also to be insulated from political pressures to be able to perform their functions objectively and fairly.
- (d) There is a need for the All India Services to be politically neutral and professionally independent. Vigilance structures and Lok Ayuktas need to be strengthened to constantly monitor and improve the quality of public services.
- (e) It will be desirable to disseminate the achievements and good practices of better performing States through publicity campaigns and conferences to make citizens realize what their fellow citizens in some other States have been able to achieve with same or less resources.
- (f) All service providers, government or private, be asked to prepare and publish the entitlements of citizens in relevant sectors through “Citizens’ Charters”.
- (g) Social Audit of the major policy initiatives of government at periodic intervals be made a mandatory practice and reports be placed on the table of the Legislature every two years with comments from appropriate governments.

Local Self-Government and Centre-State Relations

One of the most important ways in which Centre-State relations might be impacted is an increasing tendency on the part of the Union Government to interact directly with local bodies and to bypass the machinery of the State Governments, even in respect of subjects which fall within the domain of States. A number of States have strongly expressed the view that such bypassing of the executive machinery of the States is extremely counter-productive, and harmful to federal relations.

In this connection, one State has observed as follows

“With 73rd and 74th Amendments, more empowered local political leadership has resulted. But, it has also generated new political tensions and conflicts at grass-roots. Three tiers of Panchayat and urban local bodies have to be integrated within the ambit of the State Government. There has been a recent tendency for the national government to provide direct funds to the local bodies. This should be curtailed. The State Governments should be encouraged to devolve powers to the local bodies and provide them direction and vision. The representatives in local bodies should be made

accountable through social audit and power of the electorate to recall them. Similarly, aspirations of local bodies and their representatives should be adequately reflected in decentralized district planning process.”

The Commission concurs with the view expressed above to the extent that the Central Government should be cautious about bypassing the machinery of States while allocating funds to these local bodies. This is for a number of inter-related reasons. Firstly, many of the areas in respect of which funds are allocated (for example, healthcare) are actually the domain of States from a legal perspective. Thus, keeping States out of the process leads to an anomalous situation where the entity with the constitutional powers (and concomitant responsibilities) with regard to certain facets of social and economic policy, are deprived of the power to function effectively. Additionally, it may so happen that the Central Government allocates funds for a certain period of time, but it afterwards unable or unwilling to continue disbursing funds. In such a situation, unless State Governments and the Central Government are in close coordination, certain welfare programmes could languish altogether, with grave consequences for general public interest.

In view of the Centre’s generally more robust financial position, it is inevitable (and desirable) that it would be allocating funds for the purposes of economic and social development in the States. However, it is felt that such funds should invariably be allocated through the machinery of the State Governments. This is likely to go a long way towards mitigating some of the problems discussed above.

Conclusions and Recommendations

(1) Need to develop a positive approach to sectarian mobilisation

Given the multiple identities and diversities of people, it is natural to expect political mobilization around sectarian and regional interests, sometimes appearing to jeopardize national purpose. There is a need to take a balanced and mature approach towards such developments particularly by parties ruling the Central Government.

The Indian Constitution allows enough flexibility to accommodate regional identities and sectarian and even separatist movements as long as they abide by the Constitutional parameters. Unity in diversity is a beautiful concept difficult to practice in a federal arrangement; nevertheless the experience of 60 years of the Republic is proof of strong foundations and sound understanding of the idea that is INDIA.

Thus, the Commission is of the view that movements within States that demand additional accommodation for regional identities, while otherwise desiring to remain within the fold of the Constitution, ought to be treated with respect and consideration, even in situations where the Central Government might not entirely share the sentiments and perceptions of that movement. This issue is discussed in detail in Internal Security Volume V of the Report.

(2) Coalition politics is a game to be played within the Constitutional Framework

Coalition politics need not be inherently problematic as long as the parties follow the rules of the game and respect the authority of the law and the Constitution. It may slow down the pace of development occasionally; but the practice of evolving the ‘Dharma’ of common minimum programme did help to overcome difficulties while controlling the excesses of the dominant coalition partners. Coalition government can be looked at as a sign of genuine accountability of the uniquely Indian polity and its system of governance.

What is important is to ensure that the Constitutional status of State Governments is given due recognition by the Central Government while taking decisions particularly in relation to local governments. The culture of shared governance is to be carefully nurtured if good governance is to be offered to the people.

(3) **On Local Self-Government and Centre-State Relations**

The Commission is of the view that the Central Government should be cautious about bypassing the machinery of States while allocating funds to the local bodies, primarily for two reasons. First, keeping States out of the process leads to an anomalous situation where the entity with the constitutional powers with regard to certain facets of social and economic policy, are deprived of the power to function effectively. Second, it may so happen that the Central Government allocates funds for a certain period of time, but it afterwards unable or unwilling to continue disbursing funds, thereby resulting in languishing of certain welfare programmes with grave consequences for general public interest.

In view of the Centre's generally more robust financial position, it is inevitable (and desirable) that it would be allocating funds for the purposes of economic and social development in the States. However, the Commission is of the view that such funds should invariably be allocated through the machinery of the State Governments.

State Accountability for Implementation of Directive Principles

It is necessary to consider the effect of the indirect transfer of non-justiciable Directive Principles into the ambit of the enforceable fundamental rights through judicial decisions or legislative action on state accountability. It is asserted by some that such an initiative only adds to the already over-centralized federal structure in India. Some ask if such initiatives would lead to the end of Federalism in India. In our opinion, India's federal structure is not threatened by such initiatives as long as they balance the role and responsibilities between the Centre, State and local governments. The key to good governance in a federal system is to ensure proper devolution on the basis of relevant criteria.

In organizing the delivery of public services, the following structural and procedural constraints have been noticed;

- (1) Firstly, there is extreme fragmentation in the policy making structure. For example, formulation of policy in one area, for instance health, fails to take into account its effect on other social sectors like education, housing, employment etc. with the result there is non-alignment of the policies across all the common issues. Lack of an integrated approach on closely related subjects has been pointed out by the Administrative Reforms Commission as responsible for poor results in governance and delivery of services.
- (2) Secondly, there is an excessive overlap between policy making, programme formulation and implementation which creates a “tendency to focus on operational convenience rather than on public needs and expectations.”³¹ The National Health Bill, 2009, some NGOs point out, is an example of this tendency.
- (3) Thirdly, there are inadequate non-governmental inputs and informed debate in the policy making processes.

Looking at the way these and related problems in development administration are addressed in other federal systems, one can identify several administrative models and appreciate their relative merits and de-merits which may be of relevance to reform the systems in India.

(a) **UNILATERAL FEDERALISM:** In scenarios in which there is “inter-dependence and the relationship is hierarchical, the relationship is described as unilateral federalism” in which the “federal government, by and large directs provincial policy, usually through conditional funding”.

“An instance of this model is the Canada Health Act, 1984 that included a penalty regime, under which the federal government would hold back funding to those provinces that failed to meet any of the Act’s criteria. Immediately following the Act’s introduction in 1984, the federal government announced it would be applying penalties to those provinces that permitted user fees and extra-billing (the federal government later released the money it had held back, but only when the provinces had eliminated these practices). In the 1990s, the federal government applied the penalties on several occasions, mostly when provinces permitted the application of user fees in private medical clinics.

From the perspective of the federal government, the introduction of the Canada Health Act was an important instrument to maintaining certain national standards in public health care. The experience of this model in Canada has been that from the perspective of the provinces, the federal action was viewed as an encroachment on provincial authority and jurisdiction. This concern was magnified, moreover, by the fact that the federal government had significantly, and unilaterally, reduced its financial commitment to provincial public health care plans.”

Thus, the model’s major weakness is that it infringes upon jurisdictional autonomy. On the other hand, the model is considered the most effective for national programs and associated benefits due to minimum overlap between policies, and advantages of economies of scale. This is demonstrated well by the national medical and hospital care in Canada.

(b) **COLLABORATIVE FEDERALISM:** In scenarios in which there is “interdependence and the relationship is non-hierarchical, the relationship is described as collaborative federalism.” Here, “the federal and provincial governments work collaboratively to attain policy goals, and there is no coercion on part of the federal government.”³⁶

“An example is the Canadian Social Union Framework Agreement. The main features were the commitment to obtain provincial agreement before introducing new programs and the agreement on a collaborative mechanism for settling disputes. The provinces and territories agreed to eliminate residency-based policies that constrained access to social programs for migrants, and to use funds transferred from the federal government for agreed-upon purposes – which included health care policy. In return, the federal government agreed to limit the use of its spending powers by, for example, consulting with provincial and territorial governments prior to renewing or altering existing social transfers; not introducing new social programs funded through intergovernmental transfers without the agreement of a majority of provincial governments; and providing prior notification before introducing new Canada-wide social programs funded through direct transfers.”

The major strength of this model is that it allows for national programs while protecting jurisdictional autonomy. On the other hand, its weaknesses are that the model has the potential for excluding the public, requires an effective dispute resolution mechanism and blurs accountability.

In the Australian context, the following are the characteristics of collaborative federalism:

- “Coordination: Involving collective action to address such problems as drought/water management that cross state borders. States are also invited to participate in negotiations of international treaties in cases where State interests will be particularly affected;
- Harmonisation: Efforts are made to ensure that State and Commonwealth legislation do not clash and, possibly, force the Commonwealth to challenge the State’s legislation under Section 109 of the Australian Constitution, which stipulates that when Commonwealth and State legislation conflict “the Commonwealth shall prevail”;
- Financial Assistance: Specifically the use of specific purpose payments, can be used to further collaboration between the States, Territories and Commonwealth on issues of mutual concern or be exploited by the Commonwealth to further its own policy agenda;
- Ministerial Councils: Such as the Council of Australian Governments (COAG) and the Gene Technology Ministerial Council constitute collaborative arrangements between the States, Territories and Commonwealth to exchange information, discuss policy formulation and coordination, and establish protocols and regulatory frameworks in different policy areas; and
- Intergovernmental Agreements: Agreements that formalise arrangements between the Commonwealth and State ministers and set out the objectives, duration and procedures.”³⁹

(c) CO-OPERATIVE FEDERALISM: “It describes a system of federalism not where there is necessarily “cooperation” in the ordinary English sense of the word, but rather, where there needs to be cooperation between levels of government to get things done in the system. Germany is an example of a “cooperative” system of federalism. In Germany, what you find is a real division of labour between the Federal Government and the Länder. The Federal Government does not deliver health services but does provide the regulatory framework and policy settings within which the Länder and the private sector provide health care. This includes issues such as insurance, quality control, funding and national priorities in terms of health. Responsibility really is split but it tends to be a division of labour between the setting of regulatory and policy frameworks (Federal) and the delivery of services and provision of infrastructure (Länder /Gemeinde).”

“In “cooperative federalism” it is not a case of everyone being responsible for everything. In Western systems of cooperative federalism, it is still important to define the roles and responsibilities of the different tiers of government. So, for example, in the case of German federalism, the Länder are more or less responsible for the delivery of services and the Federal government is responsible for setting out the policy and regulatory frameworks.

Institutional design here is critical. The Constitution says that only the Länder can carry out administration in areas where they have jurisdiction. The Constitution also sets up a system where the Länder have to agree to spending requirements before they can be passed by the National Parliament. The Bundesrat, the “federal house” of the German Parliament, is composed of the governments of all the Länder. The Bundesrat system means that the Länder have a real veto power over policies and programs that affect their priorities and spending.

The most significant weakness of cooperative federalism as seen in the case of Germany is that with reunification and the increasing globalisation of the economy in 1980' s and 1990' s, the interests of the Federal Government and the Länder had become so “entangled” and “enmeshed” with one another that it was impossible to get anything decided or determined. Thus, the much needed reforms in healthcare, pension, education and industrial relations could not be achieved. The

Germans are currently engaged in a series of difficult attempts to reform their system to “disentangle” the roles and responsibilities of the Federal Government and the Länder so that each has greater autonomy over certain areas of activity. (“Entflechtung”) They are, in essence, attempting to shift the German system more in the direction of a “coordinate” system of federalism like Canada or the US.”⁴¹

Public Policy Dispute Resolution Mechanism

In India, in the context of policy making, while this Commission suggests ‘consultation’ before the making of a public policy, at the same time the Commission also recommends providing a public policy dispute mechanism resolution system. Such a forum is not unheard of in countries like United States and South Africa which are using the collaborative approach by replacing the traditional dispute settlement that typically involves two parties. Public policy disputes typically involve many parties, not all of whom always recognize the legitimacy of other stakeholders. They revolve around the development and implementation of public policies and related legal, regulatory, institutional and resource allocation issues.

The basis for such a dispute mechanism exists in appreciating the nexus between policy formulation and deliberative democracy. Deliberative/participatory democracy poses an ideal. It imagines a situation in which opinions are shaped through respectful dialogue. It seeks a situation where the government gives equal weightage to the views of the marginalized as it gives to the special and more powerful interest groups. Further, it seeks to restore face-to-face deliberation in which the quality of reasoning carries weight as a public educational strategy.

Thus, the public policy dispute mechanism is very attentive to the multi-stakeholders dialogic process and its management by the public policy professionals who are mediators.

Public policies disputes can polarize the citizens. In the United States, it has been observed that formal citizen participation through public hearings do not always ensure meaningful discussion of the policies or formulation of creative solutions. Facilitation encourages participation and involves the public in a greater manner. Facilitation may occur at the time of the assessment or at the design stage before the actual dispute has arisen. Facilitation encourages participation and is intended to ensure that the citizens are heard, information is shared and effective problem solving is encouraged.

In the context of India, with the implementation, monitoring, redressal of public services being under the eye of public debate, and with the increase in the number of public-private partnerships, the consultative process further demands such a public policy forum where the professionals involved are mediators who are also policy specialists. This forum should be based upon the “collaborative governance model” as is being advocated in the other countries.

Chris Ansell and Alison Gash in their paper on “Pragmatism and Collaborative Governance”, explain the model in the following terms:

“Pragmatism suggests that although individuals and groups may have “interests,” these interests are typically more ambiguous and malleable than rational choice perspectives typically allow, and are hence open to reinterpretation through interaction and deliberation with others with different or even opposing perspectives. Pragmatism suggests that more fruitful conflict is made possible through face-to-face social interaction and communication. Collaborative governance is similarly based on the assumption that antagonistic stakeholders may be able to transcend intractable disputes and achieve mutual gains through face-to-face deliberation.

The three reasons that are attributed for the emergence of collaborative governance in the USA are:

- i) Legal fragmentation and multi-jurisdictional problem-solving are the two most important sources or symptoms of institutional complexity and interdependence.
- ii) The highly adversarial nature of many agency decision-making processes has led to a search for more collaborative forms of governance.
- iii) The highly disputed nature of public decision-making have led to a search for more direct modes of legitimating public decisions. The shift has broadly been from indirect modes of legitimization through forms of representative democracy to more direct and participatory democracy.⁴⁷

“Thus, the model of collaboration is developed as an alternative to the adversarial excesses of interest group pluralism and to the accountability failures of managerialism (especially as science becomes more politicized), and implementation failure. As knowledge becomes more specialized and distributed and as the institutional infrastructure for problem-solving and deliberation becomes more developed and dense, the demand for collaboration increases. The extremely large literature that now exists on collaboration is of that between groups in social services, health management, education, among other that are more about inter-organizational coordination and cooperation problems than about dispute resolution. From the perspective of public agencies, collaborative governance externalizes the decision-making process. But from the perspective of stakeholders, collaborative governance internalizes the decision-making process. Externalization requires that public agencies transform their role from one of command-and-control to one of facilitation of the collaborative process (Bryson and Crosby 1992). Internalization creates a demand that the process be simultaneously inclusive and exclusive. Collaborative governance therefore requires that stakeholders forestall their desire to use other forums to achieve their goals, and specifically, to “venue shop” if their goals are not met. The process hence requires strong up-front commitment by stakeholders to the uncertain downstream results of a consensus-building process. This imperative of creating an “ownership of the process” is why Susskind and Cruikshank emphasize that public agencies must avoid controlling the agenda and must remain in a facilitative or meditative role.”

“One of the primary benefits of collaborative governance—and the reason for its legitimacy among organizations—is the recognition that each participant will have the opportunity to provide input and, in some meaningful way, have this input be incorporated into the final product. In order to satisfy each participants’ needs and address varying perspectives, participants in the collective must compromise and negotiate. The second benefit of collaborative governance is that each participant has something the other participant needs. In other words, each has leverage. That implies that even if unassisted negotiation is not possible, the leadership role has to avoid subverting this ownership.”

The reason for using the process of facilitation in such a model is because “facilitation is the least intrusive on the management prerogatives of stakeholders; a facilitators’ role is ensure the integrity of the consensus-building process itself. Mediation increases the role of third party intervention in the substantive details of the negotiation where stakeholders are ineffective in exploring possible win-win gains. Finally, if stakeholders cannot reach a consensus with the help of mediation, the third party may craft a solution (non-binding arbitration).”

The Commission is of the view that the collaborative governance model would be an innovative way of ensuring that public policy dispute resolutions are carried on with the inclusive participation of the citizenry, thereby enhancing the democratic process.

Increasing Transparency and Accountability through a Social Audit Legislation

The instances of SSA, National Rural Health Mission (NRHM) and NREGA show that issues of implementation, monitoring and corruption continue to haunt our welfare schemes and legislations. It is alleged that the current amount of spending on these schemes is insufficient. However, when the very effectiveness of the delivery mechanisms is under scanner, it becomes difficult to put the burden on the theory of inadequate funds for neglecting the percolation of the benevolent schemes to the grassroots level. If democracy means participation by the people in the decision-making process, then perhaps it becomes more important to visualize a mechanism whereby the people have a complete control and right to ascertain the enforcement of the delivery mechanism by directing their government officials to do the needful. Social audit is indeed the tool in the hands of the people to claim such a right.

The mechanism of social audit in the form of guidelines provided under the Employment Guarantee Act has captured the nation by storm since it promises to be a new beginning towards democratizing welfare legislations. The NREGA guidelines dedicate an entire chapter to compulsory social audit. The guidelines state: “An innovative feature of the National Rural Employment Guarantee Act is that it gives a central role to ‘social audits’ as a means of continuous public vigilance (NREGA, Section 17). One simple form of social audit is a public assembly where all the details of a project are scrutinized. However, ‘social audit’ can also be understood in a broader sense, as a continuous process of public vigilance.”

Social audit is a unique approach through which the people work alongside their government in the designing of policies, schemes and legislations. Further, the people’s voice in the execution and implementation of them also becomes a pre-requisite and an indispensable component.

Thus, broadly understood from the perspective of good governance, in the words of the NREGA guidelines itself, “social audit is a continuous ongoing process through which the stakeholders and the intended beneficiaries of the project are involved at every stage: from planning and implementation to monitoring and evaluation.” Social audit is thus conducted jointly by the government and the people who are affected by, or are the intended beneficiaries of, the activity being audited. The superiority of social audit lies in the fact that when contrasted to institutional or government audits, social audit actually guarantees that the decision-making process is informed by the views of the stakeholders and the beneficiaries, and thus takes into account the local conditions appropriate for designing and implementation of the policies, thereby most effectively serving the public interest. Ultimately the core policy underlying the social audit is the obligation upon ‘We the People’ to remain vigilant.

Seen through such a perspective, social audit as a process moves beyond the entitlement of information. It is actually a new perspective on participation. It does not connote negative liberty, but positive participation to make good governance happen. Social Audit process is closely aligned to active liberty which exhibits some elements of direct democracy as sharing of sovereign’s power to govern. Capacity of people to participate is coextensive with the state’s power to make decisions.

In the context of NREGA, social audit gives a worker, or groups of workers the right to participate in the monitoring and implementation of the NREGA. It gives any citizen the legitimacy, not just to seek information, but also record complaints,

suggestions, and demand answers in the public domain. Thus, the social audit process in the NREGA Act consists of two main aspects: (i) participation in planning and implementation (ii) vigilance of the ongoing works.

The NREGA guidelines contemplate the following eleven stages of implementation wherein public vigilance and verification must act as the sign of accountability:

1. Registration of families; 2. Distribution of job cards;
3. Receipt of work applications and issue of dated receipts; 4. Preparation of shelf of projects and selection of sites;
5. Development and approval of technical estimates and issuance of work order; 6. Allotment of work to applicants;
7. Execution of works and maintenance of muster rolls; 8. Payment of wages;
9. Evaluation of work;
10. Payment of unemployment allowance;
11. Mandatory social audit in the Gram Sabha (Social Audit Forum).

The last of the stages, is intended to provide for ‘Social Audit Forums’ wherein information will be read out publicly, and people will be given an opportunity to question officials, seek and obtain information, verify financial expenditure, examine the provision of entitlements, discuss the priorities reflected in choices made, and critically evaluate the quality of work as well as the services of the programme staff.

Strengthening people’s participation is Section 4 of the Right to Information Act, 2005 which mandates the proactive disclosure of the important documents of NREGA to the people even without a demand being made to this effect by the person concerned.⁵³ Further, the Guidelines also direct the formation of a ‘Citizen’s Charter’ which would “describe the specific steps involved in implementing the provisions of the Act, and laying down the minimum service levels mandated by these provisions on the Panchayats and the officers concerned.”

Designing a Social Audit Legislation

Social Audit Norms at crucial stages of delivery framework of any entitlement can be the same ones so well captured in the NREGA Guidelines that provide for the following public norms as the essentials underlying any social welfare legislation delivery mechanism:

- Transparency: Complete transparency in the process of administration and decision making, with an obligation on the government to suo moto give people full access to all relevant information.

- Participation: An entitlement for all the affected persons (and not just their representatives) to participate in the process of decision making and validation.

- Consultation and Consent: In those rare cases where options are predetermined out of necessity, the right of the affected persons to give informed consent, as a group or as individuals, as appropriate.

Proactive disclosure refers to the obligation on the government (in this context the PRIs) to publish key information on an ongoing basis, without being requested to do so by citizens. Some of the

information which have to be proactively disclosed include the budget allocated to each PRI, indicating particulars of all plans, proposed expenditures and reports of disbursements; and detailed plan of the implementation of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes. In addition, the Panchayati Raj Acts of all states also indicate the proactive disclosure of information through Gram Sabha meetings or by putting up information on notice boards. The other way of obtaining information under the RTI Act is upon request, wherein citizens have to apply for information from the PIO who is then duty bound to handle requests provide the information sought within 30 days.

-Accountability: The responsibility of elected representatives and government functionaries to answer questions and provide explanations about relevant action and inaction to concerned and affected people.

Redressal: A set of norms through which the findings of social audits and other public investigations receive official sanction, have necessary outcomes, and are reported back to the people, along with information on action taken in response to complaints.

Since social audit should be an ongoing process, and keeping in mind the above public norms as also the specific NREGA Guidelines on social audit, it is worthwhile to enumerate the activities as drafted by the Centre for Equity Studies on what should be included in a social audit:

- a. Making people aware of their rights, entitlements and obligations under the scheme/programme.
 - b. Specifically, making them aware of their right to participate in the ongoing process of social audit.
 - c. Making sure that all the forms and documents are in simple, easily understandable, language and structure and available in local languages.
 - d. Also ensuring that all relevant information is publicly displayed on boards and through posters and is also read out at appropriate times for the convenience of the people, especially those who cannot read.
 - e. Ensuring that the decision-making process, especially for those decisions that are critical and/or vulnerable to distortions, is transparent and open and carried out, as far as possible, in the presence of the affected persons.
 - f. Making certain that all decisions, along with reasons, as appropriate, are also communicated as soon as they are made to the affected people, and in manner that makes it easy for them to comprehend.
 - g. Where there is a need for measuring, inspection or certification, ensuring that randomly selected individuals, from among the affected persons, are involved on a rotational basis.
 - h. Also ensuring that members of the public and especially those directly affected are facilitated to inspect and verify records, inspect works and generally monitor planning and implementation.

 - j. Where required, to have a formal public hearing (jan audit manch) where pertinent information is put before the public and verified in consultation with the affected persons.
- Ensuring that the findings of the social audit process are acted upon as they become available and that apart from addressing the specific issues, systemic changes are also brought about.
- To achieve the critical mass of social audit norms in any piece of legislation some innovations to the substantive as well as procedural part of law should be put in place. Right to participate during the planning stage is a substantive offshoot of the social audit process. Importantly in a Social Audit Process procedural innovations take the center stage as procedure is the most practical and salient unit of legal rules having capacity to undermine the entire process,

thereby, Much of work which goes in making a social audit compatible law has its nexus with democratizing the everyday procedures laid down by the law. The experience of the NREGA implementation has taught us that social audit procedures coupled with some substantive underpinning can ensure better delivery of entitlement. It helps people to own up the Act. They guide, monitor and evaluate the administration of the Act.

Also, as mentioned earlier, a social audit has the power to change the dynamics of the power equation existing between the decision maker and the beneficiary. This is because the participation by people to some extent redefines expectations and onus of accountability, thereby diluting the traditional view of decision-maker being at the center of power. The entire focus is not just on uncovering irregularities but on participation and performance. Such participation especially at planning and implementation stages gives rise to constructive delivery of entitlements and fewer cases of corruption.

It is to be noted that a framework for social audit does not envisage a hierarchy structure in terms of creating an additional tier for allotting responsibility and accountability. Rather, the intention is to ensure public participation through easier access within the existing realm of structures. This opening of administrative setting to general populace without exception (and not through committees or elected representatives) and at all times is the crux of social audit process.

As much as the audit process brings with it rights to the people, the same is also accompanied by certain duties on their behalf. This duty is apparent : the duty to remain vigilant and the burden to undertake the social audit. Since the role of the government as a facilitator is well-defined, to that extent the government becomes accountable. But, beyond that there is really no onus of accountability upon the government save the social audit process. Therefore the burden of taking up the social audit process seriously is on people only. Obviously to create such environment where people feel motivated to carry out the role falls within the domain of facilitator function of the government. Responsibility corresponding to government's facilitator role should find a statutory cover. NREGA is a pioneering Act in that regard. Social audit demands continuous participation and involvement in vigilance from people. NREGA is the first Act in the history of independent India to have given that kind of space and role to people. But experience with the Act has shown that people's involvement has not really percolated down.

This issue obviously questions the very foundation of social audit process itself. Firstly, we need to identify what triggers public involvement and whether Social Audit Norms will be able to energize people sufficiently. What should be the role of government in this regard? If we envisage government merely as a facilitator and not beyond that will public action necessary to fulfill the role prescribed by the Social Audit Norms happen on its own? More than that, characterization of public action in the context of social audit process is an intriguing question.

Another issue which limits the development of social audit process as a generic methodology is lack of standardized materials (legal and otherwise) and practical experience to formulate Social Audit compatible legislations. Be that as it may, NREGA in its

current form (even with the Guidelines) require further rule making to define the responsibilities of government in context of Social Audit Process (such as adopting people's estimates as units, people friendly formats for Measurement Books, Technical Estimates, Stock Register). This endeavor needs to be crystallized by way of State Rules which has not been the case barring perhaps the case of Andhra Pradesh. Inaction on this front points toward the lack of political will or bureaucratic disposition. Role of civil society (NGOs, movements, collectives) also should be reviewed in terms of ground realities. In the initial years, Social Audit process counts a lot on social movements for mobilization.

The experience of Andhra Pradesh with Social Audit and NREGA

Andhra Pradesh has been one of the most successful states in implementing NREGA. The accountability and transparency measures enshrined in the NREGA have been utilized by the state of Andhra Pradesh by undertaking social audits for all NREGA works across the state. The Andhra experience is unique because it marks the first time that the government has proactively taken steps to open itself up to scrutiny by citizens. The first step in this direction was to computerize the entire implementation process of NREGA. All the data is public and available for scrutiny. The social audit process is facilitated by the Rural Development Department through the Strategy and Performance Innovation Unit (SPIU) that provides the organizational backbone to the process. The SPIU is headed by a director, who is drawn from the state civil service cadre. The presence of civil society ensures that there is a high degree of autonomy and objectivity to the exercise. It is one of the most important checks and balances that have been built in to the process. The director SPIU together with the social development specialist is responsible for taking all policy and management decisions related to the conduct of Social Audits on NREGA. The State Resource Persons (SRPs) are responsible for managing the day to day aspects of conducting the social audit. This includes drawing up the social audit schedule, training district level resource persons, liaisoning with district level officials and ensuring follow-up to social audit findings. The District Resource Persons (DRPs) are responsible for managing the actual conduct of the social audit. This includes identifying the village social auditors, training the village social auditors along with state resource persons, filing RTI applications for accessing government documents and interacting with the mandal level officials to organize logistics and the public hearings. The social audit itself is conducted by volunteers from the villages.

To ensure the smooth conduct of the audit and the full support and cooperation from local level officials, the government from time-to-time, issues various orders detailing rules and processes related to the audit. These orders are essential as they have given the social auditors easy access to government records as well as made it incumbent of local officials to participate in the public hearings and respond to social audit findings. Aside from unearthing corruption, the social audits also offer a formal setting for senior officials to interact with front line implementers and wage seekers. This allows for real time feedback on the status of the scheme implementation. The real time feedback on progress in NREGA has ensured that some of these problems are tackled.⁵⁵

The World Bank had commissioned a study to understand the impact of social audit in Andhra Pradesh by gauging the perception of labourers. The results showed that before the social audit, only

39 per cent of labourers knew about NREGS in Andhra Pradesh (A.P). After the social audit, 98 per cent of the labourers said they knew about NREGA in A.P. Awareness about the 100 days guarantee rose from 31 per cent before social audit to 99 per cent after social audit. Awareness about the fact that no machinery can be used for getting work done was 30 per cent earlier and this awareness rose to 96 per cent after the social audit. Only 27 per cent of the labourers said they knew that contractors were not allowed under NREGA before the audit. This awareness rose to 99 per cent after the social audit. This was also confirmed when labourers were asked after the six month interval. NREGA is supposed to be a demand driven programme. Earlier only 25 per cent labourers knew about this provision of the Act. Six months after the social audit, this rose to 99 per cent. 60 per cent of the labourers said they were more confident about approaching local officials because they had greater awareness about the provisions of the Act as a result of the social audit. 82 per cent of the labourers felt that social audit was an effective mechanism for grievance redressal. Thus, social audit has a significant and lasting effect on citizens' awareness levels. It improves the implementation process. It enhances citizens' bargaining power and offers them a never before opportunity to address petty grievances.

Implementation issues with NREGA

Confusion about the operational requirements of the Act: There is a lack of clarity about the various actors' basic responsibilities under the NREGA. The Act directs each State Government to notify an "employment guarantee scheme" to give effect to the work guarantee. The combination of a Central Act with State-specific schemes calls for rigorous coordination between Central and State Government, however, the same does not happen. In this regard, it has been reported that even the basic operational guidelines so issued by the Central Government on guaranteeing minimum entitlements has not yet been fulfilled

There is a need to strengthen the administrative structure of the Act for implementation of the Act which includes the centre, state, village, block and district levels. There is a need to create awareness of the act and capacity development among the key stakeholders such as rural households, Panchayati Raj Institutions (PRIs), user groups, local communities, NGOs and local government officials. The monitoring and evaluation mechanisms at the Centre, State and District levels would need to be strengthened to ensure effective implementation of the NREGA. Specifically, the division between centre and states in financial, implementation and monitoring processes poses challenges in the present federal structure. For example, a large part of the expenditure of NREGA is covered by the Central Government but the crucial penalising provision of unemployment allowance is burdened on the states. These become crucial in the context of states where the political alignment of governments at central and state level is not on friendly terms to each other. At the same, recent experiences of NREGA also suggest that some of the better doing states are mostly states which are ruled by political parties which are not in alignment with the ruling party at the centre. This has prompted the Prime Minister to say: "We still have miles to go before we achieve the full potential of this unique legislation. The performance of the programme has been uneven across states. Some states have shown good results, some are lagging behind. I urge them to catch up."

Finally, it is only recently that the The Ministry of Rural

Development through a Press Release has formulated the guidelines for setting up the District level ombudsman as the redressal mechanism and the formation of an independent monitoring mechanism comprising of prominent citizens. But even now, the State governments are yet to set up the Ombudsman. Kerala has the Ombudsman functioning for the last several years.

The Commission recommends the framing of a central social audit legislation, keeping in mind the lacunae shown in the existing NREGA provisions, and what should essentially constitute the features in such legislation. The experience of Andhra Pradesh in this regard may also be looked into favourably.

Public-Private Partnerships for Better Delivery of Services

In the context of delivery of public services, Public-Private Partnerships (PPP) have indeed been in the eye of storm in India. For instance, the Delhi Jal Board project has been the most controversial water privatization project that was withdrawn after a massive backlash against the project. The main allegation was that the World Bank had engaged in arm-twisting tactics to pressurize the State Government into awarding the contract for consultation to a particular agency. When an application was filed under the Right to Information Act, 2005 to know the terms of the privatization contract, it was revealed that the terms provided for high profits to the private companies, to whom the management of water would be handed over, that would have pushed up the water bills significantly. Further, each private water company would also have a say in deciding its own annual operating budget and for upward revision. The revelations led to the organization of the NGOs to protest against the contract on grounds of the absence of a dialogue between the government and the citizens when the terms of the contract were negotiated, which subsequently led to the withdrawal of the contract.

Other arguments against PPPs in India have been that preferential selection of private companies and the imposition of onerous terms and conditions in the contract upon the Government threatens sovereignty and leads to corruption. Further, it is alleged that the various regulatory agencies set up by state legislations in different social sectors are unable to work independently, and are captured by private interest. Still, in certain other cases like education and health it is alleged that there is an absence of an overarching legal regulatory framework and a common set of norms to facilitate the government's stewardship of private health and private education sector as a partner. In the recently concluded National Consultation on the Draft Health Bill, 2009 the main critique of the Draft was that the Bill seemed to push the health sector into the hands of private players , and that privatization and outsourcing should be prevented to make health a universal entitlement

Unfortunately, the entire debate on privatization of essential services misses a single point: PPPs are not the same as privatization. To quote the Government of India:

“PPPs are different from privatization. While PPPs involve private management of public service through a long-term contract between an operator and a public authority, privatization involves outright sale of a public service or facility to the private sector.”

Abhay Shukla of the Support for Advocacy and Training to Health Initiatives. In this context the

critique by Colin Gonsalves of the Bill may also be noticed:

“At its core it fails to guarantee genuine free health care for the people of India. The framework is entirely that of globalization where the state is not seeing as being necessary for providing health care services and is relegated to a subordinate role of “regulating” the private sector which is expected to provide the bulk of the services. The poor will go to the private sector and hopefully may get subsidized services because huge funds of the state will be channeled to the private sector in terms of subsidies. Public sector funding will suffer. Public institutions already in a deplorable state will decline further. This is what the bill seeks to legitimize.”

In fact, as mentioned in the Eleventh Five Year Plan, private sector participation may help in introducing innovative ideas, generating financial resources and introducing corporate management practices and improving service efficiency and accountability to users.

On the question of the increased role being played by the non-state organizations in the delivery of the public services and the means of making them accountable to the directive principles, the discipline of human rights, public good and democratic accountability, the political parties have interesting views on these public-private partnerships, and some of them may be noted herein:

1. “The gap in providing services in the social sector by the government is suitably filled by private players. The essential requirement of these stakeholders in discharging the services is the upliftment of the disadvantaged and the marginalized sections of the society.”
2. “All these stakeholders have grown their activities in various spheres which were earlier performed primarily by governments. The governments should evolve mechanisms through which such organizations can actively participate in formulation of policies and implementation and mobitoring/supervision of projects/programmes. This will ensure utilization of their financial resources, engagement of their human resource expertise and their improved involvement in government policies/projects/ programmes. A comprehensive policy by the Union may be prepared for creating such sustainable partnerships. Presently, the Union and the State governments are adopting diverse mechanisms to ensure this. The success rates of such experimentations, in the absence of well-defined comprehensive national policy, have been questioned on most occasions. The Union should formulate a national policy for creating sustainable partnerships between governments and such organizations/ institutions.”⁶³ [Emphasis supplied]
3. “a) While selecting a non-state organization for such entrustment, selection-process should be absolutely fair and non-compromising on the antecedents and capabilities of such organization. The Memorandum of Understanding or Biparty Agreement should contain enough checks and safeguards.
b) Once such non-state organizations are delegated with the state’s functions, they are supposed to assume the character of the state for that limited purpose and in that case there should not be any difficulty to apply to them or bind them with the discipline of human rights and the philosophy of directive principles, they being the agents of the state. If necessary, appropriate amendment should be made in part IV to include them in the definition of ‘state’ for the limited purposes. [Emphasis supplied]
c) By incorporating befitting clauses in the Memorandum of Understanding/ agreement, or

by enacting a common or comprehensive law to facilitate such delivery of public service through any non-state organization in the desired manner, and to ensure strict observance of the principle of democratic accountability in such organizations on the basis that they assume the character of 'state' for such limited purpose.

d) While privatizing more and more sectors/areas of Government functioning by giving rooms for involvements of various stakeholders, the Government should always ensure that services provided are of high quality and are provided at an affordable cost to the common man. For example, within the parameters of constitutional directives, education, health-care, infrastructural creations and management may well be privatized in phases and in a well-coordinated manner."

4. "a) Non-state players are a heterogeneous group of stakeholders who have the capacity of providing good models of governance by acting as a bridge between the grassroots level and the formal governance structures. In this situation, a self-regulating system could be built up through a partnership between state and non-state actors, subject to periodic monitoring and evaluation in terms of certain process and outcome indicators relating to the regulatory mechanism. In addition, there is a need for increasing the synergy and mutual trust between the non-state actors and the local governance, so as to make the partnership model sustainable and credible. [Emphasis supplied]

b) Besides a self-regulatory framework subject to periodic reviews, such non-state organizations should be free from undue political interference and influence, so that their accountability and public commitment can be built up through elements of competition, and a broad policy framework for regulation and partnership."

Communist Party of India, Telegu Desam, Department of Health and Family Welfare, Ministry of Earth Sciences, Ministry of Finance, Deptt. Of Disinvestment, Ministry of Labour and Employment, Ministry of Heavy Industries & Public Enterprises, Department of Public Enterprises.

5. "Private organizations/agencies/civil society is proving important agencies in the process of governance. Involvement of these actors narrows the space for public actors to manipulate or continues corruption. But still, important issue which needs to be addressed is monopoly of bureaucracy in power holding. Many PPP systems seem to be failed because ultimately they have no power to work; private actors have to rush around the official in many concerns for clearance the programme and schemes because bureaucrats have ultimate power. So, this issue should be taken care of in priority.

But in contrary, private organizations/actors should also be evaluated through a mechanism because many such organizations are deeply rooted in manipulation and corruption personally or with public officials."

6. "a) The new stakeholders need to be given opportunities to deliver in their areas. However, there must be safeguards as many of these players are driven by capitalistic motives where services like health and education are involved. A system should evolve where the weaker sections of society are also given the opportunities to receive the services without which disparity will grow leading to frustration. These new players can supplement much of the government's effort and allow the government to give adequate attention to its primary responsibility in areas of governance like law and order, taxation and various regulations.[Emphasis supplied]

b) These non-state organizations must follow strict rules and if these rules are not followed, they must face severe penalties. Very good incentives can also be given for those who follow regulations and achieve government objectives.”⁶⁷ [Emphasis supplied]

7. “Public auditing of non-state organizations is the only viable solution for making non-state organizations accountable. Their source of income and expenditure must be monitored. Suitable legislative measures should be taken making them accountable. It should be mandatory that every non-state entity discharging public duties should be registered. To a limited extent from the citizen’s point of view these non state entities should be considered as state making them accountable/responsible.”

8. a) “There is no doubt that the task of governance has to be shared extensively. In the Health sector we are aware of PPP initiatives which bring in resources, usually manpower and managerial skills, unavailable to the government. The importance of NGOs in delivering health services cannot be underestimated. It is essential to ensure that all such non-governmental actors retain their independence and are not co-opted by the government.

It would be useful, and NHRM permits this, if health facilities were encouraged to work closely both with PRIs and NGOs. Where such institutions are represented in the Management Committees, there will necessarily be greater involvement and greater credibility in the eyes of the public. It is also true that where an officer is honest and dedicated to his/her work, or where an office is seen to be performing efficiently, credibility is built even without outside participation.

It would also be a grievous mistake to imagine that all NGOs are necessarily better motivated or better equipped to deliver services, or that all government offices/hospitals are inefficient or ill motivated. There are outstanding performers in government and extremely well run hospitals. Equally there are NGOs of very poor standard.

b) A lot of NGOs are now working closely with the Government. They take funds from either the State Government or the Central Government. For such organizations, it is necessary to ensure that they take due account of social responsibility and public good in their functioning. It is suggested that a system of Accreditation should be set up or assessment and consequent rating of non-government organizations. Democratic accountability through social audit would be a significant tool for rating the work of such organizations.” [Emphasis supplied]

9. “The NGOs have to be selected in a transparent manner and have to be involved at the grass root level in better management of some of the services, where the state is unable to reach the public at large.”

The above views of the political parties show that there is a consensus for the need of the participation of the private players in the delivery of public services. This is based on the experience of the states regarding poor delivery of public services in education, health, water, etc, corruption, inadequate attention to concentrating on essential services like tax, maintenance of security and order, poor quality of services and incapacity to ensure the percolation of the social sector schemes to the grassroots level. On the other hand, non-state actors, including NGOs are considered to be much closer to the citizens at the local level including the PRIs. Further, they are also considered to be providing much more effective services than the government, with superior quality. Thus, the states are of the opinion that to improve good governance

in India, PPPs are inevitable. Taking the instance of health itself, a leading newspaper reported that in India, private spending on health is 4.2 per cent of the GDP. With increasing privatization of the health services, more than 70 per cent of all the health expenditure in India is paid for by people from their own pockets, and this expenditure has been rising, especially for the poorest. Citing the Planning Commission paper of May 2009, the studies conducted in several villages showed that healthcare expense was responsible for over half of all the cases of decline into poverty. It is estimated that in 2004-05, an additional 39 million people were pushed into poverty due to out-of-pocket payments. This definitely reflects upon the irrefutable fact that public confidence in private entities to provide them with these services seem to be more than in public entities. Further, their entry in the public sector has already happened, with or without government approval. It may also be noted herein that the PPP envisioned herein are not the same as outsourcing completely the duties of the government. Rather, it is a partnership where the private and the public players jointly contribute in delivering public services to the citizens.

Nevertheless, this model also poses hard questions to policy makers. Indeed questions of democratic accountability, regulatory mechanism and redressal of grievances confront us. In this regard, the recommendations made by the political parties can be primarily separated into the following:

1. To amend Part IV of the Constitution for making the non-state organizations included in the definition of 'State'.
2. To provide for a National Policy for creating sustainable partnerships between governments and such organizations/institutions. The object herein is to provide for a mechanism whereby the private entities can participate in the designing, implementation and monitoring of the public programmes.

To have a regulatory mechanism in place for the purpose of monitoring and evaluating the private agencies.

Further, public auditing for monitoring their financial resources and drafting of legislation for penalizing the defaulting private entities is also suggested.

Social audit for making the entities accountable to the citizens.

Providing for checks and balances within the Memorandum of Understanding signed between the government and the private entities.

The Commission is of the view that these suggestions provided by the political parties are worthy of consideration by the Union and State Governments. This report has already spoken at length about how to formulate effective national public policy which would also apply to these entities. Further, social audit as elaborated elsewhere in this report would also be a good measure to make the private entities accountable to the public. However, regarding public audits, wherein the citizens only participate, then there is dissatisfaction among them regarding the manner in which the social or the institutional audit has been conducted. In this manner, firstly, there is no obligation upon the citizenry to participate, and secondly the findings of such an audit may not be accepted by both the government and the private players since they are not intrinsically involved in such an audit process.

On the other recommendations regarding creating a regulatory mechanism, amending the constitution, drafting penalizing legislations and having specific clauses in contracts, the Commission has the

following views:

i) **On Regulation:** Regulation may be broadly understood as an effort by the state 'to address social risk, market failure or equity concerns through rule-based direction of social and individual action.'⁷¹ The Planning Commission has emphasized upon the need for having an independent regulator as the facilitator between the market/private player on one hand, and the three branches of the state on the other. With the entry of private players in social sectors, India is yet to see the setting up of a common independent regulator overseeing the entire PPP. The need for such an independent regulator cannot be overemphasized. It is for the purpose of preventing overlapping of regulations, creating a simple regulatory regime, and ensuring accountability to the people through supervision of the state and the private sectors.

A regulatory regime if properly structured would result in the transparency and accountability in the negotiation of PPP contracts. If the regulatory agency is allowed to participate through comments on the proposed contractual terms prior to negotiations, the mode of enforcement of contract and their monitoring will be much easier. The same can enhance regulatory efficiency and mitigate the democracy deficit. For this, it would be meaningful to study the means of achieving an independent regulator, by investigating the constitutional and the legal framework within which the regulatory reform would have to take place in India. The regulator should incorporate processes and systems whereby the stakeholders would have access to information, would be able to make representations and have full participatory and process rights. This would also be an effective safeguard against capture of regulatory system by the special interest groups. The important aspects in the institutional framework for regulatory commissions would be their role and functions, their relationships with the executive and legislature, and their interface with the markets and the people.

To recommend such a participatory regulatory regime, the provisions of the Administrative Procedure Act, 1946(APA) to public participation in the contracting out process could be extended to the regulatory regime so set up in India. The work of Alfred Aman draws upon exploring how administrative law that provides for publicity, opportunities for participation, and the inclusion of the dissenting community groups , can further regulatory efficiency and mitigate the democracy deficit, especially when it is the direct delivery of services to vulnerable populations that has been privatized. He thus advocates allowing the broader public to play the role in the design of the contract themselves.⁷³ The reason underlying the same is that unlike the agencies, the private actors at present are not bound by the provisions of the Administrative Procedure Act. Thus, they do not face judicial review of their policy decisions, even though under government contracts they make discretionary decisions affecting the course of public action and allocation of public resources.

Agency contracting should be open to the public by means of informal notice and comment proceedings and that the contracts should be published for comment on the policy-making of the privatization project. This would indeed ensure minority participation and bring about transparency and accountability in the contracting process.

Thus, the Commission recommends the setting up of a regulatory mechanism as provided herein above. It also recommends the incorporation of the specific duties and obligations of the private

players and the process of holding them accountable to the citizenry by providing for certain penalties and or compensation to the affected beneficiaries in the contract itself in case of its breach. The manner of co-operation between the government and the private entity in delivering the services, the extent of government's intervention should be other clauses that need to be negotiated while formulating the contract.

ii) Strengthening the PRIs: The recommendation of some of the political parties for strengthening the PRIs with the objective of coordinating the relation and functions of the private entities with the panchayat is indeed sound. Since PPPs are to be implemented in every state in different fields like water, infrastructure, education and health, which fall under the State list, participation at the grass root level through decentralization would enhance accountability of the local government and result in participation of the disadvantaged in the decision-making process. This would be possible only by the effective implementation of the 73rd Constitutional Amendment. Further, decentralization would also enable to deal with any attempt to capture the state regulatory authority by special interest groups, thereby minimizing corruption in the privatization process.

The "People's Campaign for Decentralized Planning" as developed in Kerala indeed resulted in the decentralization of administration, fiscal powers and political powers to the local self-governing institutions. This in turn led to enhanced economic development and increased public participation that involved the minority groups in the decision-making process.

iii) Amending the definition of 'State': As regards incorporating the discipline of human rights and the philosophy of Directive Principles into the scheme of such organizations, the courts will have a big role to play. If the thrust of privatization in India is to transfer the government prerogatives of the management, operation and maintenance of public functions to the private actors, then the same would warrant redefining the term "other authorities" under the definition of state. Already consistent with the blurring of the public-private divide, the Supreme Court of India is adjudicating on such issues. In such cases, the issue before the court is whether the term "other authorities" can be expanded to include the private entities. At present, the definition of the state does not include private entities performing public functions. Thus, the citizens would have no right to claim against such an entity, performing public function, for breach of its obligations.

Thus, it is desirable to examine the means of conferring a constitutional law remedy upon the citizens for breach by the private actor to provide efficient and low cost services to the public by extending the scope of the minority decision (S.B. Sinha, J) of the Supreme Court in Zee Telefilms Ltd. and Anr. V. Union of India (UOI) and Ors. to the private companies by expanding the scope of "public functions".

The Commission therefore is in broad agreement with the view of the political parties that apart from the regulatory mechanism, social audits, national policy and contract clauses to make the private entities democratically accountable, amending the definition of the state in Part IV of the Constitution and the right to a constitutional remedy against the private organizations would make the arrangement citizen-friendly and promotive of efficiency in delivery of public services.

Conclusions and Recommendations

- (1) Social Justice is the signature tune of the Indian Constitution

Improving the lot of the poorest of the poor and providing equal opportunities for all is to be the priority of all levels of government for which the Under Article 12 of the constitution, a state includes the Government of India, Parliament of India, Government of the State, Legislatures of the States, local authorities as also “other authorities”.

The High Court of a state had issued a direction to Pepsi Company and Coca-Cola to disclose the composition and contents of the product including the presence of the pesticides and chemicals on the bottle, package or container, as the case may be, on the ground that the multinationals were under a ‘constitutional obligation’ arising from Right to life and personal liberty. The same was referred to the Supreme Court, which gave the parties the liberty to refer the matter to a larger bench since it involved a substantial question of law.

The minority held that when essential governmental functions were placed or allowed to be performed by the private body; they must be held to have undertaken public duty or public functions. In S.B. Sinha, J, words, “Performance of a public function in the context of the Constitution of India would be to allow an entity to perform the function as an authority within the meaning of Article 12 which makes it subject to the constitutional discipline of fundamental rights.”

Constitution has provided the agenda in Parts III and IV consisting of Fundamental Rights and Directive Principles of State Policy respectively. It is the general impression that successive Governments both at the Centre and in the States have not been successful in the implementation of the Directives which form the core obligations of the State vis-à-vis social justice and welfare. It is time to recognize it as the joint and separate responsibility of all three levels of government and demand time-bound implementation of the obligations thereunder. Let the State and Central Governments acknowledge the obligations and introduce it in Annual Budget Statements.

CENTRALLY-SPONSORED DEVELOPMENTAL SCHEMES AND FEDERAL RELATIONS

Introduction

This Section considers the widespread phenomenon of centrally-sponsored schemes in the States, in the realm of social and economic planning. It deals with the benefits and drawbacks of such schemes, and makes a critical analysis of their impact on Centre-State relations.

The somewhat skewed nature of financial relations between the Centre and the States has been analyzed elsewhere. It is well-known that States are, by-and-large, in a much more financially difficult situation than the Union Government. In this context, there has been a general trend of the Central Government allocating and disbursing to States, huge amounts of money for various schemes relating to socio-economic development. Prominent examples would include the Sarva Shiksha Abhiyaan and the National Rural Employment Guarantee Scheme. In view of the disparity in financial resources between the Centre and States, this trend is very welcome.

Fiscal Transfers under CSS are Problematic

Nonetheless, many States have expressed significant concerns about the manner in which such centrally-sponsored schemes are implemented in practice. One State has observed as follows:

“The criticism faced by the central sector and the centrally sponsored schemes is that they tend to make uniform prescription for all situations without adequate regard to regional and local specificities and suffer from lack of flexibility. These schemes are very straight jacketed without any flexibility or scope for innovations left for the State governments. These could be easily made more attuned to local needs by converting them into untied funds for each sector for each State for specified and need-based action plans prepared by the State and sanctioned by the Centre if they fall within the parameters of guidelines issued by the Centre. This will allow States to formulate projects in its action plan which fulfill the aspirations of the people and complete the gaps in that particular sector in the State.”

A particular political party has given a very detailed response in this regard. In view of the importance of the topic, it is considered appropriate to reproduce the relevant portion of its response here. It states as follows:

Not only have the earlier transfer of State subjects, such as education, to the Concurrent List been left unreversed, but further intrusions have also been made into the State List in terms of proliferation of the so-called CSSs. The resources for CSS are acquired through taxes which should be a part of the common pool and not left to the sole discretion and use by the Centre. A decision to transfer all CSS with funds to the States if they were in areas under the State list was already taken in 1996 at the Conference of Chief Ministers convened by the Prime Minister on May 4, 1996. Although several exercises have been carried out in this regard from time to time, there has been no effective resolution of this issue. In fact, more and more CSSs, are being introduced by the Central Government.

While over the years Central transfer to the States as a proportion of the Centre's revenue receipt has fallen, the proportion of transfer of funds with conditionalities in the form of Grants-in-Aid has increased from 40.9 per cent in 1980-81 to nearly 49.3 per cent in 2005-06 (RE). The Budget documents of 2007-08 show total resource flow from the Centre to the states as 7.26 per cent of GDP. Compared to this, the quantum of resources going directly to districts and other implementing agencies is very high at 1.22 per cent of GDP, more than any other head of grants or transfers, amounting to 37.5 per cent of tax devolution to the states in 2006-07.

The existing practice of CSSs has diluted the fiscal transfer system, to the extent that normal assistance for state plans, which is devolved according to the Gadgil formula, is less than 48 per cent of the total state plan size. Under the present regime, grants have become primarily purpose-specific or tied with a host of conditionalities imposed by different central ministries, reducing the States and Panchayats to mere agencies of the central ministries.

In some of the CSSs, the share of the States' financial burden is also being unilaterally increased. For instance, despite repeated objections by all the Chief Ministers, the Centre has taken a decision to increase the share of the States in the Sarva Shiksha Abhiyan Programme from 25 per cent

steadily to 50 per cent under the Eleventh Five-year Plan. Many States are frequently unable to provide the matching shares and consequently forego attendant central transfers which are subsequently reallocated to relatively better-off States as additional allocation, worsening horizontal imbalances.

The State Governments are not consulted at the stage of conception, design and rule making. States are therefore compelled to commit resources for straight-jacketed schemes that do not reflect their priorities or can be effectively implemented, as they are rigid and out of sync with local realities. Such specific-purpose transfers have tended to reduce the states to mere implementing agencies with rigid guidelines that deny location-specificity and local initiative.

What is more, the conditionalities frequently encroach upon the legislative autonomy of the States. A case in point is the JNNURM, which requires the State to reduce Stamp Duty rates to at most 5 per cent, a rate which can only be prescribed by the Legislative Assembly. This represents the intrusion of the executive into the space of the legislature, which is as problematic as centralization. In the past two decades, the legislature is repeatedly receiving diktats on legislation from the Judiciary, the Executive, semi-judicial bodies like the [sic] and multi-lateral and bilateral agencies like the ADB, the World Bank etc.

Since 2002-03, a considerable percentage of such transfers are sent directly to autonomous agencies bypassing the States, despite the fact that in many CSSs the states too are required to make matching contributions. Local officials tend to ignore the State Government on these Schemes since they have to co-ordinate directly with New Delhi.

As important is the imperative to conduit transfers to autonomous agencies (local bodies, parastatals, DRDA etc) strictly through the States. The Centre and states can work out an accountable and speedy mechanism for fund transfer to district, PRI and other agencies, the federal character of our fiscal and political economy should not be undermined. The states have to intermediate between agencies at lower levels and the Centre.

Thus, this sizable funding of CSS to the tune of about 60 per cent of the Central Assistance is resulting in an expanding role of the Centre in the State sector, by sidestepping the States and placing district functionaries directly under the control of the concerned central ministries and giving over half the Central Assistance as Additional Central Assistance, which is not within the purview of the Gadgil formula (or FC criteria) with a great deal of discretion with the concerned central ministries in allocations and disbursement.

To the extent that Central expenditure on CSS is a unilateral withdrawal from the shareable pool, thereby reducing the sizes of the pie, these should be transferred, with funds, to the States. There can be broad guidelines worked out for Central Schemes on the basis of discussions between the Centre and the States, allowing for flexibility in design and implementation. An appropriate periodic joint Centre-State review may be worked out. (The only exception to this could be Schemes backed by Central legislation for which the Centre contributes over 80 per cent, as in the case of the National Rural Employment Guarantee Act.) This will not only promote decentralization and uphold federalism, but would also be more cost-efficient and goal fulfilling since it allows location-specificity in design and are better suited to meet their socio-economic

objectives.”

While these views are couched in rather stringent language, it is important to note that a large number of States have expressed substantial agreement with these views. Further, this Commission also feels that there is a great deal of force in the criticism raised above. The mere fact that the Union Government is in a position to supply a greater share of funds for projects pertaining to social and economic development ought not to give it a right to dictate terms to States on matters that otherwise fall within the constitutional domain of States. It is felt that the Union Government may restrict itself, at the most, to outlining broad guidelines with respect to the ultimate objective of the programme. To take an example, a particular amount of money could be transferred to States which are particularly backward in the realm of primary education, and the purpose of the transfer could be appropriately indicated to the State Government. Nevertheless, the design and implementation of the specific programmes within the State must be left to the executive machinery of the concerned State.

A concern is sometimes voiced to the effect that such “untied” funds might often be misused by States, and that conditionalities are an effective safeguard against such misuse. There can be little doubt that there is often some amount of corruption and misuse of government funds allocated for the purposes of socio-economic development. However, the assumption which is more problematic is that State governments are more likely to be afflicted by this malaise, and that the Central Government is insulated from the same. It is not clear what the basis for this assumption is. Rather, the true state of affairs would appear to be that inefficiencies, leakages and corruption affect, at least to some degree, all branches of government at all levels. Furthermore, it is also assumed that the Central Government can effectively monitor and detect the extent of such failings in various States.

It is suggested, therefore, that funds earmarked for States should not be tied to rigid conditionalities or extremely high performance targets. The better approach might well be to make available these funds to the States, and trust that the democratic process will ultimately penalize those States which fail to utilize the funds for the purposes of meaningful development.

Conclusions and Recommendations

(1) Fiscal Transfers under Centrally-Sponsored Schemes are Problematic

It is the perception of States to which the Commission is by and large in agreement that CSS has tended to erode state powers and resulted in skewed fiscal relations between the Centre and States. While appreciating the good intentions and importance of CSS in selected areas, it is desired that the States should have control on the design and execution of the schemes. States' priorities and local initiatives are more often ignored in specific purpose transfers ordinarily made under rigid guidelines. The States complain that their financial burden under the CSS are sometime unilaterally increased. The conditionalities tend to encroach legislative autonomy of States; more so when transfers are made to local bodies and parastatals.

The need is not to sacrifice CSS, but to devise a system under which the federal balance is strictly maintained and accountability established. Some of the schemes can be totally

transferred to States; in others enough flexibility be built in to let the States control the design and implementation. Periodic review jointly by the Centre and the States will ensure the co-ordination and the direction necessary to achieve the national purpose, while correcting inefficiencies, leakages and corruption. The mere fact that the Centre is in a position to provide a greater share of funds for projects pertaining to social and economic development ought not to give it a right to dictate terms to States on matters that otherwise fall within the Constitutional domain of States.

(2) Need to provide more “untied funds”

Funds earmarked for States, as far as possible, should not be tied to rigid conditionalities prejudicial to good Centre-State relations. In setting performance targets some flexibility has to be provided to accommodate location specific problems and challenges. In the circumstances, the Commission is of the view that the Centre should bestow greater authority and trust on states in centrally-sponsored schemes and allow the democratic and Constitutional processes to ensure greater accountability on money spent in the name of development.

GOOD GOVERNANCE AND DELIVERY OF PUBLIC SERVICES

Introduction

Ensuring good governance and achieving social and economic justice are amongst the most important constitutional goals of our time. Three methodological and doctrinal approaches among others, are suggested here, to enable the achievement of these goals: (1) empowering citizens with a corruption-free constitutional right; (2) greater decentralization; and (3) the preparation of a periodic social audit.

Governance has been defined in terms of exercising power for economic and social development. It is not easy to outline an exhaustive list of ingredients for the term ‘good governance’, but it is acknowledged that at the very least good governance is a term that relates to a government that is, ‘among other things, democratic, responsive, accountable and transparent, and which respects and fosters human rights and the rule of law’. The relevance of good governance cannot be overemphasized. As the United Nations Development Program rightly noted, it is only through good governance that we can ‘find solutions to poverty, inequity and insecurity’.

Corruption Retards the Movement towards Good Governance

In focusing on the achievement of good governance, one important issue that must be addressed is that of corruption. Transparency International has ranked India 71st out of 102 countries in the world in the Corruption Perception Index, 2005. In India, it has been seen and acknowledged that corruption seriously impacts the rule of law. It also has dramatic negative consequences for development. This is because development is directly linked to economic and social policies the development and administration of which is impacted by the level of corruption in public administration. It affects economic growth by discouraging foreign investment, diverting

resources for infrastructure, health, education and other public services. In essence, corruption poses serious challenges for governance, as states cannot achieve the goals of development without ensuring corruption-free governance. The development process ought to be based upon principles of transparency in governance and accountability of the administration. However, due to corruption, there is inefficiency and inequity in resource allocation. The state will not be able to fulfil its mandate responsibly; nor is there any scope for achieving social and economic development.

It has been suggested that one strategy for combating corruption is empowering citizens with a right to corruption-free government. It is important to include the issue of corruption within the human rights discourse. It is crucial to highlight that ‘corruption dilutes human rights in a significant way, although it is rarely observed and understood from this perspective. The institutionalized form of corruption creates mass victimization, which threatens the rule of law, democratic governance and the social fabric of any society. Human rights discourse offers powerful resistance to violations of various rights, and the problem of corruption can be addressed by framing it as a human rights violation. The benefit of regarding corruption as a human rights issue will enhance efforts to contain corruption, due to the development of international human rights law as an important aspect of international law, as well as national developments in constitutional, legal, and judicially recognized rights. The corruption problem, when framed as a human rights issue, can empower the judiciary to enforce certain rights for the citizenry, demand a transparent, accountable and corruption-free system of governance in India, and help establish a basis to monitor this process’. The inclusion of a fundamental right to a corruption-free public services will enable citizens to directly challenge cases of corruption, and it will elevate cases of corruption to be ‘constitutional violations’. The use of public interest litigation coupled with such a right may enable the judiciary to effectively respond to the problem of corruption. The Commission is inclined to endorse this view to make corruption free governance as part of human rights jurisprudence.

Decentralisation as a strategy to improve delivery of Public Services

The next issue to focus, especially with respect to Centre-State relations, is the concept of power-sharing. It has been acknowledged that decentralization has the power to act as a counter to the tendency towards central absolutism by enabling power sharing and thereby providing for long-term stability. The dispersion of authority both vertically (across levels of government) and horizontally (over multiple institutions, agencies, or decision makers) will enable more careful decision making, control of abuses of power, and institutionalization or a system of policy making cross-checks. One methodology through which social and economic justice can be sought to be achieved is greater decentralization on related subject matters. The nature of coordination between the local governments and the Centre and State Governments will have to be evaluated, but certainly furthering power sharing can ensure greater accountability and hold the promise of achieving results.

Greater Attention needed on Timely Implementation of Directive Principles

The effective enforcement of the Directive Principles of State Policy is the Constitutional strategy

for promoting good governance and for delivery of public services. There appears to be no methodology now in place to extract accountability in this regard. One methodology that could be proposed is that States (with the assistance of the Centre) must be required to frame periodic guidelines on what steps they will be undertaking to perform their role for the achievement of the Directive Principles of State Policy. Certain obligations will necessarily require more Central involvement and others will require less, but the framing of periodic guidelines will ensure that the issue of Directive Principles is not ignored simply because these are not enforceable in a court of law.

In order to follow-up on periodic guidelines, there could be a periodic ‘social audit’ that is conducted in each State to examine the degree to which the State is performing to its obligations under the Directive Principles chapter and the guidelines that have been framed. This could be framed along the same lines as the financial audit that is presently conducted by the Comptroller & Auditor General of India. Just as the Constitution creates the position of a Comptroller & Auditor General of India to perform a certain role with respect to financial accountability, the Central and State Governments may create a Social Auditor with independent status for studying social accountability of implementation of Directives on agreed parameters.

Public-Private Partnership in Delivery of Public Services

The question that is often posed for this Commission is whether the present public institutions and federal framework explicitly spell out the grammar of good governance from the perspective of constitutional design? What measures should be taken for the participation of the emerging private stakeholders in the scheme of governance for promoting the welfare of the people? This is essentially a public governance and accountability question, set in the background of the manner of designing a public institution. As Yale Law School professor Jeremy Mashaw argues, public governance accountability regimes tend to present themselves as epistemically complete. Criteria for judgement are established and exposed to public view. Actions are judged in accordance with the preexisting norms. At the other end of the spectrum, lie those accountability regimes normatively open social systems. Thus, given these differences, a shift in accountability is bound to create anxieties.

India also echoes a similar sentiment as it struggles simultaneously for a legal political accountability regime, structured by a host of doctrines, norms and rules defining who has the standing to complain, who is a public authority subject to public law norms, what sort of claims qualify as ‘justiciable’, through what procedures administrative or judicial consideration can be obtained, and the limits on the reviewing body’s competence. On the other hand, is the larger even more graver accountability question of the private actors in the sphere of public services. Should the non-governmental activities also be subject to similar accountability mechanism? Is there a set of rules and doctrines in place that structure the accountability regime of our public institutions and provide the standard against which performance is to be measured? Should the content of the relationship between “who” and “whom” be hierarchical, asymmetrical? These are essentially the questions that have to be addressed while one visits public-private partnerships. The focus has to be on the institutional design.

On the political development front, the challenge really is that of finding the appropriate federal framework for assuring harmonious Centre-State relations and national unity and integrity. This is because a comparative study of other federal regimes has shown that the countries have modified their political structures for adjusting to the changing political configurations. However, before one can embark on such an exercise, it may be necessary to provide a concrete ground for federalism as a political choice for a federal republic like India to find the nature and motivation of Indian federalism.

Below par performance of centrally sponsored schemes, and the continuous allegations of bureaucratic corruption, lack of funds, non-cooperation by the states in implementation have created much tension between Centre-State relations. Similarly, in the case of delivering basic amenities, absence of national measurement standards has been alleged to be the main culprit behind not giving the citizenry their basic human rights. Furthering this crisis is the state of education in our country. This is despite making of the same a fundamental right today, and having enacted a legislation to implement it. In each of these concerns, runs a common thread - the impact of federalism on public provision in social policy. Does federalism inhibit public provision and retard the development of the welfare state in the first instance? How does federalism shape the policy design of social policies, once such policies have been adopted? Does federalism create obstacles to restructuring and retrenchment, just as it might have originally inhibited social policy construction? Once social programs have been established, does federalism create obstacles to the restructuring of such programs and, as such, render the system impervious to certain types of policy change? These are the questions that come up again and again in the discourse on good governance.

In this debate, whether it is for establishment of national standards or customization of the Centrally Sponsored Schemes, the question is ultimately one about the structure of cooperative federalism, that, raises three important questions: (1) What are the respective state and national interests in particular policy domains, putting aside any potential constitutional impediments to organizing state and federal activities either separately or jointly? (2) What types of funding arrangements promote responsible and accountable public spending? (3) What sort of regime of legal rights and responsibilities is likely to support the programmatic purposes established either by state or federal legislation?

Looking at the way public services are organized in other federal countries will be of help to design the policy and programme appropriate to the Indian Constitutional Scheme. Even at the cost of repetition, some ideas in this regard are reproduced here in relation to the manner health care services are organized in Canada, another federal country. This may be of particular interest at the present juncture when the Government of India is contemplating the adoption of a National Health Bill involving all three tiers of government.

Conclusions and Recommendations

(1) Ensuring Efficiency and Accountability in Delivery of Public Services

Among the many strategies for ensuring efficiency and accountability in the delivery of public services are two Constitutionally mandated. They are empowering citizens and decentralizing administration. Though much ground is covered in these directions, there are many possibilities for greater innovation and experimentation. Volume IV of the Report has made detailed recommendations on decentralized governance.

The need for citizen empowerment is increasingly being acknowledged by legislations like the Right to Information Act, the National Rural Employment Guarantee Act, the Lok Ayukta Act etc. However, good governance is a far cry because of the wide prevalence of corruption and the poor administration of criminal justice. Corruption retards economic growth and imposes heavy burden on the poorer sections of the people. States cannot achieve the goals of development and social justice without ensuring corruption-free governance. A rights-based approach is the Constitutional way to fight corruption. The corruption problem, when framed as a human rights issue, can enable the judiciary to enforce certain rights for the citizenry, demand a transparent and accountable system of governance and help establish a basis to monitor the process. The inclusion of a fundamental right to corruption-free delivery of public services will enable citizens to directly challenge cases of corruption as Constitutional violations and to seek Constitutional remedies. The Commission is inclined to recommend such an approach as the problem has assumed serious proportions warranting drastic remedies.

(2) Time-bound implementation of Directive Principles through Decentralised Governance:

The effective implementation of all the policies enumerated in the Constitution and declared fundamental in governance within an agreed time-frame is another strategy to deliver good governance and ensure human development. There is no effective method to ensure compliance of governments in this regard and therefore publicly announced Guidelines are required to be developed by the Centre in consultation with states. This will demand effective devolution of powers and functions to the local governments as well. Coupled with social audit of implementation of Guidelines through an appropriate mechanism, decentralized system of governance can bring about the reform needed for effective delivery of essential public services.

(3) Public-Private Partnership in Delivery of Public Services:

Private participation in public administration is being increasingly solicited in a variety of fields like education, health etc. for a variety of reasons. However, an appropriate regulatory framework to ensure standards and accountability in the delivery of public services is still not available. The extension of the concept of 'State' to private entities is not always a viable option though it is being used by Courts to extract accountability. The Commission would recommend an institutional design to be developed keeping in view the demands of rule of law, human rights and good governance. There are stray examples of State initiatives which seem to be delivering results in certain sectors. These are to be collected, studied and put on the public domain

for adoption elsewhere.

As a corollary to the evolution of best practices in public-private partnership in the delivery of public services, it is necessary to adopt national measurement standards on performance. Looking at the way public services are organized in other federal countries, the Commission strongly recommends the model of “collaborative federalism” in which there is interdependence but no hierarchy. The process from policy making to performance assessment is more collaborative without any coercion on the units from the federal government. The collaboration extends to non-State stakeholders and through the collective, transparent, rule-based decision making processes public assets and services are managed with maximum efficiency and accountability. The key element in collaborative federalism is non-hierarchical, non-authoritarian form of decision-making involving governmental and non-governmental participants working toward a common objective within a legal framework. This Commission would recommend such a model for the promotion of good governance.

The Commission would recommend a National Standards Organization for working out the standards for social sectors on the lines of the Bureau of Indian Standards for manufacturing sector.

LOOKING TO THE FUTURE

Strong Centre with Strong State Co-exist under Collaborative Federalism envisaged by the Constitution

It is now well understood that there is no single pure model of a federation and that each federal constitution needs to be described by studying the legal text as well as the prevailing political system. Our founding fathers realizing the imperatives of the times sought to create a centralized federation, but powerful forces of linguistic and regional identities and development of political forces around these identities, as well as a desire for more participative governance has led to strong States and the coming into their own of local bodies both rural and urban, all of whom are attempting to alter the dynamics of power play in the organization and management of governance. The structure of our Constitution has stood the test of time and has provided for a robust legal regime. The political system too has shown dynamism, complying with the dictates of the Constitution but also adapting it to meet the requirements of changing times. Terminological characterization tends to colour peoples' perception regarding the nature of the Constitution. We prefer that the debate moves away from such characterization to the actual working of the Constitution.

We have not sought to rearrange the basic systems legal or political. The legal text of the Constitution by its very nature needs to be clear, precise and unambiguous, so that each tier knows what is expected of it. However we do believe that the elements of governance cannot be clinically segregated and would sometimes complement, sometimes supplement and in some cases overlap. The principle of subsidiarity can be stated in simple terms but it requires great skills of accommodation to make it work. Each tier of Government must therefore strive

to achieve synergy through cooperation and understanding. Our stress therefore on the Constitutional arrangements on Centre-State relations has been on bringing about changes in the institutional arrangements which would nurture a meaningful and constructive dialogue rather than on trying to minimize conflicts, by attempting exclusivity in the division of powers, an exercise we deem as futile. The institutional arrangements would provide platforms for exchange of ideas and for synergizing thoughts and action. Our recommendations pertaining to the role and composition of the Rajya Sabha; a strong pro-active Inter-State Council; a similar Council at the State level with local body membership; empowered Group of Ministers for specific issues; progressive constitution of Inter-State River Basins with wide membership, statutory authorities for determination of royalty rates for minerals; Committees to recommend compensation packages for forest and resource rich States; coordination committees for infrastructure projects etc. have been made to provide various fora at appropriate levels to strengthen the dialogue process. In this process, if the Centre has to be strengthened for certain specific purposes or if the States and local bodies would need to perform certain additional roles, decisions would be taken jointly after appreciation of various viewpoints but always keeping the objectives of the exercise in mind.

The character of the polity has undergone significant changes. There is growing demand to increase the stakeholder base as social and economic equality which was to have come soon after political independence still remains a dream for many. India needs to build an inclusive society where equity and inclusiveness will permeate all manner of activity. Our recommendations provide for a greater role to elements of civil society by enabling them to perform Constitutional and statutory roles. For similar considerations we have recommended that special consideration be accorded to the needs of the disabled and economically and educationally disadvantaged sections of society especially in local body governance issues. We have called for harmonization of existing laws with the special laws for tribal areas so that customary rights and community enterprise which characterize the tribal peoples are not only safeguarded but become vehicles for their advancement. The Centre, States and local bodies need to recognize these important forces which significantly influence lives of ordinary people in their communities.

Inspite of serious attempts made in sixty years of planned development large numbers of people remain below the poverty line, no matter which parameters are chosen to arrive at the figures; the tribal areas remain neglected and budgetary allocations for them remain unspent. There is a general perception and not without reason, that sums earmarked for vulnerable sections of society and neglected areas (even in better off States) do not reach the beneficiaries, so much so that a serious call has now been made for direct disbursement of funds to the poor through coupons. The economy is characterized by declining contribution of agriculture in the GDP; increasing unplanned urbanization and migration of people from the backward areas in search of livelihood. On the other hand a resurgent nation has demonstrated that it can achieve rates of growth which only a decade ago appeared unattainable; that it has the capacity to harness the latent talent in many cutting edge technologies and that it has a reservoir of entrepreneurial talent in many financial, service and manufacturing sectors. There is a growing realization that the demographic profile of a young population can be made to deliver dividends only if it could be given the necessary skills, education and imbued with the right attitudes and sensitivities. Our recommendations on time bound devolution of powers to local bodies; providing the proper emphasis to district and

metropolitan planning; giving a distinct role to public-private partnerships especially in infrastructure development; proper understanding of migration issues; redistribution of wealth and investment in favour of backward areas; focused attention to areas in the North-East; introduction of GST and need to usher in a unified market; providing education to all and emphasis on humanities and which builds a proper attitude towards society especially towards the disadvantaged have been made against this background. We have also called for shifts of focus in the functioning of the Finance and Planning Commissions keeping these considerations in mind. We have also recommended a new approach towards implementing the Directive Principles and the success or otherwise of the Nation's endeavours will mainly be judged against this yardstick.

There are resources especially natural resources which each generation nurtures as trustees on behalf of those yet to come. This is national wealth which does not recognize political boundaries and to preserve and protect our natural resources a national vision is required. Their utilization must be done with great care and caution to achieve optimal benefits, but not at the cost of destruction of the environment and ecology. Keeping this ideal in view we have made our recommendations on maintenance of the environment and ecology giving predominance to the Union. However for proper use of the water and mineral resources and compensatory mechanisms for forest and mineral rich States, we are of the opinion that the Centre and States must work together.

Smooth functioning of Centre-State relations; bringing about social and economic progress; taking care of vulnerable sections of society and backward areas; preserving the environment and ecology and yet taking care of the livelihood concerns of people are formidable tasks. All cry out for good governance at all three levels. The task has become more difficult as there is growing political mobilization around sectarian and regional interests; the people are disillusioned with the lack of integrity amongst the bureaucracy and growing incidence of waste of public funds, delays and inefficiency. We have accordingly called for a more 'consultative' structure at all levels, making it mandatory wherever large sums of public money is expended and on completion of projects we have stressed upon the need to institute social audits. We have observed that a one 'policy fit all' approach needs to be given up and powers be delegated on the principle of subsidiarity. Vigilance systems in public administration need to be improved. Based on these considerations we strongly feel that it is time that "good governance" is given due prominence by including it in Part IV of the Constitution as a Directive Principle of State Policy.

Nation's progress within systems where the rule of law prevails and where there is peace and tranquility. Socio-economic progress and good governance provide the firm basis for the prevalence of peace. We have been fortunate, that we have well codified laws and an independent and vibrant judiciary to enforce the laws and preserve civil liberties. However, the burden on the justice system is increasing and its weaknesses need to be removed. The policing systems need to be reinvigorated, made accountable and credible in the eyes of the common man. Our recommendations on sharing of the burden of expenditure on Courts by the Centre, and measures to bring about reforms in the police are with this objective. However, there are times when the system is put to its severest test. These are when national security is threatened by external aggression or grave internal disturbance. The primary responsibility for preserving the life, liberty

and life of the citizens of India is that of the State. Without security there can be no progress of any kind. The prevailing security scenario is a matter of grave concern. The resolve of the Indian State is being put to a severe test both by attempts made by outside powers as well as by internal forces, quite often aided and abetted by the outside powers. The nature of terrorism has altered over the years. It has also established links with transnational organized crime involving drug smuggling, human trafficking, the illegal arms trade, extortions etc. Safe havens in failed and failing States are provided to terrorists. Networks are spread over the entire country with masterminds operating the levers from outside our shores. Whereas a clear divide in criminal jurisprudence is required to fix responsibility for prevention, investigation and prosecution for violations of ordinary laws, and this must be the responsibility of the States which are most proximate to the scenes of crime, the position changes dramatically when public order is disturbed for prolonged periods and covers large areas or is likely to influence peace and tranquility elsewhere or where acts of terrorism are perpetrated and proxy wars fought threatening the security of the entire Nation itself. In such cases the Nation must come together putting all its resources to use. Cooperation and synergy are put to their stiffest test. For too long we have allowed the debate to continue, unable to unambiguously delineate the legal and investigative domain of the Centre and States to combat terrorism and organized crime, many a times coming close to taking the hard decisions required but shying away at the last moment. Steps have been taken but only when spurred by events such as those of November 26, 2008. Knowing this weakness of our system the enemies of the State have taken advantage and have made deep inroads. It is not enough to hold the ground now, the Indian State must become proactive.

Both the Centre and the States must work together, but the legal regime and investigative authority needs to be set in clear terms. Our recommendations on prevention of communal violence; definitions of inter-State and transnational crime and methods of tackling them as well as acts of terror, as also use of Article 355 in limited areas have been made with this spirit in mind. We should not wait for events to dictate our actions. Rather by our actions we need to reorder events for the good of the Nation. This is true not only for security, peace and tranquility but for all other Nation building activities.

Important pages from Economic Survey

1. Pages 1 to 40 (very important)
2. Pages 41-44, Box (III(1) Page 47)page 51, box III(2)page 53, 53-57, box III(4),61-64, 67-68
3. 78-80, 89-91, 101-103, box IV(2), 116
4. 117-118, 127, 134,box V(3), 142-143
5. 144-215
6. 216-242
7. 243-252, 253-258
8. 259-261, box IX(1), box IX(2), 272-74, 284-87, box XI(5), 290-91
9. 292-93, box X.2 &3, 307, box X.6, 301
10. 311-14, 320-21, 323-25, box XI.2, 335-40
11. 341-45, 346-52, box XII.3, 366-72

Report Summary

- The Finance Commission is a constitutional body formed by the President of India to give suggestions on centre-state financial relations. The 15th Finance Commission (Chair: Mr N. K. Singh) was required to submit two reports. The first report, consisting of recommendations for the financial year 2020-21, was tabled in Parliament on February 1, 2020. The final report with recommendations for the 2021-26 period will be submitted by October 30, 2020.

Key recommendations in the first report (2020-21 period) include:

- Devolution of taxes to states:** The share of states in the centre's taxes is recommended to be decreased from 42% during the 2015-20 period to 41% for 2020-21. The 1% decrease is to provide for the newly formed union territories of Jammu and Kashmir, and Ladakh from the resources of the central government. The individual shares of states from the divisible pool of central taxes is provided in Table 3 in the annexure.

Criteria for devolution

Table 1 below shows the criteria used by the Commission to determine each state's share in central taxes, and the weight assigned to each criterion. We explain some of the indicators below.

Table 1: Criteria for devolution (2020-21)

Criteria	14 th FC 2015-20	15 th FC 2020-21
Income Distance	50.0	45.0
Population (1971)	17.5	-
Population (2011)	10.0	15.0
Area	15.0	15.0
Forest Cover	7.5	-
Forest and Ecology	-	10.0
Demographic Performance	-	12.5
Tax Effort	-	2.5
Total	100	100

Sources: Report for the year 2020-21, 15th Finance Commission; PRS.

- Income distance:** Income distance is the distance of the state's income from the state with the highest income. The income of a state has been computed as average per capita GSDP during the three-year period between 2015-16 and 2017-18. States with lower per capita income would be given a higher share to maintain equity among states.
- Demographic performance:** The Terms of Reference (ToR) of the Commission required it to use the population data of 2011 while making recommendations. Accordingly, the Commission used only 2011 population data for its recommendations.

- The Demographic Performance criterion has been introduced to reward efforts made by states in controlling their population. It will be computed by using the reciprocal of the total fertility ratio of each state, scaled by 1971 population data. States with a lower fertility ratio will be scored higher on this criterion. The total fertility ratio in a specific year is defined as the total number of children that would be born to each woman if she were to live to the end of her child-bearing years and give birth to children in alignment with the prevailing age-specific fertility rates.
- **Forest and ecology:** This criterion has been arrived at by calculating the share of dense forest of each state in the aggregate dense forest of all the states.
- **Tax effort:** This criterion has been used to reward states with higher tax collection efficiency. It has been computed as the ratio of the average per capita own tax revenue and the average per capita state GDP during the three-year period between 2014-15 and 2016-17.

Grants-in-aid

In 2020-21, the following grants will be provided to states: (i) revenue deficit grants, (ii) grants to local bodies, and (iii) disaster management grants. The Commission has also proposed a framework for sector-specific and performance-based grants. State-specific grants will be provided in the final report.

- **Revenue deficit grants:** In 2020-21, 14 states are estimated to have an aggregate revenue deficit of Rs 74,340 crore post-devolution. The Commission recommended revenue deficit grants for these states (see Table 4 in the annexure).
- **Special grants:** In case of three states, the sum of devolution and revenue deficit grants is estimated to decline in 2020-21 as compared to 2019-20. These states are Karnataka, Mizoram, and Telangana. The Commission has recommended special grants to these states aggregating to Rs 6,764 crore.
- **Sector-specific grants:** The Commission has recommended a grant of Rs 7,375 crore for nutrition in 2020-21. Sector-specific grants for the following sectors will be provided in the final report: (i) nutrition, (ii) health, (iii) pre-primary education, (iv) judiciary, (v) rural connectivity, (vi) railways, (vii) police training, and (viii) housing.
- **Performance-based grants:** Guidelines for performance-based grants include: (i) implementation of agricultural reforms, (ii) development of aspirational districts and blocks, (iii) power sector reforms, (iv) enhancing trade including exports, (v) incentives for education, and (vi) promotion of domestic and international tourism. The grant amount will be provided in the final report.
- **Grants to local bodies:** The total grants to local bodies for 2020-21 has been fixed at Rs 90,000 crore, of which Rs 60,750 crore is recommended for rural local bodies (67.5%) and Rs 29,250 crore for urban local bodies (32.5%). This allocation is 4.31% of the divisible pool. This is an increase over the grants for local bodies in 2019-20, which amounted to 3.54% of the divisible pool (Rs 87,352 crore). The grants will be divided between states based on population and area in the ratio 90:10. The grants will be made available to all three tiers of Panchayat- village, block, and district.
- **Disaster risk management:** The Commission recommended setting up National and State Disaster Management Funds (NDMF and SDMF) for the promotion of local-level mitigation activities. The Commission has recommended retaining the existing cost-sharing patterns between the centre and states to fund the SDMF (new) and the SDRF (existing). The cost-sharing pattern between centre and states is (i) 75:25 for all states, and (ii) 90:10 for north-eastern and Himalayan states.

For 2020-21, State Disaster Risk Management Funds have been allocated Rs 28,983 crore, out of which the share of the union is Rs 22,184 crore. The National Disaster Risk Management Funds has been allocated Rs 12,390 crore.

Table 2: Grants for disaster risk management (In Rs crore)

Funding Windows	National corpus	States' corpus
Mitigation (20%)	2,478	5,797
Response (80%)	9,912	23,186
(i) Response and Relief (40%)	4,956	11,593
(ii) Recovery and Reconstruction (30%)	3,717	8,695
(iii) Capacity Building (10%)	1,239	2,998
Total	12,390	28,983

Sources: Report for the year 2020-21, 15th Finance Commission; PRS.

Recommendations on fiscal roadmap

- **Fiscal deficit and debt levels:** The Commission noted that recommending a credible fiscal and debt trajectory roadmap remains problematic due to uncertainty around the economy. It recommended that both central and state governments should focus on debt consolidation and comply with the fiscal deficit and debt levels as per their respective Fiscal Responsibility and Budget Management (FRBM) Acts.
- **Off-budget borrowings:** The Commission observed that financing capital expenditure through off-budget borrowings detracts from compliance with the FRBM Act. It recommended that both the central and state governments should make full disclosure of extra-budgetary borrowings. The outstanding extra-budgetary liabilities should be clearly identified and eliminated in a time-bound manner.
- **Statutory framework for public financial management:** The Commission recommended forming an expert group to draft legislation to provide for a statutory framework for sound public financial management system. It observed that an overarching legal fiscal framework is required which will provide for budgeting, accounting, and audit standards to be followed at all levels of government.
- **Tax capacity:** In 2018-19, the tax revenue of state governments and central government together stood at around 17.5% of GDP. The Commission noted that tax revenue is far below the estimated tax capacity of the country. Further, India's tax capacity has largely remained unchanged since the early 1990s. In contrast, tax revenue has been rising in other emerging markets. The Commission recommended: (i) broadening the tax base, (ii) streamlining tax rates, (iii) and increasing capacity and expertise of tax administration in all tiers of the government.
- **GST implementation:** The Commission highlighted some challenges with the implementation of the Goods and Services Tax (GST). These include: (i) large shortfall in collections as compared to original forecast, (ii) high volatility in collections, (iii) accumulation of large integrated GST credit, (iv) glitches in invoice and input tax matching, and (v) delay in refunds. The Commission observed that the continuing dependence of states on compensation from the central government (21

states out of 29 states in 2018-19) for making up for the shortfall in revenue is a concern. It suggested that the structural implications of GST for low consumption states need to be considered.

Other recommendations

- **Financing of security-related expenditure:** The ToR of the Commission required it to examine whether a separate funding mechanism for defence and internal security should be set up and if so, how it can be operationalised. In this regard, the Commission intends to constitute an expert group comprising representatives of the Ministries of Defence, Home Affairs, and Finance. The Commission noted that the Ministry of Defence proposed following measures for this purpose: (i) setting up of a non-lapsable fund, (ii) levy of a cess, (iii) monetisation of surplus land and other assets, (iv) tax-free defence bonds, and (v) utilising proceeds of disinvestment of defence public sector undertakings. The expert group is expected to examine these proposals or alternative funding mechanisms.

Annexure

Table 3: Share of states in the centre's taxes

State	14 th Finance Commission		15 th Finance Commission	
	Share out of 42%	Share in divisible pool	Share out of 41%	Share in divisible pool
Andhra Pradesh	1.81	4.31	1.69	4.11
Arunachal Pradesh	0.58	1.38	0.72	1.76
Assam	1.39	3.31	1.28	3.13
Bihar	4.06	9.67	4.13	10.06
Chhattisgarh	1.29	3.07	1.4	3.42
Goa	0.16	0.38	0.16	0.39
Gujarat	1.3	3.1	1.39	3.4
Haryana	0.46	1.1	0.44	1.08
Himachal Pradesh	0.3	0.71	0.33	0.8
Jammu and Kashmir	0.78	1.86	-	-
Jharkhand	1.32	3.14	1.36	3.31
Karnataka	1.98	4.71	1.49	3.65
Kerala	1.05	2.5	0.8	1.94
Madhya Pradesh	3.17	7.55	3.23	7.89
Maharashtra	2.32	5.52	2.52	6.14
Manipur	0.26	0.62	0.29	0.72
Meghalaya	0.27	0.64	0.31	0.77
Mizoram	0.19	0.45	0.21	0.51
Nagaland	0.21	0.5	0.23	0.57

Odisha	1.95	4.64	1.9	4.63
Punjab	0.66	1.57	0.73	1.79
Rajasthan	2.31	5.5	2.45	5.98
Sikkim	0.15	0.36	0.16	0.39
Tamil Nadu	1.69	4.02	1.72	4.19
Telangana	1.02	2.43	0.87	2.13
Tripura	0.27	0.64	0.29	0.71
Uttar Pradesh	7.54	17.95	7.35	17.93
Uttarakhand	0.44	1.05	0.45	1.1
West Bengal	3.08	7.33	3.08	7.52
Total	42	100	41	100

Sources: Reports of 14th and 15th Finance Commission; PRS.

Table 4: Some of the grants-in-aid for FY 2020-21 (in Rs crore)

State	Revenue deficit grants	Grants to rural local bodies	State's share in grants for rural local bodies	Grants to urban local bodies
Andhra Pradesh	5,897	2,625	4.32	1264
Arunachal Pradesh	-	231	0.38	111
Assam	7,579	1,604	2.64	772
Bihar	-	5,018	8.26	2,416
Chhattisgarh	-	1,454	2.39	700
Goa	-	75	0.12	36
Gujarat	-	3,195	5.26	1538
Haryana	-	1,264	2.08	609
Himachal Pradesh	11,431	429	0.71	207
Jharkhand	-	1,689	2.78	813
Karnataka	-	3,217	5.29	1549
Kerala	15,323	1,628	2.68	784
Madhya Pradesh	-	3,984	6.56	1,918
Maharashtra	-	5,827	9.59	2,806
Manipur	2,824	177	0.29	85
Meghalaya	491	182	0.3	88
Mizoram	1,422	93	0.15	45
Nagaland	3,917	125	0.21	60
Odisha	-	2,258	3.72	1087
Punjab	7,659	1,388	2.29	668
Rajasthan	-	3,862	6.36	1,859
Sikkim	448	42	0.07	20
Tamil Nadu	4,025	3,607	5.94	1737

Telangana	-	1,847	3.04	889
Tripura	3,236	191	0.31	92
Uttar Pradesh	-	9,752	16.05	4,695
Uttarakhand	5,076	574	0.95	278
West Bengal	5,013	4,412	7.26	2,124
Total	74,341	60,750	100	29,250

Sources: Report for the year 2020-21, 15th Finance Commission; PRS.

Chapter 2- Philosophical and Constitutional framework of Government

Syllabus: Salient features and value premises; Constitutionalism; Political culture; Bureaucracy and democracy; Bureaucracy and development.

Introduction:

The study of the environment plays a vital role in understanding the administration of any country. The administration is affected by socio, political, cultural and economic factors and as such study of administration in the context of the above gives the reader a clear-cut idea about the administration in the country. In the Indian context, it is very important to understand the reasons behind the adoption of the parliamentary form of Democracy, Supremacy of the Constitution, Socialism and Federalism by the founders of the Constitution in the context of the independence movement.

Constitutional Developments:

- East India Company occupied Bengal province after the Battle of Plassey. Initially, it was a trading company but suddenly, they found themselves ruling a vast territory of Bengal. As they did not have any experience of ruling a territory previously, they had come out with changes and innovations over a period of time to improve governance.
- From 1858 onwards, the entire administration of the country went into the hands of the British parliament.
- Between 1773 and 1947, many changes were introduced in the governing systems which later had become the basis of our constitution.
- From 1773 onwards, British parliament passed in regularly after a period of 20 years till 1853. The objectives of all these regulating Acts were to control activities of East India Company (EIC).
- The Regulating Act of 1853 is very significant from the point of view of constitutional governance in India. It has for the first time introduced separation of powers.
- It has laid foundations for what is popularly known as parliamentary form of government. It separated the functions of Executives from Legislatures. Executives were made responsible for policy implementation whereas, Legislatures were given responsibility of law making.
- After the 1857 Revolt, East India Company's rule had come to an end and was replaced with British parliament.

The Regulating Act of 1773 marked the first attempt by the British Parliament to control the administrative and other activities of the East India Company.

Introduction of values by the act:

- The Act prohibited company servants from indulging in private trade and accepting gifts or bribes from natives. This promoted the values of probity and professionalism in the Company's civil servants.

- It provided for establishing a supreme court at Calcutta – to institute —Rule of Law॥

Foundation of centralized administration in India:

- The Governor of Bengal was designated —Governor General of Bengal, and the governors of the other 2 provinces were made subordinate to him. This introduced unity of command in the administration. This was followed by further enhancement of the post by transformation into the post of —Viceroy॥
- Though an executive council of 4 members was made to assist the Governor-general, power remained centralized in the Governor General. The —portfolio System॥ was not introduced till 1861.
- The British Government's control over the Company was strengthened by requiring the court of directors to report on its revenue and other affairs in India. This reduced the discretion held by company and centralized power upwards.

The Regulating act of 1773 marked the first step towards administrative reform in British India. These would be expanded upon by subsequent efforts such as Cornwallis code and the various regulating acts.

Que. "The Regulating Act of 1773 not only introduced the values in administration but also laid the foundation of centralized administration in India." Explain. (2016)(10M)

- From 1858 onwards, the British parliament passed many laws which ultimately culminated in the 1947 India Independence Act.
- Modern concept of Rule of Law for the 1st time was introduced in Indian administration during the 1860s. IPC 1860, CrPC 1861, Indian Councils Act 1861, Indian Evidence Act 1872 are some of the laws which introduced the concept of Rule of Law in Indian governance.
- Later, due to demands from Indian nationalists, slowly constitutional reforms were introduced.
- Indian Councils Act of 1892 introduced representation to Indians in legislation. Indians were mostly nominated for these positions and princely states rulers were nominated as members of the council of legislatures. They had the freedom to discuss and debate the laws introduced by Executives, but they could not vote.
- Minto-Morley reforms (1909) introduced for the 1st time elections to the Central legislature. It also introduced a communal electorate. Indians were given the opportunity to contest elections and become members of the Legislative Assembly.
- Government of India Act 1919 had for the 1st time given opportunities for Indians to become part of Executives also. It introduced dyarchy in provinces. The entire business of the government was divided into reserved subjects and

transferred subjects. In case of transferred subjects, Indian ministers were appointed wherein they had the opportunity to take decisions related to the functioning of their ministers but the final decisions will be in the hands of ICS officers.

- Government of India Act 1935 was a landmark law as far as constitutional history is concerned. It laid the foundation for the present day constitution. It abolished dyarchy in provinces and introduced the same at the central level. It was not implemented due to the second WW. It also introduced federation in our polity. Union Legislature and State Legislature were introduced where the powers were divided vertically between the Federal Government and the provinces.
- A notable feature of the 1935 Act was it introduced a very loose federation. Maximum powers were given to the provinces with the Central Government taking responsibility for functions like defence affairs, communication, money and banking. This Act also recommended a central bank for the country on the lines of the Bank of England. The majority of the provisions of this Act were not implemented due to strong opposition from princely states and congress, but it had become the basis of our constitution.

The Constitution of India, enforced in 1950, is often labelled as —a bag of borrowings|. This —borrowing| is from various sources, including the Government of India Act, 1935 and —ransacking all known constitutions of the world|.

The —Structural| part refers to the operational provisions relating to the government. The structural part of the Constitution of India is largely inherited from the Government of India Act, 1935. In fact, more than half of the provisions of the Constitution are identical or bear a close resemblance to this act leading to the constitution being criticized as a —carbon copy of the 1935 Act|.

The shared structural provisions include:

- 1. Federal setup** –the division of powers between 2 tiers of Union and States (prior to 73rd and 74th amendments) mirrors the federal setup envisioned in the 1935 Act, between British provinces, princely states and British India. The use of 3 lists in the VII schedule is similar to the 3 fold distribution envisioned in the 1935 Act.
- 2. Bicameral legislature at Centre and states.**
- 3. Instituting an “All-India” court:** The Supreme Court of India setup by the Government of India is the successor to the federal court setup Government of India Act, 1935.
- 4. Public Service Commissions (PSCs):** Government of India Act 1935, created a Federal Public service Commission, provincial PSCs, as well as Joint PSCs. This is mirrored in an updated version in the UPSC, State PSCs and Joint PSCs.

Philosophical Part of the Constitution of India

The —Philosophical parts of the constitution refer to those guiding principles and ideals which inform the provisions of the Constitution. These are mainly contained in 3 parts-

1. The Preamble
2. Fundamental Rights
3. Directive Principles of State Policy

The sources of the philosophical part include:

1. American Constitution: as the first written constitution of a democratic republic, it finds strong influence on the philosophical parts of COI. The following can be traced to it:

- * Inclusion of a Preamble,
- * The inclusion of Fundamental Rights (Part III), especially right to equality, right to liberty and right to life.

2. Irish Constitution: The concept of Directive Principles of State Policy (DPSP) is borrowed from the Irish Constitution.

3. French Constitution: influenced the inclusion of the ideals of

- Liberty||
- Equality||
- Fraternity|| and —Republic||

4. Russian Constitution: focus on —socialist|| ideal in preamble as well as various DPSPs such as those concerned with welfare state(Articles 38 and 39), right to work (Article 41), conditions of work and maternity relief (Article 42), securing a living wage (Article 43)

5. Gandhian Ideals: Influence the —Gandhian|| DPSPs such as those dealing with Panchayati Raj (Article 40), Promotion of cottage industries (Article 43), and prohibition of slaughter of cows (Article 48).

6. Ideals of the freedom movement: which are reflected in the idea of Universal adult franchise, equality (Abolition of titles under Article 18). The various sources from which the Constitution's philosophy was inspired have contributed to its continuing as a living document and has contributed to India's success as a democracy.

Que. The structural part of the Constitution of India is to a large extent derived from the Government of India Act, 1935, whereas it's philosophical part has many other sources. Discuss the sources of the philosophical part. (2020) (20M)

The Indian Constitution is not merely a document concerned with the machinery of the State, but also contains sizable value premises. These value premises are exhibited in the Preamble, The Fundamental Rights and the Directive Principles of State Policy, as well as in the various judicial pronouncements of the Basic Structure.

The Constituent Assembly was influenced by the ideology of nations all over the world. They also liberally borrowed the philosophies and provisions of these nations, which shaped the value premises of the Indian Constitution.

The liberal-democratic ideology of the west, in particular, has played a large part in shaping the value premises. It contains all such value premises that promote liberty of individuals as well as promote representative governance, their influence can be seen in-

- Idea of —limited State and Constitutionalism, which is embodied by the Constitution.
- The adoption of Parliamentary form of governance with Universal adult franchise, adopted from the UK and USA.
- Adoption of federalism to accommodate the pluralistic society.
- Adoption of liberal-democratic concepts such as Separation of Powers (propounded by Montesquieu), Rule of Law (AV Dicey), with suitable modifications.
- Focus on Liberty, Equality and Fraternity in the Preamble. This is further strengthened in the Fundamental Right to Equality (Article 14-18)- both Equality before law and equal protection of law and Right to liberty and life (Article 19-24), Right to Constitutional Remedies. These mirror the values of the American and French Constitutions.
- The ideals of Secularism (Articles 14-18 and 25-28) enshrined in the constitution
- Liberal-democratic content of Directive Principles of State Policy, which include-
 - A uniform Civil Code (Article 44)
 - Universal early childhood care and education (Article 45)
 - Protection of Environment and wildlife (Article 48A)
 - Separation of Judiciary from executive (Article 50)
 - Respect for international Law and harmonious relations among nations (Article 51)

The presence of this influence led many in the constituent assembly to lament that the constitution was a —slavish surrender to the west॥

While the influence of the liberal-democratic principles is visible, it was not overwhelming, as the principles were modified to suit Indian Context shaped by the presence of Gandhian and Socialistic ideals. For instance, secularism in India is completely different from the western connotation of —separation of church from state॥ Similarly, the Indian Constitution balances Parliamentary sovereignty with judicial supremacy. The idea of Separation of powers is also supplemented by the concept of —checks and balances॥ The Fundamental rights have several limitations and are counterbalanced by the Fundamental Duties.

The value premises of the Constitution arose in the backdrop of the freedom movement and the realities of the 1940s. They adopted the best of the liberal-democratic principles and others to create something that is.

Que. —The liberal - democratic ideology of the West influenced the shaping of value premises of the India Constitution.|| Discuss. (2013)(20M)

POST INDEPENDENCE:

Indian Independence Act of 1947, apart from giving complete independence to India it also created Pakistan. On a communalisation basis, elections were held at the central legislature in 1946.

After independence, the central legislature was converted into a constitutional assembly that was given the responsibility of framing the constitution for the country. It took almost for almost 3 years to complete the task. It performed dual functions, framing the constitution and performing functions of legislature.

It has taken almost 3 years for our constitutional forefathers to formulate the constitution. It was to ensure strict implementation of rule of law in India. Britishers denied basic human rights to Indians like right to life, right against exploitation, right to freedom of speech & expression, right to equality. It was decided that the main functions of the organs of the state was to protect Fundamental Rights and freedoms of citizens.

Preamble of Constitution of India:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:
JUSTICE, social, economic & political ;
LIBERTY of thought, expression, belief, faith & worship ;
EQUALITY of status and opportunity, and to promote among them all ;
FRATERNITY assuring the dignity of individual and unity & integrity of the Nation ;
IN OUR CONSTITUENT ASSEMBLY this twenty sixth (26) day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Important values and features of our Constitution

- Fundamental Rights
- Separation of powers is the essence of rule of law
- Federal form of democracy
- Independence of judiciary and judicial review.
- Secularism
- Parliamentary democracy.
- Socialism.
- Directive Principles of State Policy

- Local Self Governments
- Civilian control over army.
- Civilian control over law enforcement agencies.

Constitutionalism:

According to Thomas Hobbes, the natural tendency is to move towards anarchy with the passage of time. In order to protect the people's lives & freedoms, they have created a state. They have transferred power to the state. There is an upward delegation of power from people to a state.

The state has been given the responsibility to protect freedoms and rights and maximize welfare of citizens. The constitution of a country defines the powers, responsibility and functions of the state. It also defines the relationship between the citizens and the state.

In simple terms, the constitution is a written legal document that defines the relationship between the citizens and the state. According to Jawaharlal Nehru, the constitution is not a static rule book it refers to the soul of the country, it reflects the various demands, desires and aspirations of citizens, and it is a dynamic living organism.

Constitutionalism means implementation of ideals of the constitution in both letter and spirit. As Ambedkar rightly pointed out when the constitution of a country fails, the blame should not be on the shoulders of constitutional makers. It is the people of the country along with political parties that are ultimately responsible for realizing ideals of the constitution.

Que. As Dr. B. R. Ambedkar observed, —the text of the Constitution can provide the organs of the State, but the final outcome of the governance process depends on how it has been operationalized by the political parties and people. Elucidate the statement. (2015) (10M)

Constitutionalism can be defined from different dimensions

- It implies strict implementation of rule of law in both letter and spirit.
- Protection of Fundamental Rights of citizens from exploitation by organs of state and private citizens.
- It also emphasizes limited government. Power corrupts and absolute power corrupts absolutely. Constitutionalism focuses on limiting powers of organs of state so that they do not become dictatorial in their functioning.
- It also emphasizes ensuring internal checks and balances within the different organs of the government.

Que. —Constitutionalism is the foundation of the administrative edifice in India.|| Discuss (2017) (10M)

In India, the constitution is present in letter but not in spirit. In fact, what we have is constitutional formalism. It means there is a difference between the ideals of the constitution and reality in our society. We are very far from realizing the ideals of our constitution.

For example, 43% of our members of Lok Sabha have criminal records against them. Law breakers have become law makers. When law breakers become law makers, rule of law is the ultimate causality.

According to the Global Transparency Index, India is more corrupt than its neighbours. Also corrupt people are never punished and honest people are not protected.

People are not able to enjoy Fundamental Rights which are guaranteed under the constitution. More than 45 million cases are pending with our judiciary and it is said that it would take our judiciary at least 300 years to come out with judgement in these cases. Justice delayed is justice denied.

Que. Do you think that some of the ideals enshrined in the Preamble of the Constitution remain only on paper even today? Critically evaluate. (2016)(10M)

Political Culture

India has opted for a Westminster model of parliament with a multiparty system. We were also one of the few nations, which had opted for universal adult franchise. Every citizen is given the right to vote, irrespective of their religion and region, language, gender and ethnicity.

However, these structures are far from effective due to the political culture prevailing in the country. This political culture influences the voting pattern and behaviour. It also influences electoral outcomes. It also becomes the basis for inner party democracy and ultimately decides the relationship between state and its citizens.

Political culture can be defined as the set of traditions, customs, values, beliefs which influence the functioning of political systems. They define the relationship between the citizens and state.

Que. The philosophy of the Westminster model is at odds with the political culture of India.|| Critically analyse. (2018)(10M)

According to Almond and Verba, political culture of a country is influenced by three factors:

Emotions:

When a political culture is influenced by emotions and sentiments, it is considered least developed political culture. Emotional factors like religion, caste region, language, dynasty, influence voting behaviour. They are not concerned about development as they are not aware about it.

Political parties can easily win elections just by appealing to the emotions of people. They don't have to worry about performance. Charismatic leadership can help them. This type of leadership would automatically become a dictator. There is no scope for inner party democracy.

Values or Ideologies:

It is better than a political culture dominated by emotions and sentiments. Here, voting patterns are influenced by the values and ideologies professed by political parties.

On the basis of ideologies, we can divide political parties into 3 major groups:

- **Rightist philosophy:** Political parties believe in majoritarian rule. They advocate the interest of the majority. It can be either religion or race. In terms of their economic philosophy, they believe in giving more freedom to markets. The role of the State is restricted to performing regulatory functions.
For example, Conservative party of the UK, Republican party of the USA, and BJP, Shiv Sena, Akali Dal etc. of India.
- **Leftist philosophy:** These political parties believe in Leninist and Marxist ideology in terms of political philosophy. They belong to secular schools. They are also interested in protecting the rights of minority communities whether it is religious minorities, linguistic minorities or other socially-economically backward sections. Political thought is dominated by state control and state regulation. They believe that the market should be controlled and regulated by the state. State should be given a predominant role in realizing the objective of welfare maximization.
For example, the Labour party of the UK, Democratic party of USA, Communist parties in India.
- **Centrist philosophy:** Here, political parties are ideologically flexible. They are not rigid like rightist or leftist parties. They believe in both markets as well as state. They emphasize on protecting rights of both minority as well as majority communities. In India, most of the political parties including INC and other regional parties fall under this philosophy.
For example, Congress strongly advocated state led development between 1950s-1990s, and when it failed, the same political party brought in economic reforms in 1991.

In a political culture dominated by values and ideologies people vote on the basis of ideology, professed by a political party. They keep on voting for that party irrespective of its performance in terms of promises made to people. In this way, every party has a core vote bank based on its ideologies.

The economic reforms since 1991's New Economic Policy reflect the processes of Liberalization, Privatization and Globalization (LPG) in the Indian economy and marked a break from the extant centralized system.

There is an opinion that these reforms have significantly infringed on the basic values and spirits of the Indian Constitution in the following ways-

- Socialist ideology of constitution being made irrelevant due to Liberalization and Privatization. This is supported by the increasing inequality as measured under Gini index (45.18 in 1990 v/s 51.36 in 2013) and by Oxfam figures.
- Sovereign nature of India being constrained by Globalization. For example, Pressure on India to conform to WTO's amber box subsidy criteria, pressure to change India's IPR regime to be TRIPS+.
- Fear of Corporate State undermining Democratic republic as multinational companies gain increasing clout (as indicated by Ali Farazmand)

However, these fears have largely been unfounded as these reforms have largely helped India, move towards achieving the vision of the constitution, as evident in the following:

- Rate of poverty reduction increased dramatically post reforms. (to the extent that poverty was halved between 1990 and 2010)
- The ideals of —liberty & —equality have received a boost as License Raj was dismantled and every citizen can participate in managing the wealth of the nation.
- The increase in wealth creation due to unlocking private participation has resulted in increased tax collection, which has subsequently fuelled the expansion of State's schemes for welfare and empowerment. Some of them include MGNREGA, Start-up India scheme, Piped water for all (Har Ghar Jal). Socialistic values, under Articles 38, 39, 39A have not been discarded.
- Participation of Private sector in providing goods and services has helped the state to achieve the goals of providing education and decent livelihood. (Articles 41)
- The changing technology has made the world a global village. Thus unconstrained —sovereignty in the Westphalian sense is no longer viable. The economic reforms have allowed India to respond to a changed world order in accordance with Article 51, which directs Indian State to foster respect for international law and promote honourable relations between nations.

Based on the above examination we can conclude that the economic reforms have served as a means to achieving the ends envisioned by the ideals of the Indian Constitution, rather than infringing upon them. While the locus may have changed, focus remains the same.

Que. The economic reforms have significantly infringed the basic values & spirits of the Indian Constitution. Examine (2019) (10M)

Que. —The market reforms have not infringed the basic structure of the Constitution of India, but have largely comprised the realization of the ideals of social & economic justice.|| Comment (2017) (20M)

Cognition:

It is the most developed political culture. Here, voting pattern and behaviour is determined on the basis of actual performance of parties. Promises made by parties are scrutinised thoroughly by the electorate. Being aware of their rights, people/citizens ensure that their governments remain accountable. This kind of voting behaviour is largely seen in advanced, developed countries.

On the basis of the 3 components of political culture, Almond and Verba divided countries into four major categories:

Parochial Political Culture: Here, the central government is so far away from the citizens that they are not at all impacted by the politics of the government. They are also not aware of the existence of the central government. They are not even knowledgeable about the policies formulated by the Central Government. There is a huge amount of disconnect between the government and its citizens. For example: Tribes and Governments in India.

Subject Oriented Political Culture: Here, people are aware about the Central Government. They also have knowledge about policies of the government. However, they fail to connect or participate either in policy formulation or in its implementation. They are perceived as subjects to be governed by the government.

India has experienced this kind of political culture during the period of Emergency. For example, the forced sterilization program in the 1970's remains an apt example.

Participative Political Culture: Citizens are aware of the central government. And they also know about policy outcomes. More importantly, they are given the opportunity to participate in policy formulation as well as implementation. Evolution can be seen in western developed countries' people. They ask for the performance of political parties based on cognition. These Participative Political Cultures are based on Cognition. Participative political culture is necessary to ensure the success of political and administrative systems.

Que. To what extent has political culture influenced the administrative culture of India? Explain (2015)(20M)

Civic Political Culture: It is a combination of the best aspects of all other political cultures.

Analysis of Political Party System in India:

At the time of Independence, the Congress party was the major political party. It was an umbrella organization that accommodated diverse political interests including Capitalist, Communist, Socialist, Conservatives, Liberals, Gandhians and other ideologies. Gradually, under the leadership of Nehru and Indira Gandhi, it has begun moving to the left of the spectrum. Many leaders had to come out of the party, as they did not agree with this ideology.

Swatantra party had come into existence, advocating rightist philosophy under leadership of Rajagopalachari. At the same time, Congress sociologists also covered a separate ideology for them under the leadership of Jayaprakash Narayan and Ram Mohan Lahiya.

In 1967, first major split in Congress with Indira Gandhi opting for radical left philosophy. Left political parties had seen split in the form of CPI and CPM during the China war.

In 1977, Janata party had come into existence with the merger of 4 different political parties. The Janata experiment failed and the 1980's has seen emergence of new political parties. Congress again emerged as a major political force in the Indian polity.

Bhartiya Jan Sangh renamed as BJP, followed Gandhian Socialism under the leadership of Chandrashekhar.

This period also saw the emergence of many regional political parties. In fact, the movement started in the 1960s itself due to the failure of the Congress party. In South India, DMK and AIADMK had come into existence in Tamil Nadu. Left parties dominated Kerala and West Bengal. TDP had become a major political force in Andhra Pradesh. Assam Gana Parishad in Assam, Akali Dal in Punjab, Shiva Sena in Maharashtra had become major political parties in the state during this period.

The 1990s further witnessed fragmentation of our political system with the emergence of caste based political parties in North India, which were fuelled by the implementation of Mandal Commission's recommendations.

RJD in Bihar, Samatha Party in Bihar led by Nitish Kumar, Samajwadi Party in UP, BJD in Odisha, JD-U and other regional political parties dominated the political system in this time.

The 2000s also witnessed the emergence of more political parties at regional levels like TRS in Telangana, AAP in Delhi and Punjab and a greater number of parties in the North-East.

But the second decade of 2000s witnessed dominance of a single political party both at Centre as well as at states. For the 1st time in the political history of the country, BJP, a central party, came to power in 21 out of 29 states.

If we evaluate the evolution of the political party system in India, it can be said that it is full of contradictions & paradoxes. What political parties profess is different from what they practice in reality. Failure of Congress to satisfy the demands of people in different regions of the country led to the emergence of regional political parties. These regional parties had come to existence by criticising dictatorial functioning of congress and also its dynastic leadership. But these regional parties are themselves dictatorial and dynastic in their functioning.

For example, DMK had come into existence professing Egalitarianism and Empowerment of Backward Castes but the same DMK had become completely dynastic and dictatorial.

BJP always criticized the leftist orientation of congress after they had come to power. It is more socialistic than even congress could ever imagine.

Most of the regional political parties had become a replica of Congress in functioning. Charismatic leaders of these regional political parties had become dictators and promoted their kin and kith.

Bureaucracy, Democracy and Development

Bureaucracy and Democracy are often considered as antithetical properties of political systems. There is a large scholarly & popular literature arguing that bureaucracies reduce the potential of Democratic Political systems capacity in responding actively to their citizen's needs and demands.

However, Democratic institutions by themselves are also facing several conventional weaknesses.

E.g., Participation in elections has been falling rapidly in most democratic systems, and membership in political parties is also declining. This displays weakening interest of the citizen in political processes and institutions.

Parliament has for some time been argued to be losing powers to the executive, and within the executive the collegiality of cabinet is also eroding in favour of greater powers for the Prime minister. Thus, the standard instrumentalities of political democracy are, if not failing, certainly weakening.

Que. There is a constant & continuous collision between bureaucratic values and democratic values which adversely affects development. Do you agree? Elaborate. (2020) (10M)

Good public administration is reflected, not only in the ability of appointed officials to work efficiently but also in the capacity of a country's political institutions to maintain the effective control over its bureaucracy. No matter how democratic the institutions of representative governance may be, they may not survive for a longer period if they are not also able to exercise enough control over their appointed officials and make them deliver honest & effective implementation of public policies, at least to some degree! With no such control, bureaucrats left to them will easily indulge in abuse of power, corruption, laziness and inefficiency.

Conscientious and public spirited officials are many, but they easily succumb to counter-productive practices tolerated or even encouraged by ambitious & aggressive colleagues who typically dominate bureaucracies and are not effectively controlled by extra-bureaucratic political institutions. Mal-administration is much more than *Bureaupathology* While administrative systems suffer from difficulties that upset and worry citizens, administrative reforms are able to correct many of them. By contrast, mal-administration involves the fundamental inability of appointed officials to perform the functions normally expected of them.

It is one thing to promise the development, it is quite another to achieve it. Viewed in this context, the role of public bureaucracy in the process of economic, social, & political development looms large indeed. The role of a bureaucracy is critical to all areas of the developmental process in developing nations.

Public bureaucracy is an important element of the development process. Bureaucratic ability determines what will get done, how well it will get done and when it will get done. The higher the capacity of the bureaucracy to implement the complex economic & social development plans, the higher the development potential of the society. This is not to recommend that bureaucracy is the only force in the development process. It is not the case. Bureaucratic capacity is not an adequate condition for the development, but it is surely a necessary condition.

Development is a multi-faceted concept indicating qualitative improvement in the well-being of individuals, society or a nation. It is an aspect of change that is desirable and administered or at least influenced by the Government of a nation.

The rise of Development Administration perspective in the 50s has mainstreamed development as the goal of governments.

The Human Development Index (HDI) by UNDP is the most widely used indicator to decide developmental imperatives. It consists of:-

- Health (measured by lifespan),
- Education (years of schooling) and
- Quality of life (measured by Gross national income)

Other developmental imperatives include –reduction of inequality, Social Capital enhancement, Promoting stability and peace etc. However, the term —development|| is largely used to refer to the —economicl aspects.

Developmental imperatives and impact on Environmental sustainability	
<ul style="list-style-type: none"> • Industrialization • Modern agriculture • Construction of roads, buildings, dams. • Increasing usage of vehicles, air connectivity • Medical research and manufacturing • Nuclear research 	<ul style="list-style-type: none"> • Burning of fossil fuels, mining, pollution • Soil salinization, exhaustion of aquifers • Erosion, submergence, habitat loss • Ever increasing emission of Carbon and greenhouse gases • Water Pollution, zoonoses, etc

Development

- Development and economic growth is the only way to ensure poverty eradication
- Development is the only way for developing nations to seek parity in the world order with the hegemonic powers

Thus, developmental initiatives are pursued by developing countries, in the form of Promotion of Industrialization, Infrastructure Creation for connectivity, Human resource development, Use of chemical inputs to enhance productivity. This means that the developmental imperatives result in mining, burning of fossil fuels, and other activities that negatively impact the environment.

Que. —Beneath the soft outer shell of democratic administrative framework lies unscathed the steel frame of Indian administration which has survived through the ages.|| In the light of this statement, examine the relationship between bureaucracy & development in the last one decade. (2014) (10M)

Bureaucracy Role in Development Versus Environment Debate

- Since the rise of the Development Administration perspective, bureaucracy has emerged as the instrument of development, especially in developing nations such as India.
- Environmental degradation directly impacts productivity in a nation. For example, Soil salinization in Northwest India due to excess irrigation is reducing agricultural productivity in the region.
- Absence of environmental sustainability can undo the developmental efforts. For example, Recent Uttarakhand Glacial burst.

- In absence of environmental sustainability, economic development can lead to increasing inequality and trigger conflict. For example, the emerging issue of climate refugees due to global warming and sea level rise.
- Environmental sustainability can be the catalyst for innovation and promote the knowledge economy. For example, Creation of smoke free Chulhas.
- Addressing environmental imperatives can help make development truly inclusive. For example, including marginalized sections such as the tribals in the developmental process is better done through schemes like Joint forest management, rather than large dams which lead to displacement and feed negative forces like Left wing extremism.

Balancing Development and Environment

- Development should be approached holistically instead of focusing excessively on economic aspects. This would mean that environmental concerns are mainstreamed into every stage of decision making via process like Environmental Impact Assessment (EIA)
- Adoption of global best practices and standards by administration. Eg: Adoption of BS- VI standards, BEE star ratings, promotion of RoHS standards, use of carbon trading, carbon taxes, etc.
- Promoting innovation and change. Eg: Schemes like FAME for promoting Electric vehicles.

The COVID crisis has exposed the risks that activities such as deforestation associated with development can massively impact lives and livelihoods throughout the world.

While bureaucracy has successfully transformed itself from traditional administration to development administration, the meaning of development itself has to be further modified to include environmental concerns, so that development remains rooted, empathetic and fruitful.

Que. —Bureaucracy has to balance the need for environmental sustainability and developmental imperatives.|| Discuss. (2017) (20M)

Model Answers

Que 1. The economic reforms have significantly infringed the basic values & spirits of the Indian Constitution. Examine (2019) (10M)

The economic reforms since 1991's New Economic Policy reflect the processes of Liberalization, Privatization and Globalization (LPG) in the Indian economy and marked a break from the extant centralized system.

Reforms and values at loggerheads

There is an opinion that these reforms have significantly infringed on the basic values and spirits of Indian Constitution in the following ways:

- Socialist ideology of constitution being made irrelevant due to Liberalization and Privatization. This is supported by the increasing inequality as measured under Gini index (45.18 in 1990 v/s 51.36 in 2013) and by Oxfam figures.
- Sovereign nature of India being constrained by Globalization. For example, Pressure on India to conform to WTO's amber box subsidy criteria, pressure to change India's IPR regime to be TRIPS+.
- Fear of Corporate State undermining Democratic republic as multinational companies gain increasing clout (as indicated by Ali Farazmand)

However, these fears have largely been unfounded as the these reforms have largely helped India to move towards achieving the vision of the constitution, as evident in the following:

- Rate of poverty reduction increased dramatically post reforms (to the extent that poverty was halved between 1990 and 2010)
- The ideals of —liberty & —equality have received a boost as License Raj was dismantled and every citizen can participate in managing the wealth of the nation.
- The increase in wealth creation due to unlocking private participation has resulted in increased tax collection, which has subsequently fuelled the expansion of State's schemes for welfare and empowerment, such as MGNREGA, Start-up India scheme, Piped water for all (Har Ghar Jal), Socialistic values under Articles 38, 39, 39A have not been discarded.
- Participation of Private sector in providing goods and services has helped the state to achieve the goals of providing education, decent livelihood (Articles 41)
- The changing technology has made the world a global village. Thus unconstrained —sovereignty in the Westphalian sense is no longer viable. The economic reforms have allowed India to respond to a changing world order in accordance with Article 51, which directs Indian State to foster respect for international law and promote honorable relations between nations.

Based on the above examination we can conclude that the economic reforms have served as a means to achieving the ends envisioned by the ideals of the Indian Constitution, rather than infringing upon them. While the locus may have changed, focus remains the same.

Que 2. “The liberal-democratic ideology of the West influenced the shaping of value premises of the Indian Constitution.” Discuss. (2013)(20M)

The Indian Constitution is not merely a document concerned with the machinery of the State, but also contains sizable value premises. These value premises are exhibited in, the Preamble, The Fundamental Rights and the Directive Principles of State Policy, as well as in the various judicial pronouncements of the Basic Structure.

The Constituent Assembly was influenced by the ideology of nations all over the world. They also liberally borrowed the philosophies and provisions of these nations, which shaped the value premises of the Indian Constitution.

The liberal-democratic ideology of the west, in particular, has played a large part in shaping the value premises. It contains all such value premises that promote Individual Liberty and Representative Governance. Their influence can be seen in:

- Idea of —Limited State and Constitutionalism, which is embodied by the Constitution.
- The adoption of Parliamentary form of governance with Universal Adult Franchise, adopted from the UK and USA.
- Adoption of Federalism to accommodate the pluralistic society.
- Adoption of liberal-democratic concepts such as Separation of Powers (propounded by Montesquieu), Rule of Law (AV Dicey), with suitable modifications.
- Focus on Liberty, Equality and Fraternity in the Preamble. This is further strengthened in the Fundamental Right to Equality (Article 14-18)- both Equality before law and Equal protection of law and Right to liberty and life (Article 19-24), Right to Constitutional Remedies. These mirror the values of the American and French Constitutions.
- The ideals of Secularism (Articles 14-18 and 25-28) enshrined in the constitution
- Liberal-democratic content of Directive Principles of State Policy, which include-
 - A uniform Civil Code (Article 44)
 - Universal early childhood care and education (Article 45)
 - Protection of Environment and wildlife (Article 48A)
 - Separation of Judiciary from Executive (Article 50)
 - Respect for International Law and promotion of harmonious relations among nations (Article 51)

The presence of this influence led many in the constituent assembly to lament that the constitution was a —slavish surrender to the west.

While the influence of the liberal-democratic principles is visible, it was not overwhelming, as the principles were modified to suit Indian Context shaped by the presence of Gandhian and Socialistic ideals. For instance, secularism in India is completely different from the western connotation of —separation of church from state. Similarly, the Indian Constitution balances Parliamentary sovereignty with judicial supremacy. The idea of Separation of powers is also supplemented by the concept of —checks and balances. The Fundamental Rights have several limitations and are counterbalanced by the Fundamental Duties.

The value premises of the Constitution arose in the backdrop of the freedom movement and the realities of the 1940s.

Chapter 4- Union Government and Administration

Syllabus: Executive, Parliament, Judiciary - structure, functions, work

processes; Recent trends; Intra-governmental relations; Cabinet Secretariat; Prime Minister's Office; Central Secretariat; Ministries and Departments; Boards; Commissions; Attached offices; Field organizations.

LEGISLATURE, EXECUTIVE, JUDICIARY

EXECUTIVE

- India has opted for parliamentary democracy where legislature is supreme and executive comes from legislature. Executive is also accountable to the legislature. When the constituent assembly met to discuss the form of the government, members had opted for a parliamentary form of democracy. Democracy is a political system wherein people are sovereign.
- There are two types of Democracies:
- In case of direct democracy, people rule themselves without the help of any intermediaries. This is possible only when the population is less and the area to be administered is small. For example, Gram Sabha is an example of Direct Democracy.
- All countries in the world had opted for indirect democracy or representative democracy. Here people elect their representatives, who in turn would rule the country on behalf of people for a specific period of time.

At the time of framing the Constitution, our Constitutional forefathers had to choose between these two types of democracy viz. Presidential form of democracy and parliamentary democracy.

Presidential Form of Democracy

- In the presidential form of democracy there is clear cut, separation of powers between the three organs of the state.
- Separate elections are held for the legislature and for the office of president.
- President is not part of the legislature.
- Council of ministers need not be part of the legislature. They don't have to be members of the legislature; they can be selected by the president without any restrictions.
- Once a person is elected as president, he can continue to stay in power for the remaining term without any difficulty.
- Impeachment of the president is a very difficult and complicated task that requires a special majority. When the president dies while he is in office, vice president would become president till the completion of the term.

Strengths of Presidential Form of Democracy:

- It ensures stability to governance. For example, since the USA opted for this system, from 18th Century till now not even a single president of America is impeached or removed from his office before the expiry of his term.
- It gives a lot of flexibility to the president of America to select his advisors or his ministers; they need not be members of the legislature.
- There is no scope of overlapping of functions or powers between legislature and executive.

Weakness of Presidential Form of Democracy:

If a charismatic personality is elected to the office of president, there is every possibility of the president transforming himself into a dictator. Since there is stability of tenure, he need not make himself continuously accountable to legislature. In case of a conflict with the legislature, he can override the decisions of the legislature.

Parliamentary form of Democracy

In the parliamentary form of democracy, the executive is part of the legislature and is accountable to the legislature. For example, for a person to be elected as a minister or Prime Minister he/she must be eligible to become a member of the legislature. He can stay in power only for as long as he has majority on the floor of the House. It is difficult for the Prime Minister to become a dictator.

Weakness of Parliamentary form of Democracy:

- It can result in political instability and survival of the government depends on the majority it enjoys on the floor of the house.
- Opposition parties can move a No Confidence Motion after a period of 6 months; it can result in policy paralysis. The government would be spending a lot of time only on survival; it will not have much time for governance.
- It can also result in the government transforming itself into a soft state. The government is not willing to take tough decisions for fear of losing majority on the floor of the House.

Evaluating the merits and demerits of presidential and parliamentary democracies:

- Our Constitutional forefathers felt that in a presidential democracy there is every possibility of the president becoming a dictator. Conditions in India at that time of independence were such that if a charismatic person becomes the President, he could easily become a dictator. Parliamentary form of democracy ensures continuous accountability of the Prime Minister to parliament. They felt that accountability is more important than stability. They have opted for parliamentary democracy.
- Another reason why they opted for parliamentary democracy was that India had the experience of parliamentary democracy with GOI act 1935; it was felt that it is better to go with a known devil parliamentary democracy than with an unknown angel presidential form of democracy.

- In a parliamentary democracy, there are two types of head, Nominal and Real. President is the nominal executive whereas the Prime Minister, who leads the Council of Ministers, is the real executive. President is the head of the state, the prime minister is the head of the government; the entire administration of the country is carried out in the name of the President.

Functions, Powers and Responsibilities of the Parliamentary System:

- According to the Constitution, parliament includes Lok Sabha (LS), Rajya Sabha (RS) and the President.
- Once a bill is passed by parliament, it becomes an act only with the assent of the President.
- When parliament is not in session, the President can issue Ordinances (Article 123) which has the same kind of impact as a law passed by parliament.
- President addresses the first session of Lok Sabha after elections. She/he also addresses the first session of the parliament every year.
- The Speaker can introduce a money bill only with prior approval of the President.

Executive Powers of President:

- The President can appoint the Prime Minister and on the basis of advice of the Prime Minister, he can appoint rest of the Council of Ministers. He also allocates portfolios to them. He can remove them from the office, again on the advice of the Prime Minister.
- He is the supreme commander of the armed forces. He appoints Chiefs of Armed Forces.
- Supreme Court and High Court judges are appointed by the President.
- President also has the power to frame the rules of business of the government.

Judicial Powers of the President:

The President of India has five judicial powers -pardon, respite, reprieve, commutation and remission. Apart from these nominal powers, the President also enjoys veto powers. For example, while exercising these powers the President need not to go by the aid and advice of the Council of Ministers.

President enjoys three veto powers:

ABSOLUTE VETO: Here, the President can reject any bill passed by the state legislature, sent to him by the governor for his approval. Similarly, the President also enjoys absolute veto in case of private members bills.

POCKET VETO: Our Constitution did not prescribe any time limit for the President to give his opinion on a bill passed by the parliament. He can exercise pocket veto, that is, he can keep the bill with himself for any length of time.

SUSPENSIVE VETO: 44th Constitutional Amendment Act has given suspensive veto powers to the President. Once a bill is passed, the President can return the bill to parliament for reconsideration for once. If parliament passes the bill again with or without amendments, he shall give his approval.

Powers of the President can be seen in articles 73, 74, 77 & 78 and Constitutional amendments like 42nd & 44th have also redefined the power of the President. The Office of President of India had come into existence with the objective of constitutionalism, since the role of Judiciary is Post Mortem in nature. For example, Judiciary can intervene only after the parliament passes the bill and Executive implements it.

The President of India is expected to ensure checks and balances within the system to ensure limited government. It is said that if Prime Minister had 2/3rd majority in both houses of parliament, the Prime Minister can become a dictator. He can be more powerful than the US president with 2/3rd majority. He can amend any part of the constitution including Fundamental Rights. In order to prevent the dictatorship of the Prime Minister, our constitutional fore-fathers had opted for the office of the President of India.

Election to the Office of President:

- Since India is a republic, the head of the state must be elected. The UK has constitutional monarchy, where the position of the head of the state is hereditary in nature.
- The Prime Minister is elected by the people directly and if the President were to be elected by the people directly, it can result in conflict between two constitutional authorities. Our constitutional forefathers had decided that the President would be elected indirectly by an electoral college, on the basis of the Single Transferable Voting system.

Presidential Years since Independence:

PHASE I: 1950 TO 1967

Rajendra Prasad

- President between 1950-1962
- After he became President of India, his tenure witnessed a difference of opinion between President and Prime Minister. The President wanted to know the real powers enjoyed by his office, as he opined that the office of Indian

President, being elected in nature; he ought to enjoy more discretionary powers than the British queen whose position is hereditary in nature. He had requested the Council of Ministers, headed by the PM, to clarify the powers of the President. The Prime Minister had sent a reply through the Attorney General (highest law officer of government) and clarified the position of the President.

- The President of India is only a nominal Executive. He does not enjoy any real discretionary powers, as long as the Prime Minister enjoys the majority on the floor of the house. Since India is a republic, he is elected otherwise the position is exactly similar to that of the British queen.

The passing of the Hindu code bill:

- The government had decided to codify the civil laws of Hindu religion relating to marriage, divorce, succession and inheritance. The bill was passed in the parliament, and was sent to the President for approval. It has been opposed by majority sections within the Hindu community. They had requested the President to stop the code from becoming an Act using his discretionary powers. The President used pocket veto. It resulted in an embarrassing situation for the Prime Minister
- The main argument against the bill was that Article 44 of the Constitution favours Uniform Civil Code rather than codifying laws of only Hindu religion. The President was also in favour of Uniform Civil Code. The Prime Minister met the President and explained to him the position of the government. He said that it is not possible to bring Uniform Civil Code at this juncture, as the country was partitioned along communal lines. If Uniform Civil Code was imposed on religious minorities and communities, it can result in one more partition of the country. On the other hand, India being Hindu majority country, the government gets the natural right to reform Hindu religion. Nehru requested the President to give approval for the bill; ultimately the President gave his approval.

Dr Sarvapalli Radhakrishnan

- He was known as the philosopher President. He was President between 1962 and 1967. He had differences with the Prime Minister during the China war.
- The Indo-China War of 1962 resulted in humiliating loss for India. The President demanded accountability at the top and demanded the resignation of the defence minister Krishnan Menon. He requested the Prime Minister to remove from the Council of Ministers but the Prime Minister rejected the demand, resulting in conflict between Prime Minister and President.
- The President had threatened the Prime Minister that he would be forced to use his discretionary power under Article 74 and remove the Minister resulting in a constitutional crisis. Finally the Prime Minister was forced to remove the Defence Minister.

Henderson Brooks report on failure of India in 1962 war:

- Henderson Brooks committee was appointed by the army to investigate the reason for India's humiliating loss to China.
- Committee had submitted the report and was extremely critical of the role of top political and military leadership.
- The President demanded that a copy of the report should be given to him by the Council of Ministers but the Prime Minister refused, saying that the report is part of Official Secrets Act 1923 and cannot be given to the President.
- The President reminded the Prime Minister of his duties under Article 78 of Constitution wherein the President has the right to demand any information from the Government and it is the responsibility of the Prime Minister to furnish the information demanded by president. He is also the supreme commander of armed forces and as such has every right to demand any report prepared by army. Finally government was forced send a copy of report to the President.

Between 1950 and 1967, the relationship between the President and Prime Minister could be described as a balanced polity. Both President as well as Prime Minister were strong personalities but at the sametime they were also flexible enough to resolve their differences and ensure constitutionalism.

PHASE II: 1967-1990

This phase had witnessed politicization of the office of President. During this phase, successive Presidents have failed to perform their functions. They had become nothing but an extension of the office of Prime Minister. They acted more as the representatives of the ruling political party at the centre than as custodians of the constitution.

ZAKIR HUSSAIN

- In 1967, Zakir Hussain had become President by defeating Subbarao, who was popular for his Golaknath judgement. He died while he was in office.
- In 1969 elections were held and at the same time there was a split in the Congress party. Prime Minister Indira Gandhi's faction had put up V.V. Giri as their candidate and Congress (O) nominated Neelam S Reddy. V. V. Giri became President after the second round of counting.
- 1969 and 1974, office of President was politicized with the President giving approval for radical amendments to the constitution without using his discretionary powers including Bank Nationalization, MRTP legislation, FERA and 24th Constitutional Amendment Act and 25th Constitutional Amendment Act.

FAKHRUDDIN ALI AHMED KHAN (1974-77)

- In 1974, elections were held and Fakhruddin Ali Ahmed became the President.
- His tenure was the darkest period in India's Presidential history. Emergency was imposed, radical amendments like 39th and 42nd amendments were passed, and the President failed to ensure constitutionalism. He has failed to perform his functions as the highest constitutional dignitary of the State.

Neelam Sanjeeva Reddy (1977-1982)

- Janata Party came to power in 1977 and then N.S Reddy became President.
- It dismissed states ruled by Congress [Article 356].
- Conflict between Morarji Desai and Charan Singh was visible. NS Reddy invited the minority government of Charan Singh to form a government with Congress providing outside support. In 1979, Congress party withdrew support within one month. NS Reddy asked Charan Singh to resign but Charan Singh refused. Later the Charan Singh government was dismissed.
- In 1980, when Indira Gandhi returned to power, she requested the President to dismiss nine state governments ruled by opposite parties using Article 356. President failed to use discretionary powers and allowed himself to be dictated by Prime Minister

Gyani Zail Singh (1982-1987)

- He became President in 1982. He was considered as a loyal Congressmen.
- Prime Minister Indira Gandhi was assassinated in 1984 by her own body guards. The President had appointed Rajiv Gandhi as Prime Minister even before the Congress Working Committee elected him as their leader. He did not follow the constitutional convention.
- Assassination of the Prime Minister was followed by massive level of communal violence in Delhi. It resulted in the killings of more than 4000 Sikhs.
- The President was highly disappointed by the inaction on the part of the Prime Minister. This led to high levels of confrontation between the President and Prime Minister.
- The Bofors Scandal came to light directly affecting the Prime Minister Rajiv Gandhi. The President wanted to remove the Prime Minister but opposition parties explained to the President that it was not possible as long as the Prime Minister had a majority. It was also conveyed that in case of President still trying to pursue removal of PM, he would be liable to impeachment.
- Indian newspapers, magazines sent their reporters to Europe to investigate the Bofors scandal and they reported aggressively on it. In order to intercept the mails and letters and to put an end to this investigative journalism, the Postal Bill was introduced. It was passed easily by the Parliament. Opposition parties have requested the President to use his pocket veto. The President had used pocket veto. The next President Venkataraman also used pocket veto to deny

the bill from becoming an act. Finally, when V P Singh became the Prime Minister of the country, he requested the President to reject the bill and was rejected by the President.

PHASE III: 1987 to Present

This is the phase of Activist President or Presidential activism. During this phase, successive Presidents had become proactive in ensuring constitutionalism. They used their discretionary powers to reduce and eliminate the dictatorial functioning of the Prime Minister. During this phase due to the emergence of the coalition governments, the balance of power had shifted in favour of the President.

VENKATRAMAN (1982-87)

- He continued to use pocket veto in case of postal bill and after VP Singh government came to power, he requested President to reject the bill.
- He was also the first President to reject a money bill since proper procedure was not followed while passing the money bill.
- He came out with a convention of electing Prime Minister in case of hung parliament, by inviting the leader of the single largest party in Lok Sabha to form the government.
- In 1991, he requested political parties to explore ideas of national government which was rejected by political parties.

SHANKAR DAYAL SHARMA (1992-1997)

Elections were held to Lok Sabha in 1996, which again led to hung parliament. He followed the convention established by Venkatraman and invited BJP to form the government. When it failed, he invited other political alliances to form the government.

K.R NARAYANAN (1997-2002)

- The then United Front government recommended imposition of Article 356 in UP. The President sent back the bill to the Council of Ministers for reconsideration using suspensive veto [44th Constitutional Amendment Act].
- Elections were held to Lok Sabha in 1998 and again a hung parliament with BJP emerging as the single largest party. He did not follow the convention set by Venkatraman and asked the political parties to come with letters of support before they are invited to form government. Vajpayee provided letters of support.
- In 1998, the central government recommended Article 356 in Bihar, which he rejected by saying corruption cannot be the reason for imposition of Article 356. But Central Government again recommended imposition of Article 356 in Bihar in 1999 and the President had given his approval. In 2002, post Godhra violence in Gujarat, he called for information from the PM on measures being taken to protect the minority community. He also requested the Prime Minister

to take strong action against the state government and impose Article 356. This suggestion was rejected by the Prime Minister.

ABDUL KALAM (2002-2007)

- He was known as the People's President. In 2005, elections were held to the Bihar state assembly which resulted in a hung assembly. Government recommended imposition of Article 356 and dissolution of the state assembly. The President approved imposition of Article 356 and his decisions were criticized by the Supreme Court.
- In the Office of Profit bill in 2006, parliament kept certain offices out of provisions of the bill and also provided that it would also come into effect retrospectively. The President felt that retrospective provisions are against the principles of natural justice and used pocket veto. Finally, he had given his approval to avoid a constitutional crisis.

PRATIBHA PATIL (2007-2012)

- Her use of discretionary powers of pardon remains controversial. She had not given her approval for capital punishment in spite of repeated request by the Central Government.
- From KR Narayana to Pratibha Patil, all Presidents were against capital punishment. Even though the Supreme Court awarded death sentences to terrorists, they filed mercy petitions. With no time limit for the President to give his\her opinion, it resulted in inordinate delays. The Supreme Court intervened and said if decisions are not taken on time it can reduce sentences. It created a lot of contention and raised questions whether there should be a time limit for the President to give opinion on these critical matters.

PRANAB MUKHERJEE (2012-2017)

There was controversy regarding his nomination as his opponent alleged that he was holding office of profit position at the time of filing nomination, which was rejected by EC. Immediately after he became President, he had given approval for death sentences. In 2013, the UPA government had come out with an Ordinance to nullify Supreme Court judgement in Representation of People Act, 1951.

- The President did not give his approval and finally the government was forced to withdraw the ordinance.
- Similarly, the President cautioned the government regarding issuing ordinances every 6 months.

To conclude, since independence it was the political condition and personalities of the President that influenced their functioning rather than the constitutional provisions. Before passage of 42nd Constitutional Amendment Act, the President had more

discretionary powers. Decades of 1970s and 1980s witnessed Prime Ministerial form of government where the President lost independence.

With the emergence of coalition governments from the 1990s onwards the country witnessed the age of activist Presidents. Successive Presidents had become proactive in protecting and promoting ideals of the Constitution. Finally, the role of the President in a parliamentary democracy can be explained in the words of Former parliament Venkatraman: —The President should be like an emergency lamp, which should be switched on as and when the situation arises, and should automatically be switched off when the situation returns to normalcy.||

Prime Minister and Council of Ministers

The framers of the Constitution adopted the conventions of the British Cabinet government as they had evolved up to that point, including the Prime Minister's leadership role and Cabinet's collective responsibility. In India, based on the pattern of the British political system, a distinction could be made between what was referred to as the "formal executive" and the "real executive." The former was made up of the President and Vice President, while the latter was made up of the Prime Minister and the Council of Ministers.

Walter Bagehot best describes this feature by his celebrated distinction between the "dignified" (the monarch) and "efficient" (the Prime Minister and his cabinet) parts of the executive. This is similar though not identical with the role of the President and Prime Minister/Cabinet in the Indian political system.

Features of the Cabinet System:

The Cabinet System as it has evolved in Britain is said to have four basic features.

- **Political Homogeneity:** It means that the members of the Cabinet must have common political objectives and outlook, as well as ideologies and principles. They came from the same political party. In a coalition government they must share collective responsibility and function on a common programme;
- Accountability to the Lower House of the Parliament. Members of the Cabinet are responsible to the Lok Sabha for all their policies and actions. Collective responsibility of the Ministers for Cabinet decisions and action taken to implement those decisions; The ascendancy of the Prime Minister. The prime Minister, who is the leader of the House and the party, has the option to choose members for his Cabinet.

Constitution of Council of Ministers

- Article 75(5) lays down the qualification for the office of Ministers and the only qualification is that he should be a member of either House of Parliament. If a Minister does not become a member of either of the two Houses within a period of six months, he ceases to be a Minister. This means that the Prime Minister can advise the President to appoint a non-member to the office of a Minister, but if that Minister were to be retained in Office, he should be provided membership of Parliament either through election or nomination.

Functions and powers of Prime Minister in parliamentary democracy:

- The Prime Minister is a real executive.
- The Prime Minister has the power to appoint Council of Ministers and allocate portfolios to them. In case he is not satisfied with their performance, he can remove them from their office.
- The Prime Minister also takes decisions related to other constitutional dignitaries.
- As the leader of the house, the Prime Minister is expected to ensure smooth functioning of the parliament.
- He also appoints high ranked officials within government. All appointments above the rank of Joint Secretary are done by the Prime Minister, who heads the cabinet committee on appointments.
- The Finance Minister formulates the budget in consultation with the Prime Minister.
- In a federal polity, the Prime Minister is also responsible for ensuring better conditions between the union and the states.
- The Prime Minister is also responsible for formulating the foreign policy of the country.
- Takes critical decisions like imposition of Articles 356, national emergency and financial emergency.
- As the leader of a country, he is also a role model for citizens of the country.

Evolution of Office of Prime Minister

In a parliamentary democracy, Legislature is expected to frame laws and the Executives role is defined in terms of their implementation. But over a period of time Legislature found it difficult to perform the function of law making as governance had become highly technical in nature resulting in delegated legislation where in Legislature delegates the function of law making to the Executive. It was the Council of Ministers which was given the responsibility of law making on behalf of Legislature.

- Council of Ministers consist of
 - Cabinet Ministers
 - Minister of State [independent charge]

- Minister of State [working under Cabinet Minister]
- From the Council of Ministers form of government, we have moved towards the Cabinet form of government. Over a period of time, the decision making process further shrunk with Kitchen Cabinets replacing Cabinet form of Government. With the emergence of Charismatic leadership, the country had witnessed the emergence of Prime Ministerial form of government wherein the decision making powers were vested in the hands of a single person.
- In a parliamentary democracy, it is imperative on the part of the Prime Minister to not only act in a democratic manner but more importantly in the perspective of people, he should be democratic in his functioning.

Analysis of the Office of Prime Minister since independence

JAWAHARLAL NEHRU (1946 TO 1964)

- He was known as democratic Prime Minister Initially, he faced a challenge to his authority from Sardar Vallabh Patel, who was Deputy Prime Minister and Home Minister of the country. They had many differences but after the death of Patel, Nehru had become the undisputed leader of Congress party as well as country.
- In spite of being the most powerful leader in the country, he was always known for his democratic style of functioning, and had a lot of respect for democratic institutions like parliament.

LAL BAHADUR SHASTRI (1964 to 1965)

- Shastri did not enjoy same kind of popularity as Nehru but was very effective as Prime Minister.
- India fought war with Pakistan in 1965 and emerged victorious. He gave the slogan ‘Jai Jawan, Jai Kisan’ as the country was facing severe agrarian crisis as well as threat of war from Pakistan.

INDIRA GANDHI (1966 to 1977)

- Between 1966 and 69, Indira Gandhi faced a lot of opposition within the congress party and from political opponents from outside. Elections to Lok Sabha and State Assembly were simultaneously in 1967 and congress party’s majority came down drastically. In 9 states, opposition parties came to power.
- Finally, there was a split in congress in 1969. She opted for elections before expiry of term in Lok Sabha in 1971. She came out with slogan ‘Garibi Hatao’ which helped her to achieve landslide victory. It led to the emergence of Prime Ministerial form of government. In 1975, emergency was imposed and democracy was subdued. The country witnessed the darkest phase of

democracy wherein civil services and the press lost their independence and credibility. She was defeated in elections held in 1977.

MORARJI DESAI(1977-79)

- Initially, he gave freedom to cabinet colleagues and it was a Council of Ministers form of government. Later, when he faced political challenge from his deputy Prime Minister, he became dictatorial in his functioning.

Charan Singh (1979-80)

Charan Singh was invited by the President to form the government with outside support from the Congress party. But Congress party had withdrawn support to his government within one month. He was asked to continue as caretaker Prime Minister till the elections were held later. He was the only Prime Minister of the country who did not face parliament even once during his tenure.

Indira Gandhi (1984-84)

Indira Gandhi returned to power after failed experiment with the Janata party. She had decided to undertake Operation Blue Star to flush out militants from Golden Temple in 1984. Ultimately, it led her assassination by her own bodyguards.

RAJIV GANDHI (1984-1989)

- Congress under RG's leadership achieved unprecedented victory by bagging more than 80% seats in Lok Sabhas but during his tenure, controversial decisions by the government including bringing out amendment to Constitution to nullify Supreme Court judgement in Shah Bano case 1986, removing VP Singh from cabinet and removing Foreign secretary in a press conference were taken.. He also took controversial decisions like sending the Indian army to fight militants in Sri Lanka.
- In 1989, he also took the decision of opening locks of the disputed Babri Masjid and allowed Hindu people to worship inside. There was no cordial relationship with President Zail Singh. Prime Minister's Office had become extremely powerful during his tenure.

VP SINGH (1989-1990)

- The country had for the 1st time seen a coalition government as well as a minority government at the Centre. The National Front was led by Janata Dal with other regional political parties. It was supported from outside by BJP and communist parties. But the government could not survive for long because of internal differences as well as BJP withdrawing support over Ram Janma Bhoomi issue. The government took the decision to implement the Mandal Commission recommendation which revolutionized the Indian political system in the coming years.

CHANDRA SHEKHAR (1990-1991)

- He became Prime Minister after V.P. Singh. His government was supported from outside by Congress. The government faced a severe financial crisis due to the Gulf War. In order to overcome this crisis, the government had to mortgage gold with the Bank of England to get necessary forex.

P.V. NARASIMHA RAO (1991-1996)

- Elections were held to Lok Sabha in 1991 and Congress emerged as the single largest party. P V Narasimha Rao became Prime Minister and the government implemented economic reforms and also passed the 73rd and 74th amendments to the Constitution.
- Babri masjid demolition took place in 1992, which led to dismissal of the BJP led state government using Article 356.
- In 1993, the government faced no confidence motion and it resulted in JMM bribery case wherein the MPs were paid huge amounts of money to vote in favour of the government.

H D DEVEGOWDA AND I K GUJRAL (1996-1998)

- Gujral tenure was popular for Gujral doctrine in International Relations. In 1997, the then FM Chidambaram introduced what was popularly known as dream budget.

A B VAJPAYEE(1998-2004)

- Vajpayee led a coalition of more than 25 political parties. India conducted nuclear tests and became a de facto nuclear power.
- In 1999, AIADMK led by Jayalalitha withdrew support from the government. The NDA government was defeated by a single vote on the floor of the house.
- In 1999, elections were again held and BJP came back to power during this period. The country witnessed 2nd generation economic reforms between 2001 and 2003. This period also witnessed communal violence in Gujarat.

MANMOHAN SINGH (2004-2014)

- Elections were held to Lok Sabha in 2004 with Congress emerging as the single largest party. It formed the government with the help of communist parties. This period witnessed a rights-based approach to development with implementation of many flagship schemes like NREGA, NRHM, SSA, and SOM. This period also witnessed many financial scams involving top union ministers.

Narendra Modi(2014 –Till Present)

- The country again witnessed single party rule after 1984. Shri Narendra Modi had become the Prime Minister. This period witnessed abolition of the Planning Commission and implementation of GST. It also had seen radical measures like demonetization and agrarian reforms.

Conclusion

As and when the country witnessed a charismatic person becoming the Prime Minister, it inevitably led to the Prime Ministerial form of Government especially from 1970's onwards. But true spirit of parliamentary democracy can be seen only in collective responsibility of the Council of Ministers. As big and as diverse country like India must have collective decision making process than power being concentrate in the hands of a single person. A coalition government might result in delay in the decision making process but it ensures participation of all stakeholders whereas in a single party rule, it inevitably results in dictatorial decision making process which may not be good for the effective functioning of democracy.

LEGISLATURE

India has opted for parliamentary democracy on the lines of the Westminster model of democracy of the UK. Parliament in India consists of LS, RS, and President.

FUNCTIONS OF PARLIAMENT:

- Make laws rules and regulation for the entire country
- Act as a forum for discussion and debate
- Executive comes from legislature
- Quality of Executives depends on quality of legislature
- Parliament must ensure that people with impeccable integrity and honesty become members so that it improves the quality of Executives too.

Another function of Parliament is to ensure accountability of Executive. Tools for holding Executives accountable are listed below:

- Question hour.
- Zero hour.
- Short duration discussion.
- Adjournment motion.
- Censure motion.
- No confidence motions.
- Passing of budgets.
- Cut motivation.
- Passing of bills introduced by Executives
- With the help of committee system
- Permanent committee, non-financial and financial committees
- Ad hoc committee and joint Parliament committee.

FUNCTIONING OF PARLIAMENT SINCE INDEPENDENCE

1947-1967

- Between 1947 and 1967, the country experienced a true parliamentary form of democracy. During this period parliament used to meet for at least 150-180 days in a year.
- All bills were passed only after in-depth discussion on the floor of the house. Even though Congress had an absolute majority, it ensured democratic functioning of the house. Nehru was a democratic Prime Minister who always respected parliament. Opposition members of parliament were very small in number but they actively participated in discussion and debates and made the government accountable for its performance.
- Budgets were passed only after in-depth discussion. For example, the 1st budget of independent India was around Rs 1700 cr but was discussed for more than 45 days before being voted on the Floor of House.
- MP's were part of the freedom struggle and entered into politics with the objective of serving society. Political culture was dominated by values and ideologies and it reflected in the functioning of parliament too.
- There was major consensus among political parties regarding economic and foreign policy believed in socialism and NAM. Question hour was a very effective instrument during this period.
- In the early 1950s the then FM was forced to resign due to questions raised during question hour. Prime Minister Nehru would always attend sessions of parliament and would always be proactive in ensuring floor coordination to ensure effective functioning of parliamentary democracy.

1967-1990

- This phase witnessed a drastic decline in standards of parliament. The first generation of politicians retired from politics (or) and was replaced with ^{n^o2} generation of politicians. Mostly feudal land lords and leaders of princely states entered into politics with the objective of protecting their properties and business interests. Monopoly of congress party ended in the states whereas its majority in Lok Sabhas too had come down. Due to emergence new political parties like Swatantra Party, Bharatiya Jan Sangh and Lok Dal, there is huge competition for public offices. (MP's and Member of Legislative Assembly).
- Political parties had realized the fact that they can no longer win elections only on the basis of ideologies and values. Emotion and sentiments replaced values based political culture. Political parties took the help of criminals to win

elections; these criminals provided money and muscle support to candidates resulting in criminalization of politics. It also reflected in the functioning of parliament.

- Parliamentary standards declined drastically and the speaker's position was completely politicized. For example, the first speaker of Lok Sabha, Mavlankar resigned from membership of congress following British traditions to ensure impartial functioning of the speaker.
- But after 1967, speakers' positions were misused by the ruling political party. Discussions and debates on the floor of the house were replaced with walkouts and adjournments. Bills were passed without any discussion on the Floor of House. From the early 1970s onwards, the country witnessed ordinance Raj. The government deliberately ignored parliament by passing ordinances even though it had majority on the floor of the House.

Que. —Ordinance-making power of the Executive needs to be suitably restrained.||
Examine it critically. (2015)(10M)

- Indian democracy witnessed the darkest phase during the emergency. For 19 months, parliament functioned without any opposition on the Floor of House as all opposite members were jailed during this period.
- Critical amendments to the Constitution which changed the basic structure of our constitution like 39th and 42nd were passed without opposition on the Floor of House. Ruling political parties used the majority to control and silence opposition. Guillotine had become the order of the day. Budgets were passed without any discussion on the Floor of House.
- In the 1980s, the government came out with an anti-defection law as part of 52nd Constitutional Amendment Act. It had taken away the freedom and independence of Members of Parliament and Members of Legislative Assemblies. Legislature had become nothing but an extension of Executive, in the process losing its identity and credibility.

1999-TILL NOW

- The 3rd phase witnessed further decline in the standards of parliament. Criminalization of politics has been transformed into politicization of crime.
- After the 1990s with the Ram Janma Bhoomi movement and recommendation of the Mandal Commission, the country witnessed future fragmentation of Indian society on religious and caste lines.

- Competition for public offices increased as criminals could see golden opportunity for themselves by contesting elections directly. This period also witnessed the emergence of minority and coalitional governments at the Centre. Government survival depended on support provided by smaller regional political parties and independents. There has been further decline in standard of political' parties. They started selecting candidates only on the basis of winnability criteria. i.e. ability to win elections. They have welcomed criminals to contest elections to parliament and state assemblies, as these criminals have better chances of winning elections. When political parties reject the candidature of these criminals, they contested as independents.
- Once they had become part of the Legislature, they also demanded positions in the Council of Ministers. As the survival of the government depended on the critical support provided by these criminals, political parties had no option but to make them part of the Council of Ministers. Law breakers had become law makers. It resulted in complete politicization of crime. Not only had criminals become part of the Legislature, political parties also used crime as a means to win elections. Communalism, caste conflicts, regionalism, language, ethnicity have been used by political parties to win elections and retain power.

Deterioration in Parliamentary Functioning

- There has been further decline in the standards of parliament with criminals directly entering into politics.
- There was vertical fragmentation of India polity since the beginning of 1990s. It was divided into, Secular Vs Communal. Any political party that supported BJP was branded as communal and that opposed BJP, secular. There was no meeting ground between these political ideologies. It is reflected in the functioning of parliament also. No consensus between ruling and opposite parties was reached. The Speaker's role had been highly politicized. Bills were passed without any discussion on the Floor of House. Guillotine had become the order of the day.
- For example, 2012 and 2013 budgets were passed in 2 minutes without any discussions on the Floor of House. Since the ruling political party did not enjoy any majority in Rajya Sabha they resorted to issuing ordinancesParliament lost its credibility during the 2nd decade of the 2000s. Failure of legislature resulted in judicial activism and civil society activism.
- In the present Lok Sabha, more than 43% of Members of Parliament have serious criminal records against them. Money power started influencing electoral outcomes. In recent Lok Sabha elections all political parties combined together had spent more than Rs 60,000 Crores. Representative democracy had

become neither representative nor democratic. Recommendations of parliament were not taken seriously by Executive. Critical bills were introduced as money bills to avoid scrutiny by Rajya Sabha, as the government did not have majority in Rajya Sabha. Legislature has become nothing but an extension of Executives, defeating the very purpose of parliamentary democracy. Number of days parliament had met also came down drastically. With the Government getting majority in Rajya Sabha since 2019, most of the bills were passed without any discussion also. Not even a single bill was referred to the Select Committees of Parliament since then. Controversial legislations like Agrarian reforms bills were passed in Rajya Sabha without the presence of opposition parties also. Ultimately, Parliament had become nothing but an extension of Executive losing its credibility and significance in the process.

- In the 1950s, it used to meet for 180 days a year but it had come down to less than 60 days by 2009.

Reforms to ensure effective functioning of Parliament

- Under Article 324, the Election Commission (EC) has been given responsibility for conducting free and fair elections. On the basis of powers given to EC, parliament has enacted Representation of Peoples Act 1950 and 1951 to define the responsibilities, functions privileges and powers of EC.
- Representation of People Act 1950 and Representation of People Act 1951 had given powers to the Election Commission to conduct elections. Representation of People Act 1950 focused on determination of constituencies, appointment of election officers, and revision of electoral rolls.
- Representation of People Act 1951 contained aspects related to qualification and disqualification of members and de-recognition of political parties, defining electoral malpractices, model code of conduct and other issues related to conduct of election. For the 1st time elections were held in 1952 on the basis of Representation of People Act 1950, and Representation of People Act 1951.

Que. To strengthen the Election Commission of India and its commissioners is the need of the hour. Suggest measures to make it more independent and impartial. (2020) (15M)

MAJOR PROBLEMS WITH ELECTION IN INDIA

ROLE OF MONEY POWER IN ELECTIONS

- In the 1990s, money power started affecting electoral outcomes. It has been found that rich candidates have more chances of winning elections. All political parties combined together had spent Rs 60,000 cr in the recent General election

but they had reported only less than Rs 5000 crores as donations. The rest is unaccounted black money. Even in these political donations, more than 90% of donations are received in terms of cash, misusing provisions of Representation of People Act. Under section 29 of Representation of People Act 1951, political parties can receive small donations in cash. Earlier limit was Rs. 20,000, which was revised to Rs. 2000. The Recent amendment is cosmetic reform, which did not change the situation at ground level.

- Recently the government introduced electoral bonds (EB) to reduce the role of black money. Any person can buy these EB from SBI. The identity of the person would be kept secret. These bonds are cashed within a stipulated time period. The person must buy these bonds with necessary documents like PAN, to ensure transparency in election funding.
- It was believed that these electoral bonds can ensure transparency in electoral funding but in reality it did not achieve the desired purpose. Ordinary citizens have no knowledge about who is funding their political parties. Even political parties are kept in the dark except the ruling political party. Ruling political party directly controls PSBs, so they automatically know about sources. It can result in the ruling political party targeting all those businessmen who have donated opposite parties.
- Expenditure to be made by candidates, under section 77 of Representation of People Act 1951, is up to maximum Rs 70 Lakh for elections to Lok Sabha and Rs 40 Lakh for state assembly.

SOLUTION:

Representation of People Act SECTION 29 TO BE AMENDED:

- No political party should be allowed to receive even a single rupee in cash. All donations should be in cheques. The name of the donor along with address has to be clearly mentioned. Political parties must put all details of donors on their website so that there is complete transparency in funding.
- EB [electoral bond] have failed to ensure more transparency and accountability.
- Amendments should be made to sec 77 of Representation of People Act. Under this section, amount of money spent by the political parties is not part of the expenses of the candidates. On an average, a candidate contesting elections for Lok Sabha in 2019 had spent around 30 crore rupees but all of them had shown their expenditure to be less than Rs.70 lakh using this loophole in electoral laws.
- Political parties should not be allowed to spend their money in cash. Every single rupee of expenditure should be accounted for. Political parties should

also be brought under Right to Information so that people can have complete information about the whole process of political functioning.

- Those political parties which receive money but do not contest elections should be derecognized.

STATE FUNDING OF ELECTIONS

- In order to ensure level playing field on all Political Parties at time of election state funding of election was suggested. It includes giving equal time to all registered Political Parties on national TV, printing, publicity material of political parties and providing other logistic support in terms of transportation etc. But state funding of elections can have minimal impact and can be complicated too.
- India is a multi- party system where national political parties, state political parties along with independent candidates contest elections. Dividing the time equally can be a complicated task. Political parties spend more amount of money when elections come to an end than during elections. They also spend a lot of money in the rallies and meetings of their national leaders. Still, funding of elections can be an effective solution in case of a party system where voters are aware about rights. It is difficult to implement in India.

MODEL CODE OF CONDUCT

- Election Commission imposes Model Code of Conduct after the announcement of election. The objective is to ensure that there is a level playing field for all Political Parties. Ruling Party should not derive any advantage by being in power. But this Model Code of Conduct has no legal sanctity. If it is violated by Political Parties and candidates, the Election Commission cannot take any legal action. It is suggested that the Election Commission should be given more powers to enforce Model Code of Conduct.
- Use of religion, caste and other divisive factors: Supreme Court, in one of its judgements has ruled that use of religion in elections is illegal. For example, Political Parties cannot use religion symbols. They cannot demand votes in the name of religion and if they do so they can be disqualified from contesting election and Political Parties can be de recognized also but these judgements are difficult to implement at ground level as Political Parties must take promises to people by taking into consideration the demands of all section of society. Ultimately the solution does not lie in Supreme Court judgements or in electoral laws. It lies in changing political culture of country. We should move towards a political culture based on cognitions where in people vote on the basis of performance of political parties and not on any other emotional considerations. Increasing awareness among people about their rights with the help of media, CSOs, NGOs must be the way forward.

PAID NEWS

- In recent times, with the spread of electronic media and print media, political parties are using this channel to influence voters in paid media. Articles are written about candidates in the form of news items so that votes are made to believe that the content of articles is genuine. Recently, the Election Commission has recommended to the Law Ministry to include paid news in electoral offences.
- The amount of money spent by candidates in sponsoring this article not included in election expenses can be disqualified under Representation of People Act 1981. Very recently, the Election Commission has recommended to the government For example, paid news he made an electoral offence. They should be disqualified for a period of 6 years from contesting elections.

SIMULTANEOUS CONDUCT OF ELECTION

- India has a federal form of government with elections held separately to both union and state government. One of the suggestions made in recent times, simultaneous conduct of elections elections to both Lok Sabha and all state assemblies combined together. Advantages include:
 - It will reduce election expenditure.
 - It ensures stability to governance.
 - Political Parties and governments can concentrate more on governance without worrying about fighting elections all the time.
 - With Model Code of Conduct in place, the government cannot take any decision after the announcement of elections, resulting in policy paralysis in administration. Simultaneous conduct of elections can help in overcoming this problem.
 - Political Parties can also take tough decisions in the long-term interest of the country. Otherwise with elections conducted regularly it becomes difficult for the government to take tough decisions.

DISADVANTAGES

- People vote differently in state and national elections. Mostly local factors influence state electoral outcomes. If simultaneous elections are conducted, there is every possibility of national issues dominating elections which may not be good for a federal policy.
- If a state assembly or Lok Sabha is dissolved before the expiry of the term, the election should be held within 6 months. But with simultaneous elections it may not be possible the states would have to be put under rule for the rest of the term, unconstitutional.
- Elections are one form of ensuring continuous accountability of politicians to citizens. If there were no elections for 5 years continuously, it can result in electoral dictatorship. At present, the government fears taking unpopular decisions due to regular elections. When GST was implemented, it resulted in more

sufferings for people. Before Gujarat state assembly elections, the union government was forced to make changes to GST to alleviate the suffering of people. The government might not have taken this decision but for state assembly elections.

- Election expenses are a small fraction of total expenditure of the government. Taking into consideration our GDP, the country can definitely afford this expenditure.

SOLUTION:

- Simultaneous elections are not possible because of the size and diversity of the country. What can be done is conduct of elections in 2 phases. Half the State Assemblies can go to elections along with Parliament and the remaining half can have elections after a gap of 2.5 years. It reduces the possibility of the country being in election mode although the years.
- Candidates contesting from more than one section: if the candidate wins from both the seats in elections, by elections will have to be conducted to the second seat vacated by the candidate, which is a huge amount of burden on the government. Recently the Election Commission has suggested that candidates should be allowed to contest only from one seat and if a candidate contests elections from two constituencies, Election Commission must recover the expenses for conducting by elections from the victorious candidate.

ANTI-DEFECTION LAW

- The government passed the 52nd Constitutional Amendment Act and added the 10th schedule to our constitution in 1985. Under Representation of People Act 1951, candidates for example, Member of Legislative Assembly and MP's can be disqualified by the speaker under anti-defection law, if they violate the whip issued by leaders of political parties on the floor of house.
- Initially, if 1/3rd of members come out party and decides to form a separate group, they can be recognized as a split group and could escape the provisions of the anti-defection law. Later the law was amended in 2003 through 91st Constitutional Amendment to make it 2/3rd for them to be recognized as a split group only to ensure that the members will maintain discipline and to eliminate —Aaya ram, gaya ram culture of Indian politics which was widely prevalent during 1970s and 1980s. The amended act maintained that a member disqualified due to defection should not hold any ministerial post or any other remunerative political post until the term of his office as a member expired. The 2003 amended act excluded the provisions from the Tenth Schedule for authorizing the defections arising out of splits. The amended act also stipulated that the number of ministers in states and union territories should not exceed fifteen percent of the total number of members in the respective house. In the

1970s, a Member of Legislative Assembly in Haryana changed sides four times within 10 days.

- But in actual implementation, Anti-Defection Law has been misused and abused. There are many provisions which had become controversial. Speaker is given absolute discretionary power to decide on defections. No time limit is fixed for speaker to decide on defections. Since speaker always belongs to ruling Political Parties, Anti-Defection Law has been used and misused by the ruling Political Parties to promote defections from opposite parties and also to punish ruling Political Party members who have defected to other parties.
- Smaller Political Parties have almost become extinct due to Anti-Defection Law. It is easy for ruling Political Parties to ensure a split within smaller Political Parties. Decisions of speakers can be challenged in a court law but Judiciary has refused to enter into the domain of Legislature citing separation of powers. Speakers have continuously misused and abused provisions.
- In a Parliamentary democracy, Legislature is expected to control the functioning of Executives. Members of Parliament have lost the freedom to speak independently on the Floor of House and also to vote according to their conscience. Legislatures have become nothing but an extension of Executives losing their freedom, credibility and independence.

Que. The Speaker of the State Assembly has assumed a significant role in formations and dissolutions of governments. Examine under the circumstances of coalition governments with examples. (2020) (20M)

Solution:

- Political Parties should not be allowed to issue whips for regular conduct of business. They can issue whips only during confidence or non-confidence motion and for passing budgets. For other bills, members should be given freedom to vote according to conscience.
- As recommended by 2nd ARC in its report on ethics in governance, the power to decide defection should be given to the Governor and President respectively. These higher constitutional authorities must take their decisions on the basis of recommendations of a committee consisting of constitutional experts.
- Any member who is willing to defect can do so only by resigning from his seat; otherwise they shall automatically be disqualified as defection. It is against the spirit of democracy. They have been elected by people on the basis of Political Parties. If they defect, they are violating the mandate of people, and therefore, they should be immediately disqualified. They can be allowed to contest

elections for the rest of the term. Speaker's powers should be curtailed drastically as it has only resulted in gross misuse and abuse of the legislation.

MORE RECOMMENDATIONS:

- India has First Past the Post (FPTP) electoral system, wherein candidates are declared elected if they get one vote more than their nearest rivals. With a multi-party system, it is not required for political parties to get a majority of votes to win elections. Since Independence, almost all governments have come to power on the basis of minority votes. It also resulted in communalism, caste conflict, regionalism and other problems. Political Parties have created false identities among people and divided the societies, created vote banks to win elections. Communalism has been a major problem due to electoral politics.
- It has been suggested that India should move towards Proportionate Representation System at constituency level to overcome the weakness of FPTP system. For example, a candidate can be declared elected only when he gets more than 50% of votes polled. Political Parties cannot derive any mileage by dividing the country on communal and cast lines. If they have to win the confidence of people, they must integrate the society.

OTHER REFORMS TO MAKE PARLIAMENT EFFECTIVE

ROLE OF SPEAKER:

- In Parliament democracy the speaker has absolute discretionary powers in running Parliament or assembly after Anti-Defection Law. Speaker has become more powerful, unfortunately it has not resulted in improved functioning of speakers. Since 1967 onwards, speakers have been used to control activities of the house by the ruling political party. The Speaker does not allow opposition members to raise issues sometimes, acting in an illegal and unconstitutional manner. For example, in 2014, the then speaker of Lok Sabha did not allow the introduction of No Confidence Motion to protect the minority government.
- At the state level, speakers have used speakers under Anti-Defection Law to disqualify members before voting takes place to protect the government. In the UK, once a person is elected as speaker, he will resign from Political Party to which he belongs to ensure impartial functioning of the house. But in India, speakers participate in programs of Political Parties and regularly in touch with leaders of ruling Political Parties.
- In order to ensure impartial functioning of the speaker, it has been suggested that India should also follow the convention of the UK. Speakers should resign from the political party and not participate in activities of Political Parties. Since in India elections are held on a party basis, Speaker can be nominated to next term during which he can go back to Political Party, so that he can

contest election. Impartial functioning of the speaker is necessary to effective functioning of the parliament democracy.

- Parliament must define the number of days it has to meet in a year. For example 150 days. If its fails to conduct business for this minimum no of days due to adjournment and other reasons, it must meet for an additional number of days to compensate for the loss. For this additional number of days, the members should not be paid their allowances.
- Guillotine should be removed from Parliament procedures; all budgetary proposals should be discussed on the Floor of House in an extensive manner before they are voted on Floor of House. It is the basic minimum responsibility of parliamentarians to protect the financial interests of the country.
- In case of ordinary bills, it should be made mandatory that Parliament should give its approval only after in-depth discussion on the Floor of House. Delegated Legislation is a necessary evil. It reduces the effectiveness of Parliament democracy. In order to overcome the limitations of it, the Parliament should send the bills regularly to select standing committees of Parliament so that they can discuss the content of the bill and come out with their suggestions. Political Parties should not be allowed to issue whips during passage of these bills.

PRIVILEGES OF Member of Parliament

Privileges are given to ensure their independent functioning. They are expected to deliberate and vote on the floor of houses without any fear or favour.

Under Article 105, Parliament can publish any material with regard to discussion on the Floor of House. Members of Parliament can express their opinions freely without worrying about contempt of court. Parliament has complete freedom in terms of its functioning. Similarly, Members of Parliament cannot be arrested during session of house and before and after the expiry of session.

Under Article 105, these privileges were mentioned whereas our constitutional forefathers had left to Members of Parliament regarding other privileges. Members of Parliament are expected to codify their privileges but in the past 70 years this was not done by Parliament in a deliberate manner as codification of privileges can result in defining their powers. It also results in drawing boundaries regarding their powers. On the other hand, if they are not codified it gives ample opportunities to Members of Parliament to define them in a retrospective manner.

In recent times the issue has become significant due to misuse and abuse of these privileges.

- In early 1990s, Tamil Nadu state assembly had passed a resolution demanding imprisonment of the editor of a newspaper for publishing an article criticizing the government and Chief Minister. Supreme Court had come to the rescue of the editor.
- In 1993, Member of Parliament belonging to JMM had accepted taking money to vote in a particular manner on the Floor of House but Judiciary could not do anything as voting on Floor of House is part of their privileges.,
- In 2009, the same Member of Parliaments again took more money to vote in a particular manner on the Floor of House. Judiciary could not do anything as voting on the Floor of House is part of their privileges.
- In early 2000s, the UP state assembly passed a resolution demanding imprisonment of managing editor of a news channel for telecasting a story critical of the state government. Again, the Judiciary had to come to the rescue of the editor.
- In 2014, a Member of Parliament from Lok Sabha had used pepper spray to disturb the proceedings of the house. No action could be taken against him as it is part of their privileges.
- Recently, a Member of Parliament from Rajya Sabha from Maharashtra had beaten an airline employee but could not be arrested as Parliament session was ‘ON’.

All these instances clearly prove beyond doubt that Members of Legislative Assembly as well as Members of Parliament have misused their privileges. In order to ensure the credibility of a house in the eyes of people, they must define their privileges. Taking bribes and voting for money cannot be part of their privileges. Similarly, they must also remember that they are servants of people and not their masters. Their impeccable behaviour will also influence the overall functioning of the political and economic system. They should be role models for society.

OTHER REFORMS

ISSUES REGARDING ORDINANCES

- Act 123 and Act 213 gives powers to the President and Governor respectively, to issue an ordinance when Parliament/Assembly is not in session. It has been observed since the 1970s onwards that both the central and state governments are relying on issuing Ordinances to continue governance rather than seeking approval of Legislature. Same Ordinance was issued by successive governments in Bihar for more than 25 years from 1980s onwards even though ruling political party enjoyed absolute majority on the floor of the House.
- Historically, in the 1950s, central ordinances were issued at an average of 7.1 per year. However, the number peaked in the 1990s at 19.6 per year. The last couple of years has also seen a high spike in ordinance promulgation (16 in 2019, 15 in 2020).

Supreme Court’s Judgement on Ordinances

- **RC Cooper Case 1970:** Supreme Court in RC Cooper vs. Union of India (1970) held that the President's decision to promulgate ordinance could be challenged on the grounds that 'immediate action' was not required, and the ordinance had been issued primarily to bypass debate and discussion in the legislature.
- **DC Wadhwa Case 1987:** The issue of frequent promulgation of ordinances was again brought up in the Supreme Court through a writ petition.
 - The petition was regarding the promulgation of 256 ordinances between 1967 and 1981 in Bihar.
 - This included 11 ordinances that were kept alive for more than 10 years and famously dubbed as ordinance raj.
 - The Supreme Court held that the legislative power of the executive to promulgate ordinances is to be used in exceptional circumstances and not as a substitute for the law-making power of the legislature.
- **Krishna Kumar Singh Case 2017:** Supreme Court in Krishna Kumar Singh v. the State of Bihar held that the authority to issue ordinances is not an absolute entrustment, but is —conditional upon satisfaction that circumstances exist rendering it necessary to take immediate action.
 - It further stated that the re-promulgation of ordinances is a fraud on the Constitution and a subversion of democratic legislative processes.
 - According to existing rules and regulations, once Ordinances are issued, they must be approved by Legislatures within 6 months and within 6 weeks of introduction on the Floor of House. But Political Parties have misused this provision. These ordinances are never introduced on the Floor of House even when house is in session. The Speaker has absolute discretionary power to decide whether to introduce these ordinances on the Floor of House.
 - Sometimes sessions of Parliament and Assemblies are curtailed for governments to issue these ordinances again. Issuing an ordinance is against the spirit of Parliament democracy. All legislations must be implemented by Executive only after in-depth discussion on the Floor of House but ordinances are never discussed and voted on before they are implemented.

SOLUTION

- Ordinances are integral and are the part of governance in Parliament democracy or functioning of democracy. They should not be misused; the government can be allowed to issue ordinances only under certain conditions.
- Once a session of the house starts, the house must take up ordinance first before transacting any business of the house except in case vote on No Confidence Motion. The Speaker should not have any discretionary power on introducing ordinances on the Floor of House.

COMMITTEE SYSTEM:

The Committee on Public Accounts is the oldest Parliamentary Committee and was first constituted in 1921. The Committee consists of 22 Members, 15 Members are elected by Lok Sabha and 7 Members of the Rajya Sabha are associated with it. The Speaker is empowered to appoint the Chairman of the Committee from amongst its Members.

Functions of the Committee

The Committee on Public Accounts scrutinizes the Appropriation Accounts of the Government of India and the reports of the Comptroller and Auditor General of India thereon. While doing so, it is the duty of the Committee to satisfy itself:-

- (a) that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which have been applied or charged;
- (b) that the expenditure conforms to the authority which governs it; and
- (c) that every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority.

- It is also the duty of the PAC :-

- (a) to examine the statement of accounts showing the income and expenditure of State Corporations, trading and manufacturing schemes, concerns and projects together with the balance sheets and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of statutory rules regulating the financing of a particular corporation trading or manufacturing scheme or concern or project and the report of the C&AG thereon;
- (b) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the C&AG of India either under the directions of the President or by a statute of Parliament; and
- (c) to consider the report of the C&AG in cases where the President may have required him to conduct an audit of any receipts and to examine the accounts of stores and stocks.

If any money has been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the Committee examine with

reference to the facts of each case the circumstances leading to such an excess and make such recommendations as it may deem fit.

An important function of the Committee is to ascertain that money granted by Parliament has been spent by Government within the scope of the demand. The implications of this phrase are that (i) money recorded as spent against the grant must not be more than the amount granted; (ii) the expenditure brought to account against a particular grant must be of such a nature as to warrant its record against the grant and against no others; and (iii) the grants should be spent on purposes which are set out in the detailed demand and they cannot be spent on any new service not contemplated in the demand. The functions of the Committee extend, however, beyond the formality of expenditure to its wisdom, faithfulness and economy. The Committee thus examines cases involving losses, nugatory expenditure and financial irregularities. When any case of proved negligence resulting in loss or extravagance is brought to the notice of the Committee, it calls upon the Ministry/Department concerned to explain what action, disciplinary or otherwise, it had taken to prevent a recurrence. In such a case it can also record its opinion in the form of disapproval or pass strictures against the extravagance or lack of proper control by the Ministry or Department concerned.

Another important function of the Committee is the discussion on points of financial discipline and principle. The detailed examination of questions involving principles and system is a leading and recognized function of the Committee.

The Committee is not concerned with questions of policy in the broad sense though it is within its jurisdiction to point out whether there has been extravagance or waste in carrying out that policy.

While scrutinizing the Reports of the C&AG on Revenues Receipts, the Committee examines various aspects of Government's tax administration. The Committee, thus, examines cases involving under-assessments, tax-evasion, non-levy of duties, mis-classifications etc., identifies the loopholes in the taxation laws and procedures and makes recommendations in order to check leakage of revenue.

Estimates Committee: It has 30 members from Lok Sabha. Its function is to scrutinize the estimates of expenditure of Ministries and suggest measures to reduce expenditure. It is also known as continuous economics committee.

Committee on Public Undertakings: It has come into existence in 1964. PSEs were recognized as engines of growth. In order to ensure effective parliamentary control over Public Sector Enterprises, Committee on Public Sector Enterprises has come into existence.

Department-related standing committees

During the year 1989 – 8th Lok Sabha the Rules Committee considered and approved a proposal that three subject committees, on (i) Agriculture; (ii) Environment & Forests; and (iii) Science & Technology. related to these committees were finally approved by the House and the committees were formally constituted with effect from 18 August, 1989.

The Reports of Rules Committees of the 10th Lok Sabha and Rajya Sabha adopted by the two Houses on 29 March, 1993 paved the way for the setting up of the 17 departmentally related standing committees covering under their jurisdiction all the Ministries/Departments of the Union Government.

These DRSCs replaced the earlier three subject committees constituted in August, 1989. The 17 departmentally related standing committees were formally constituted with effect from April, 1993. After experiencing the working of the DRSC system for over a decade, the system was re-structured in July, 2004 wherein the number of DRSCs was increased from 17 to 24. Till 13th Lok Sabha, each of these standing committees used to consist of 45 members— 30 nominated by the Speaker from amongst the members of Lok Sabha and 15 members nominated by the Chairman, Rajya Sabha from amongst the members of Rajya Sabha. However, with re-structuring of DRSCs in July, 2004 each DRSC consists of 31 members—21 from Lok Sabha and 10 from Rajya Sabha.

There are 24 department-related standing committees (DRSCs). Each of these committees have 31 members – 21 from Lok Sabha and 10 from Rajya Sabha. These members are to be nominated by the Speaker of Lok Sabha or the Chairman of Rajya Sabha respectively. The term of office of these committees does not exceed one year. These committees are serviced either by Lok Sabha secretariat or the Rajya Sabha secretariat, depending on who has appointed the chairman of that committee.

Core functions of all these committees include:

- Scrutinize demands for grants
- Discuss and debate
- Recommended
- Submit Report to parliament

PROBLEMS WITH COMMITTEE SYSTEM:

- Recommendations are not mandatory in nature. Executive do not take these recommendations seriously and they are mostly not implemented. It reduces the effectiveness of committees.
- The term of all these committees is just one year. It takes members of these committees at least one year to understand technicalities of administration so that they can ensure effective control over functioning of ministries and

departments. After one year they are replaced with another set of members. It reduces their effectiveness.

- Members nominated to committees by Political Parties in a random manner. Qualifications, experience, skills and knowledge are not taken into consideration while nominating members. For example, a doctor can work in a committee related to health. If he is nominated to the commerce ministry his effectiveness will come down as he does not have domain expertise.
- Conflict of Interest is routinely ignored while appointing members to the Committees. A Member of Parliament having business interest in a particular ministry cannot be appointed as a member. Vijay Mallya was appointed to the Parliament committee on Civil Aviation where he was allegedly misused membership to influence policies of the ministry. Similarly, at the State level, most of the members have misused these committees to further their business interests.
- Services of CAG are available only to Public Accounts Committee; they are not available to other committees of Parliament; it has made them less effective in their functioning.
- CAG performs a job which is post-mortem in nature. For example, it evaluates the performance of the ministry only after money is spent. It is difficult to recover unproductive expenditure. Effectiveness of PSE reduced on it depends on reports submitted by CAG.
- Every year PAC (Public Accounts Committee) evaluates the performance of around 7 to 8 ministers and departments. There are 54 ministries. To evaluate the performance of the same ministry again it would take at least 7 years. It reduced the effectiveness of control exercised by PAC.
- Executive normally do not cooperate with these committees. These committees have powers to summon officials but if they are not present either deliberately or otherwise these committees do not have power to punish them.
- Most of the time the government takes shelter under Official Secrets Act 1923, and denies information to these committees. For example, in the Bofors scam, the government did not provide critical information to the Parliament committee as it could have resulted in proving the guilt of the people in positions of power. The government took shelter under OSA.
- Failure of members of these committees to rise above petty political interest and submit reports in a manner.

- Proceedings of their committees are held in camera. For example, ordinary citizens have no access to proceedings. In countries like USA, the proceedings of committees telecast live so that people will come to know about what their members are doing in these meetings, transparency can ensure accountability and good governance.
- Reports of these committees are never discussed on the Floor of House so that ordinary citizens also know about the functioning of these committees. There is no motivation for members as they do not get any recognition for their hard work.

SOLUTIONS:

- Recommendation of these committees should be made mandatory. For example, the government must submit an action taken report regarding recommendations of these committees. It must provide information about the time limit during which recommendations will be implemented. It must also provide reasons why recommendations are rejected so that it ensures accountability of Executive towards Legislature.
- The term of these committees must be extended to at least 3 years so that members can use their knowledge and experience in a more efficient manner.
- Conflict of interest should be taken into consideration while appointing members to these committees.
- Like in the US and UK, proceedings of these committees should be telecast live so that ordinary citizens can come to know about the performance of their members.
- Services of CAG should be provided to all other committees, not only PAC.
- OSA should be amended to allow the members to access and securitize information also.
- These committees should be given powers to punish officials who do not present themselves and who do not cooperate with these committees.
- Proper training should be given to members of these committees in aspects related to administration so that they can ensure more effective control Executive.
- Concurrent audit should be adopted in place of the existing post audit.
- Members of Parliament must rise above their selfish political interests and submit reports in a unanimous manner so that they have more credibility.
- Reports of these committees should be regularly discussed on the Floor of House.

REGARDING PRIVATE MEMBERS BILL

- President has absolute veto power to reject a private members bill.
- As part of Delegated Legislation, the Council of Ministers introduces bills on behalf of Executive known as treasury bills. In case of these bills, President of India can exercise suspensive and pocket veto but not absolute veto. For example, he cannot reject those bills.

- Members of Parliament can introduce bills on their own known as private members bills. Rajya Sabha has provision for discussing these private members bills on every Friday afternoon.
- Under Government of India Act 1935, the Viceroy or Governor General was given absolute veto power to reject private members bills. It was a colonial government and they did not want Indians who are part of central Legislature to introduce bills on their own.
- After independence, some provisions were included in the Constitution without much deliberation. Absolute Veto Powers of the President defeats the very purpose of Parliamentary democracy. Members are expected to formulate laws, Rules and Regulation and if this power is taken away from them then Parliament democracy loses its meaning. Since the commencement of the constitution, not many private member bills have been introduced and passed. The Constitution should be amended to take away absolute discretionary power of the President in case of a private members bill.

QUESTION HOUR should not be suspended under any circumstance as it is the most effective instrument in the hands of Legislature to ensure accountability of Executive.

JUDICIARY

CONSTITUTIONAL PROVISIONS:

The British for the first time introduced the modern concept of rule of law. They also introduced a judiciary which is independent of religion for the first time. During Mughal times, it functioned under Islam personal laws. But judiciary introduced by British was neither independent nor impartial. Constitutional forefathers rightly identified judiciary as the most important instrument in releasing ideas of constitutionalism. They made sure that the judiciary would be able to retain its independence so that it can perform an impartial manner.

According to our constitutional provisions, judiciary in India expected to perform the following functions:

- To protect the rights of individual citizens from exploitation by other organs of state, private individuals and institutions.
- To ensure constitutional government. To make sure that Legislature & Executive formulates laws, Rules & Regulations strictly according to the provisions of the constitution and also implement them in the same manner.

Our constitution has conferred certain powers of judiciary to perform this function Article 13, 32, 226, 141 & 142 gives powers to judiciary to perform the above functions.

- Article 13 gives the power of judicial review to the Supreme Court. Judiciary has the power to declare any law made by parliament as ultra-vires, null and Void if it violates the fundamental rights of citizens.
- Under Article 32 & 226, citizens can approach the Supreme Court & High Court directly if their fundamental rights are violated, by filling writ petitions.

Article 131: Original jurisdiction of the Supreme Court Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute

- (a) between the Government of India and one or more States; or
 - (b) between the Government of India and any State or States on one side and one or more other States on the other; or
 - (c) between two or more States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends: Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagements, and or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute
- **Article 139:** Conferment on the Supreme Court of powers to issue certain writs Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of Article 32.
 - Under Article 141, the judgement of the Supreme Court is binding on all other courts in India.
 - Under Article 142, Supreme Court has the power to enforce decrees and orders etc. The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.

Evolution of Judiciary in India

PHASE I: Passive Judiciary (1947-1967)

- During this phase, the judiciary is passive. It had given maximum freedom to Legislature & Executive in their functioning.
- There has always been conflict between Fundamental Rights & Directive Principles of State Policy because of their conflicting objectives. FR are essential for our existence. They are basic human rights. During the British rule, ordinary citizens were never allowed to enjoy basic human rights. Our Constitutional forefathers while framing the constitution were very much clear in their mind regarding what they wanted to realize. They felt that the basic

objective of the constitution should be to protect Fundamental Rights and freedom of citizens.

- Directive Principles of State Policy were influenced by Gandhian philosophy.
- Directive Principles of State Policy emphasize on economic and cultural freedom of society as a whole. While Fundamental Rights focus on individual political freedoms. What is good for individuals may not be good for society resulting in conflict. It can get much more serve is a federal and hierarchical society like India.
- As the name as the name itself indicates Directive Principles of State Policy are directivities of the state in formulating and implementing policies. This directivity mostly focuses on macro parameters like collective economic, environmental social and cultural freedoms of society.
- Why was the judiciary passive? During this period, Judiciary remained passive because the political leadership of the country was committed to the ideology of socialism and it was felt that Fundamental Rights can be given more importance DPSPs. Also, leaders were freedom fighters, hence garnered huge respect. Judiciary deliberately was not involved in the functioning of Legislature & Executive. It felt that social welfare was more than individual freedoms and rights. Political Executive was interested in establishing a socialistic pattern of society by removing inequality of income and wealth.
- The 1st Constitutional Amendment Act itself violated the Fundamental Rights of people. It added the 9th schedule to our constitution under which those laws which are part of the 9th schedule are given immunity from judicial scrutiny. For example, law cannot be declared null and void for violating Fundamental Rights.
- Land ceiling Legislation was passed to implement land reforms. Acharya Vinoba Bhave started the Bhoojan movement, requesting zamindars and landlords to donate the lands in a voluntary manner but the movement was not successful. It has forced the government to pass land ceiling legislation. The objective is to collect excess land from zamindars and distribute it. But Right to Property was a fundamental right at that point of time. Land Ceiling legislation could have been questioned in the judiciary for being ultra-virus. The 9th schedule was added to the constitution; the judiciary remained passive and did not interfere in the functioning of Legislature & Executive.
- **A.K. Gopalan v. State of Madras**, AIR 1950 SC 27, was a landmark decision of the Supreme Court of India in which the Court ruled that Article 21 of the Constitution did not require Indian courts to apply a due process of law. Supreme Court had upheld the procedure established by law in the A.K

Gopalan case. For example, it recognized the power of Legislature to legislate on any item as long as proper procedure is followed. Judiciary did not question the content of Legislation. This procedure established by law is a feature of British parliamentary democracy where in parliament is supreme as well as sovereign.

PHASE II: Confrontation between Judiciary and Executive

- **Golaknath v. State Of Punjab** (1967 AIR 1643, 1967 SCR (2) 762), or simply the Golaknath case, was a 1967 Indian Supreme Court case, in which the Court ruled that Parliament could not curtail any of the Fundamental Rights in the Constitution.
- In India, a **privy purse** was a payment made to the ruling families of erstwhile princely states as part of their agreements to first integrate with India in 1947 after the independence of India, and later to merge their states in 1949, thereby ending their ruling rights.
- The privy purses continued to be paid to the royal families until the 26th Amendment in 1971, by which all their privileges and allowances from the central government ceased to exist, which was implemented after a two-year legal battle.
- A motion to abolish the privy purses, and the official recognition of the titles, was originally brought before the Parliament in 1970 and passed in the Lok Sabha, but failed by one vote to reach the required two-thirds majority in the Rajya Sabha, with 149 voting for and 75 against.
- On 6 September 1970, the President of India passed an laconic order in respect of each of the rulers of former Indian states. In exercise of the power vested in him under Article 366(22) of the constitution, the President directed that with effect from the date of his order, all rulers ceased to be recognised as rulers. This resulted in the forthwith stoppage of the privy purses received by the rulers and the discontinuance of their personal privileges. Writ petitions under Article 32 of the constitution were filed by some of the rulers as test cases to question the orders. The Supreme Court ruled in favour of the rulers.
- It was again proposed before Parliament in 1971, and was successfully passed as the 26th Amendment to the Constitution of India in 1971. The then Prime Minister Indira Gandhi argued for the abolition based on equal rights for all citizens and the need to reduce the government's revenue deficit.
- The **State of Uttar Pradesh v. Raj Narain** (1975 AIR 865, 1975 SCR (3) 333) was a 1975 case heard by the Allahabad High Court that found the Prime Minister of India Indira Gandhi guilty of electoral malpractices. Ruling on the case that had been filed by the defeated opposition candidate, Raj Narain, Justice Jagmohanlal Sinha invalidated Gandhi's win and barred her from holding elected office for six years. The decision caused a political crisis in India that led to the imposition of a state of emergency by Gandhi's government from 1975 to 1977.

- In 1973, the Supreme Court had come out with a landmark judgement in the Keshavnanda Bharati case to put an end to the conflict between Legislature & Judiciary.
- The Supreme Court ruled that the Parliament has absolute power to amend any part of the constitution but at the same time it limited the power of Parliament by taking away their power to amend the basic structure of the constitution. The Supreme Court left this basic structure undefined so that it will have the freedom and power to limit the powers of Legislature. It defined the basic structure in terms of parliamentary democracy and federal form of government. The Supreme Court also ruled that the preamble is also an integral part of the constitution.

PHASE III: Darkest phase of Judiciary (1975-77)

- In 1975 emergency was imposed due to internal disturbances. Parliament came up with radical amendments after that. 39th Constitutional Amendment Act prohibited Judiciary from questioning the validity of election to higher constitutional offices like President, Vice-President, Prime Minister, Speaker of Lok Sabha.
- Judiciary did not interfere; Indira Gandhi gave a call for committed Judiciary that led to politicization of Judiciary. Judiciary lost credibility in the eyes of people. All opposition party leaders were arrested. Family members filed habeas corpus. The Supreme Court ruled in favour of the government.
- **ADM Jabalpur case** is landmark judgment pertaining to *Habeas corpus* case. This controversial judgment of P.N. Bhagwati was decreed during the Emergency of 1975 to 1977, a person's right to not be unlawfully detained (i.e. *habeas corpus*) can be suspended. This judgment received a lot of criticism since it reduced the importance attached to Fundamental Rights under the Indian Constitution. Going against the previous decision of High Courts, the bench which included Bhagwati concluded in favour of the then Indira Gandhi government while only Justice Hans Raj Khanna was opposed to it.
- Article 20 and 21 too cannot be abrogated during emergency but emergency took away that too. Judiciary remained a mute witness to these unconstitutional actions on the part of the Executive.

PHASE IV: Revival of credibility of the judiciary (1977-1980)

- Janata Party came to power after elections were held in 1977.
- **Maneka Gandhi v. Union of India**, AIR 1978 SC 597, was a landmark decision of the Supreme Court of India in which the Court significantly expanded the interpretation of Article 21 of the Constitution of India. It overruled A. K. Gopalan v. State of Madras, which had implied the exclusiveness of fundamental rights, and established a relationship between Articles 14, 19, and 21 of the Constitution (known

as the 'golden triangle' or 'trinity'), holding that a law depriving a person of 'personal liberty' must not violate any of them. The decision also held, once again overruling *A. K. Gopalan* that a 'procedure' under Article 21 of the Constitution cannot be arbitrary, unfair, oppressive, or unreasonable.

- The decision had a significant influence on Indian constitutional law and has been described as the moment when the Supreme Court of India rejected "three decades of formalist interpretation, and inaugurated a new path where Courts would expand the rights of individuals against the State, instead of limiting or contracting them. The Supreme Court for the 1st time introduced due process of law not just letter but spirit to be taken into account of the action taken. Scope of Fundamental Rights expanded, Article 21 right to life induced dignified living too. Due process of law is taken from the American Judiciary.

Minerva Mills Ltd. and Ors. v. Union Of India and Ors is a landmark decision of the Supreme Court of India that applied and evolved the basic structure doctrine of the Constitution of India.

- The Supreme Court introduced due process of law in the functioning of our Judiciary till then functioning on the basis of procedure established by law DPL future of the American legal system where the Judiciary not only looks into procedure and legal aspects but also as power to question the spirit behind law. If the intention behind the law is wrong, the Judiciary can strike down a particular act of government that gives Judiciary extraordinary powers.
- The Supreme Court also expanded scope of Article 21. Right to life and liberty includes the right to have a dignified existence also from these cases onwards Supreme Court literally interpreted Article 21. The Supreme Court also expanded the scope of basic structure of the constitution. Judicial review is part of the basic structure of the constitution.
- In the ***Minerva Mills*** case, the Supreme Court provided key clarifications on the interpretation of the basic structure doctrine. The court ruled that the power of the parliament to amend the constitution is limited by the constitution. Hence the parliament cannot exercise this limited power to grant itself an unlimited power. In addition, a majority of the court also held that the parliament's power to amend is not a power to destroy. Hence the parliament cannot emasculate the fundamental rights of individuals, and also includes the right to liberty and equality (which is not a fundamental right but considered a basic structure of the Constitution).

PHASE V: Judicial Activism (1980-Till Now)

- In a parliamentary democracy, the three organs of the State are expected to perform their functions efficiently with the objective of realizing the ideals of the Constitution. Between 1950's and 1980's, both legislature and executive have failed to perform their functions. Ordinary citizens were fed up with the emergency and dictatorial functioning of the Government during emergency and votes for Janata party in 1977. But Janata party was united in opposing the Congress but not in

ruling the country. It led to a situation wherein the people had no option but to bring back Congress to power in 1980. Failure of legislature and executive led to creation of vacuum at the top. People were looking up to Judiciary to fill in the vacuum created by the non-performance of legislature and executive.

- Judiciary's own performance was also not up to the mark. Until then, judicial functioning was either inactive or reactive and not proactive. It functioned on the basis of LOCUS STANDI i.e. only those people whose fundamental rights are violated can directly approach judiciary for assistance. In reality, it is almost impossible for the poor to approach the Judiciary. On top of it, judiciary suffered from long delays and also high cost of litigation. To overcome this, the Supreme Court came up with PIL (Public Interest Litigation), which had its origin in the Australian & New Zealand judicial system. It removed locus standi clauses, and now anyone could approach Judiciary as long as it involves public interest.
- During this period, Judiciary entered into the domains of legislature and executive as part of Judicial Activism. It must be remembered that Indian Constitution provides for separation of functions between the three organs of the State but not powers. With the help of PIL and more importantly by introducing due process of law, Judiciary expanded its scope rapidly and in the process erased the delicate balance of power between the three organs of the State. It has become proactive in protecting and promoting the interests of citizens.
- It was Justice P N Bhagawati and Justice V R Krishna Iyer who introduced this in the functioning of Indian Judiciary in early 1980s. It literally opened the floodgates of judicial activism in the country. In 1980s, PIL mostly focussed on protecting the individual political freedoms of citizens from exploitation by the organs of the State. By 1990s, the scope of PIL was expanded to include social, economic and cultural freedoms of the society as a whole. India had opted for liberalization, privatization and globalization during this period. Issues related protection of environment, labour rights, rights of small and marginal farmers, tribal rights and rights of other vulnerable sections of society had become central focus of PIL during this period.
- From 2000s onwards, there was further expansion in the scope of PIL with many NGOs coming up only with the objective of filing PILs. This period also witnessed coalition governments which resulted in lots of cases related to corruption.
- In the entire process, there were many instances of the Judiciary crossing its limits and over reaching its powers as alleged by the Legislature & Executive. Judicial activism has come in for criticism from both Legislature & Executive. It was felt that by crossing its limits, Judiciary was deliberately disturbing the delicate balance of power between the 3 organs of state. Some people have criticized it as judicial adventurism. Important judgements of judiciary during this period include:
 - Cancellation of all 122 licenses in the 2G spectrum scam

- Removal of CVC
- Cancellation of all licenses related to allocation of coal mines since 1993
- Supreme Court judgement in Bihar assembly dissolution case 2006
- Supreme Court judgement in Coelho Case 2008 wherein Supreme Court ruled that 9th schedule will not remain sacrosanct. For example, the Supreme Court has power to review all legislations which have been included in 9th schedule after Kesavananda Bharati case 1973.
- Supreme Court judgement in directing the Executive to explore the possibility of implementing Uniform Civil Code (UCC)
- Recent Supreme Court judgement in case of Aadhar, wherein it has ruled that Aadhar is not compulsory for transactions related to the Government except in filing Income Tax returns and availing benefits of Government schemes. It has ruled that Right to Privacy is part of Fundamental Rights under Article 21.

But PIL has been severely criticized for its misuse. It was criticised as *Private Interest Litigation*.

Que. —Judicial overreach to a large extent is a consequence of ineffective executive.|| Examine. (2018)(20M)

- Critics have alleged that the Judiciary was more proactive in making Legislature and Executive accountable for their performance without looking at its own performance. With more than 45 million cases pending with our Judiciary at all levels, it would take over at least 300 years to come out with judgements in these cases provided no fresh cases are filed during this period. Justice delayed is justice denied. Thousands of cases are pending for more than 30 years. Appointment of judges had also become controversial.
- There were allegations of nepotism and favouritism in the appointment of judges. The Collegium system, which had come into existence after successive judgments of the Supreme Court, had failed to ensure transparency and accountability in the functioning of the Judiciary. There were many instances wherein senior judges have criticized the collegium system. The government had come out with a solution in the form of NJAC, and the constitution was amended to ensure transparency and accountability in apportionment of judges to Supreme Court & High Court.
- But the Supreme Court had ruled that NJAC was unconstitutional, as it violated the basic structure of the constitution. NJAC had members from Executives. Also the Supreme Court ruled that since in a maximum number of cases, the government is the main litigant, the government cannot have a say in appointment of judges. It created conflict between Judiciary & Executive as the solution was not acceptable to Judiciary.

Que. "The absence of congruence of views on appointments to judiciary between the Supreme Court and the Union Government has had an adverse impact on the judicial system." In the light of the above statement, examine the proposal to constitute an All India Judicial Service (AIJS). (2016) (20M)

Que. There has been an opinion that the ethos of Indian Judicial System continues to be colonial. Suggest measures for raising the level of judicial excellence for achieving speedy justice. (2019) (10M)

Recently, four senior Supreme Court judges have revolted against the Chief Justice. Chief Justice of India is the master of the roaster similarly he has absolute discretionary powers in terms of allocating cases to various benches. This controversy had impacted the credibility of the Judiciary in the eyes of ordinary citizens.

Que. Discuss the arguments for and against the National Judicial Appointments Commission Act, 2014. (2015)(20M)

In a very controversial move, Chief Justice of India sat on judgement in a case related to himself. There were allegations of sexual misconduct against the Chief Justice of India but the Chief Justice of India headed the bench that inquired into this allegation. Even though he had refrained from final decision, it has raised questions regarding ethics in judicial functioning as the actions of Chief Justice of India are against principles of natural justice. It has also affected the credibility of the Judiciary. There are many allegations of corruption against senior judges. In a revolutionary move recently, the Supreme Court had given permission to the CBI to investigate cases of corruption against one of the judges, Allahabad HC.

With all these criticisms, it is time for the Judiciary to reform itself so that it can continue to enjoy credibility among ordinary masses. Following reforms have been suggested to make Judiciary transparent efficient and accountable:

- There must be an AIJS (All India Judicial Service) on the lines of IAS, IPS and IFoS.
- Judges should be recruited to AIJS at a lower level. For example, at district level and must be promoted to High Court and Supreme Court over a period of time.

Evolution of AIJS

- The AIJS was first proposed by the 14th report of the Law Commission in 1958.
- The 42nd Constitutional amendment in 1976 amended Article 312 (1) empowering Parliament to make laws for the creation of one or more All-India Services, including an AIJS, common to the Union and the States.
 - Under Article 312, Rajya Sabha is required to pass a resolution supported by not less than two-thirds of its members present and voting. Thereafter, Parliament has to enact a law creating the AIJS. This means no constitutional amendment will be required for establishment of AIJS.

- The Supreme Court of India also endorsed the same in the All India Judges Association vs. Union of India‘ case (1993) laying down that AIJS should be set up.

Why AIJS?

- **Addressing Judges To Population Ratio:** A Law Commission report (1987) recommended that India should have 50 judges per million population as against 10.50 judges (then).
 - Now, the figure has crossed 20 judges in terms of the sanctioned strength, but it's nothing compared to the US or the UK — 107 and 51 judges per million people, respectively.
 - Thus, AIJS envisages to bridge the underlying gap in judicial vacancies.
- **Higher Representation of Marginalised Sections of Society:** According to the Government, the AIJS to be an ideal solution for equal representation of the marginalised and deprived sections of society.
- **Attracting Talent Pool:** The government believes that if such a service comes up, it would help create a pool of talented people who could later become a part of the higher judiciary
- **Bottoms-Up Approach:** The bottoms-up approach in the recruitment would also address issues like corruption and nepotism in the lower judiciary. It will improve the quality of justice dispensation in the lower levels of society.

Problems

- **Dichotomy Between Articles 233 and 312:** As per Article 233, recruitment to subordinate judiciary is the prerogative of the State.
 - Due to this, many states and high courts have opposed the idea on the ground that it would go against federalism.
 - If the fundamental power of the States to make such rules and govern the appointment of district judges is taken away, it may be against the principle of federalism and the basic structure doctrine.
- **Language Barrier:** Since cases in lower courts are argued in local languages, there have been apprehensions as to how a person from north India can hold hearings in a southern state.

Thus, another fundamental concern regarding AIJS is the language barrier.

Constitutional Limitation: Clause 3 of Article 312 places a restriction that AIJS shall not include a post inferior to that of a district judge. Thus, appointment of subordinate judiciary through AIJS, may face a constitutional barrier.

Dilution of Administrative Control of High Court: Creation of AIJS would lead to an erosion of control of the High Courts over the subordinate judiciary, which might affect the judiciary's independence.

- There must be a permanent secretariat in the Supreme Court whose main function is to collect all the information about the judges at all levels.
- Performance evaluation of judges should be done in a transparent manner. For example, their performance should be evaluated by stakeholders including lawyers

and other citizens who approach the Judiciary. This objective performance evaluation should be the basis for this further career advancement in terms of promotions transfers suspensions and removals.

- In order to improve our legal system, there must be a time limit on Judiciary to come out with judgement. But this reform can be successful only with reforms in other areas like police reforms and other governance reforms.
- As pointed out by an economic survey this year, the Supreme Court takes the maximum number of leaves. It works for less than 180 days in a year. The number of working days should be increased to at least 270 days.
- Retirement age of Supreme Court judges can be increased. There were also suggestions regarding adoption of the American system wherein judges are appointed for life.
- As far as PILs are concerned, the Supreme Court had come out with a judgement regarding their misuse. The Supreme Court had asked the High Court to be extremely careful while accepting PILs. If it is proved that the PIL has been filed with a vested interest, the High Court has been given the authority to punish those people.
- Former Chief Justice had remarked that the Judiciary must not enter into the domain of Legislature and Executive. It must confine itself to interpretation of laws. It should not make laws for the country.
- With the advent of single party rule at the centre from 2014 onwards, judicial activism had come down drastically. Absolute majority on the Floor of House can make the government decisive and Judiciary need not enter into the domain of Legislature and Executive.
- As for the future of judicial activism, Judiciary continues to remain active for as long as the Legislature and Executive fail to perform their functions. For example, both Legislature and Executive fail to eliminate criminalization of politics, forcing the Judiciary to enter into the domain. In this same manner, there is no real effort on part of Legislature & Executive to fight corruption.
- Citizens will continue to support judicial activism as they believe that Judiciary is one of the institutions which can protect their rights from exploitation by other organs of state. But at the same time, the Judiciary must also remember that its credibility depends on its own performance. Unless Judiciary improves performance and ensures Good Governance in its own functioning, it becomes difficult to enjoy credibility of masses.

To conclude, in a developing democracy like India, Judiciary can play a very significant role in realizing effective constitutionalism. It must make Legislature & Executive accountable to the people for their performance.

Que. The spirit of democratic values requires that the independence of the judiciary remains absolute. It is high time that the All India Judicial Service (AIJS) was created. Elaborate. (2020)(20M)

Que. Do you agree that —All India Judicial Service (AIJS) would contribute to timely delivery of justice to the citizens? Argue your case (2017)(10M)

Cabinet Committees

Because it is extremely difficult for the Prime Minister to convene the entire cabinet for every issue, a system of cabinet committees has been established to facilitate the government's smooth operation. A committee is a tool for increasing an organization's output. The implementation of a cabinet committee system reduces the overall workload of the cabinet.

They provide the cabinet with the information it requires to make a decision on a specific issue. Their system also protects the principle of shared responsibility. It also vastly improves the effectiveness of the political executive's control over bureaucracy.

Cabinet committees are required to carry out functions delegated to them by the cabinet. Another advantage of cabinet committees is that they facilitate effective coordination among cabinet members.

Cabinet committees are classified into two types. Ad hoc and Standing. Ad-hoc committees, as the name implies, are formed to solve specific problems, and once the task is completed, the committee ceases to exist.

Standing Committees, on the other hand, wield real power and are vital to the political system. A cabinet committee is led by a Cabinet Minister, and in exceptional cases, the Prime Minister leads a cabinet committee.

Transaction of Business

The executive works under the Government of India Transaction of Business Rules, 1961. These Rules emerge out of Article 77(3) of the Constitution, which states: —The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.|| The Rules mandate the minister-in-charge of a department (ministry) to dispose of—all business allotted to a department under|| him or her.

However, —when the subject of a case concerns more than one department, no decision can be taken —until all such departments have concurred, or, failing such concurrence, a decision thereon has been taken by or under the authority of the Cabinet||.

Cabinet Committees in India

After independence the Government constituted two Standing Committees, the Defence Committee and the Economic Committee. They were constituted in 1948. The Gopalaswami Ayyangar Committee that went into the working of the political system in its report strongly recommended the constitution of cabinet committees by the Government.

It recommended that the Standing Committee should be regarded as part of the permanent machinery of government for which appropriate secretariat may be provided on a permanent basis.

The Prime Minister constitutes Standing Committees of the Cabinet and sets out the specific functions assigned to them. He can add or reduce the number of committees.

Ad hoc committees of ministers, including Groups of Ministers, may be appointed by the Cabinet or by the Prime Minister for specific matters. A policy paralysis had hit the UPA-II government because it had passed on numerous issues to Groups of Ministers.

Key Committees

Appointments: Of the eight panels constituted by Prime Minister Narendra Modi, the most vital is the Cabinet Committee on Appointments. This panel makes appointments to posts of the three service chiefs, Director General of Military Operations, chiefs of all Air and Army Commands, Director General of Defence Intelligence Agency, Scientific Advisor to the Defence Minister, Director General of Armed Forces Medical Services, Director General of Ordnance Factories, Director General of Defence Estates, Controller General of Defence Accounts, Director of Institute for Defence Studies and Analyses, Solicitor-General, Governor of the Reserve Bank of India, Chairman and Members of the Railway Board, Chief Vigilance Officers in Public Sector Undertakings and Secretariat posts of and above the rank of Joint Secretary in the Central Government. This Committee decides on all important empanelments and shift of officers serving on Central deputation.

Accommodation: The Cabinet Committee on Accommodation determines the guidelines or rules with regard to the allotment of government accommodation. It also takes a call on the allotment of government accommodation to non-eligible persons and organisations as also the rent to be charged from them. It can consider the allotment of accommodation from the General Pool to Members of Parliament. It can consider proposals for shifting existing Central Government Offices to locations outside the capital.

Economic Affairs: The Cabinet Committee on Economic Affairs is supposed to review economic trends, problems and prospects —for evolving a consistent and integrated economic policy, coordinate all activities requiring policy decisions at the highest level, deal with fixation of prices of agricultural produce and prices of essential commodities. It considers proposals for investment of more than Rs 1,000 crore, deal with industrial licensing policies and review rural development and the Public Distribution System.

Parliamentary Affairs: The Cabinet Committee on Parliamentary Affairs draws the schedule for Parliament sessions and monitors the progress of government business in Parliament. It scrutinises non-government business and decides which official Bills and resolutions are to be presented.

Political Affairs: The Cabinet Committee on Political Affairs addresses problems related to Centre-state relations. It also examines economic and political issues that require a wider perspective but have no internal or external security implications.

Security: The Cabinet Committee on Security deals with issues relating to law and order, internal security and policy matters concerning foreign affairs with internal or external security implications. It also goes into economic and political issues related to national security. It considers all cases involving capital defence expenditure more than Rs 1,000 crore. It considers issues related to the Department of Defence Production and the Department of Defence Research and Development, Services Capital Acquisition plans and schemes for procurement of security-related equipment.

The new panels

Investment: The Cabinet Committee on Investment will —identify key projects required to be implemented on a time-bound basis, involving investments of Rs 1,000 crore or more, or any other critical projects, as may be specified by it, with regard to infrastructure and manufacturing. It will prescribe time limits for giving requisite approvals and clearances by the ministries concerned in identified sectors. It will also monitor the progress of such projects.

Employment: The Cabinet Committee on Employment and Skill Development is supposed to provide —direction to all policies, programmes, schemes and initiatives for skill development aimed at increasing the employability of the workforce for effectively meeting the emerging requirements of the rapidly growing economy and mapping the benefits of demographic dividend. It is required to enhance workforce participation, foster employment growth and identification, and work towards removal of gaps between requirement and availability of skills in various sectors. The panel will set targets for expeditious implementation of all skill development initiatives by the ministries and to periodically review the progress in this regard. The addition of the two committees is indicative of the new focus areas for the government. The goal of both is new jobs.

NITI Aayog

The Planning Commission was headed by the Prime Minister with members appointed by the Central Government, consisting of experts from different fields. NITI Aayog is also headed by the Prime Minister and members are all Chief Ministers of state along

with the union cabinet.

Plans formulated by Planning Commission rectified by NDC [National development Council] consisting of Prime Minister and all Chief Ministers of state, Governor of UTs along with Cabinet Ministers. NITI Aayog can be described as a combination of Planning Commission & NDC. The Planning Commission was responsible for formulating the Five Year Plan. NITI Aayog did not perform this function since the government decided to discontinue the Five Year Plans.

The Planning Commission had the power to determine the financial resources of the state government as part of the Five Year Plan. NITI Aayog has no financial powers. It cannot determine allocation of funds to State Governments. This function is performed by respective union ministries and departments. The Planning Commission also had the powers to allocate funds to union ministers and departments. NITI Aayog does not have these powers.

Annual financial statements (budgets) are nothing but Five Year Plans divided into 5 annual plans. The Planning Commission had a major role in formulation of union budgets also. NITI Aayog at present cannot look into budgets allocations. It is under the domain of the ministry of finance.

All state budgets must be ratified by the Planning Commission before they are implemented. State Governments need not take permission of NITI Aayog while formulating & implementing budgets.

As part of a centralized top down approach to development, the Planning Commission also had power to oversee implementation of development and welfare schemes. NITI Aayog has no such power.

Functions to be performed by NITI Aayog:

It is said that NITI Aayog is an example of cooperative federalism. NITI Aayog has members not only from experts from different fields but also academicians from India and all over. They conduct extensive research on policy matters and provide invaluable suggestions to the government regarding public policy.

- NITI Aayog will act as a think tank for the government in the age of globalization wherein administration has become highly technical and specified. The experts in NITI Aayog come from different fields, and would help the government in coming up with pragmatic policies based on ground level realities.
- NITI Aayog would also collect, store, update information on real time basis using MIS (Management Information System). This information pertains to implementation of development and welfare schemes. It helps the government to modify policies according to their outcomes.
- NITI Aayog will also help the State Governments in conducting research at the ground level regarding effectiveness of their development and welfare schemes. It provides suggestions to State Governments, to improve their welfare administration.
- Also, it would come out with a long term development agenda for the country with the objective of ensuring sustainable development. It would link hence long term policy objectives with short term goals of the government to ensure continuity to the development process.
- In the age of globalization and liberalization, governance means regulation. NITI Aayog from time to time provides critical inputs to the government regarding improving functioning of regulatory authorities.
- Governments can succeed only when there is close coordination between union and state government, in terms of their economic policies. For example, FDI proposals are cleared at the central level but their implementation will take place at state and local levels only. State Governments are responsible for providing the necessary land, ensuring skilled labor and removing red tapism. NITI Aayog provides suggestions to State Governments in this regard.
- NITI Aayog also provides a platform for the state CMs to meet regularly along with union ministers to discuss debate and decide major policy issues. State Governments mostly indulge in competitive federalism to attract investment. NITI

Aayog helps State Governments to come up with a uniform policy to overcome this problem.

- NITI Aayog also provides research support to union ministers and departments to come out with better policies. After all, it's a Staff organization, hence got to provide academic and policy assistance.
- NITI Aayog, a research organization giving expert opinions.
 - Traced all the benefits reaching the last person of the lowest level, as deposited to the account's unifications via various e-governance and digital schemes.
 - NITI Aayog, through an extensive network, traced and helped plug leakage use of supercomputers and MIS.
 - State Governments too have approached NITI Aayog to conduct research in their states to know the ground realities.
 - Releases various reports like ease of doing business improves competitive federation.

Objectives of NITI Ayog

- To evolve a shared vision of national development priorities, sectors and strategies with the active involvement of States.
- To foster cooperative federalism through structured support initiatives and mechanisms with the States on a continuous basis, recognizing that strong States make a strong nation.
- To develop mechanisms to formulate credible plans at the village level and aggregate these progressively at higher levels of government.
- To ensure, on areas that are specifically referred to it, that the interests of national security are incorporated in economic strategy and policy.
- To pay special attention to the sections of our society that may be at risk of not benefiting adequately from economic progress.
- To design strategic and long-term policy and programme frameworks and initiatives, and monitor their progress and their efficacy. The lessons learnt through monitoring and feedback will be used for making innovative improvements, including necessary mid-course corrections.
- To provide advice and encourage partnerships between key stakeholders and national and international like-minded think tanks, as well as educational and policy research institutions.
- To create a knowledge, innovation and entrepreneurial support system through a collaborative community of national and international experts, practitioners and other partners.
- To offer a platform for the resolution of inter-sectoral and inter departmental issues in order to accelerate the implementation of the development agenda.
- To maintain a state-of-the-art resource centre, be a repository of research on good governance and best practices in sustainable and equitable development as well as help their dissemination to stake-holders.

- To actively monitor and evaluate the implementation of programmes and initiatives, including the identification of the needed resources so as to strengthen the probability of success and scope of delivery.
- To focus on technology upgradation and capacity building for implementation of programmes and initiatives.
- To undertake other activities as may be necessary in order to further the execution of the national development agenda, and the objectives mentioned above.

Features

NITI Aayog is developing itself as a state-of-the-art resource centre with the necessary knowledge and skills that will enable it to act with speed, promote research and innovation, provide strategic policy vision for the government, and deal with contingent issues. It is supported by two attached offices—Atal Innovation Mission (AIM) and Development Monitoring and Evaluation Organisation (DMEO)—and an autonomous body, National Institute of Labour Economics Research and Development (NILERD).

NITI Aayog's entire gamut of activities can be divided into four main heads:

1. Policy and Programme Framework
2. Cooperative Federalism
3. Monitoring and Evaluation
4. Think Tank, and Knowledge and Innovation Hub

The key differences between NITI Aayog and Planning Commission:

NITI Aayog	Planning Commission
NITI Aayog is a think-tank or an advisory body. It has not been given the mandate or powers to impose policies on States.	The Planning Commission had the authority to impose policies on states as well as to approve projects.
NITI Aayog has not given the powers related to the allocation of funds. The Finance Ministry is responsible.	The Planning Commission had the authority to allocate funds to state governments and various central government ministries for various National and State-level programmes and projects.
The State Governments have to play a more proactive role in NITI Aayog.	Apart from participating in the meetings of the NDC, the state governments had little to do.
In NITI Aayog, part-time members are nominated according to the requirements.	There were no provisions for the appointment of part-time members in the Planning Commission.
The Governing Council of NITI Aayog has Lieutenant Governors of Union	Lieutenant Governors and State Chief Ministers were in the National

Territories and State Chief Ministers.	Development Council. It was the Planning Commission which had to report to the NDC.	
The Prime Minister shall appoint the CEO of NITI Aayog. The CEO is known as Secretaries.	Planning Commission secretaries were appointed through the usual process.	
NITI Aayog could have a number of full-time members lower than the numbers the planning commission had.	The last Planning Commission had eight full-time members.	
New positions – CEO, Vice-President – were created under the NITI Aayog organisation structure. CEO's a Secretary's rank. As ex-official members, four cabinet members would serve. NITI Aayog has two-part time and a full-time membership of five.	There were full-time members, a Member Secretary and a Vice-President of the Planning Committee.	
The final policy would bear fruit in NITI Aayog after properly discussing policy formulation with state governments.	First policies were drafted by the Planning Commission and then State governments consulted on how the funds for programmes or projects were allocated.	
Because it is not mentioned in the Indian Constitution and was not established by an Act of Parliament, NITI Aayog is also an Executive Body. However, if necessary, it can be converted into a Statutory Body by enacting legislation in Parliament, as UIDAI has done.	The now-defunct Planning Commission was an Executive Body.	

Chapter 6 - State Government and Administration

Syllabus: Union-State administrative, legislative and financial relations; Role of the Finance Commission; Governor; Chief Minister; Council of Ministers; Chief Secretary; State Secretariat; Directorates.

Union-state relations

During colonial times, states were created only for administrative purposes. They were not created on the basis of identity, or for decentralization of Power.

- At the time of independence, it was decided by our constitutional forefathers that India will have a federal form of government but it will not be a classical federation like the USA.
- In the USA, all federal units have come together and merged themselves with the central government in a voluntary manner but at the same time they maintained their district identity also.
- Every state can have a separate citizenship. Every state can have its own Supreme Court, which is independent and the residual powers, those not mentioned in the constitution, were given to the states. In India, states were forced to come together; there was no choice for them to secede from federation.

If we analyse conditions prevailing in India at the time of independence, it would have become almost impossible for India to have a classical federation like the USA. Government of India Act 1935 proposed a loose federation with provinces having more freedom and powers. The rule of the central government was to be restricted to external affairs, defence, communication, etc. Even this arrangement was not accepted by provinces.

The country faced severe problems at the time of independence in the form of politicization on communal lines. The questions of integration of more than 550 princely states and secessionist movements, were going on in different parties of the country, was the major problem in front of our policy makers. The idea of India as a single nation had come into existence only during the freedom movement. Even though Mughals have ensured political integration of the country, emotional connects between people was absent. It was rightly decided by our constitutional forefathers that India would be a strong unitary state. Article 1 of Constitution has stated that India would be a union of States and not a federation of states. States had no independent political existence. They are created with the sole purpose of ensuring better governance. India had opted for federal form of government only for administrative convenience. Being such a diverse and large country, it was not possible to rule the entire country from one place. States have been given powers to ensure better governance at the local level. Indian constitution can be defined as federal in form but unitary in spirit.

Que. —There is a tendency of centralism in Indian federalism, but it is not because of its institutional framework but because of its socialistic goals and centrally devised plan development.|| Explain the statement in the context of the Union-State relationship. (2013) (20M)

Unitary features of our constitution include:

- Article 3 & 4: Wherein, the union government has absolute powers to create, destroy, rename and to change boundaries of state government. States are only administrative entities without any political identity.
- Emergency provisions: Article 352, 356 and 360 gives powers to the union government to suspend state assemblies; take actions in favour of the central government under emergency situations.
- Integrated judiciary: Orders of the Supreme Court are binding on all High Court and other courts in the country.
- All India services: Appointment is done by central government; service conditions are decided by central government but they work in states.
- Finance commission: Members are appointed by Union Government but they are responsible for giving recommendations regarding devolution of revenue between centre & state.
- Governors & their discretionary power: Appointed by the central government but has more discretionary powers to control functioning of states.
- Institutions like CAG, EC: Members appointed by the President but have jurisdiction over the entire country.
- Union government: Also have powers to make laws under state list in exceptional circumstances.

Federal features:

- Written constitution: This clearly divides the powers between union and state government.
- Independent judiciary: Whose original jurisdiction includes settling the dispute between the union and state governments.
- RAJYA SABHA: Which is a council of states and whose primary objective is to protect the interests of the states.

- Interstate council: NITI Aayog, National Integration Council and some other institutes whose job is to ensure better coordination between union & states.

Constitutional provisions related to union-state relations are part of the 7th schedule of the constitution. They are broadly divided into legislative, administrative and financial relations.

This division of powers is based on the concept of Subsidiarity. Those functions which can be performed best at state level are part of the state list, whereas those functions which can be effectively performed by the Centre are part of the union list whereas those functions which can be performed by both Centre and state are in concurrent list.

Parliament can enact laws for the entire country or any part of the territory of India. Similarly, state government can enact laws for the entire state or any part of the state.

- Article 254, is invoked in case of a conflict between union law and state law. Union law shall prevail over the state law, irrespective of whether Union Law is enacted earlier or later.
- Article 248, says that residuary powers are with only the union government.
- Article 249, under this, parliament has power to legislate on items in the State List under resolution of Rajya Sabha.
- Under Article 250, during emergency parliament has power to legislate over state list.
- Under Article 252, parliament can legislate with the consent of the two or more States.
- Article 253 is invoked to give effect to international territories and agreements.
- Under Article 356, parliament has power to legislate on items in the state list during President's rule.
- Under Article 201, Bill reserved for consideration of the President. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom: Provided that, where the Bill is not a Money Bill,

In case of administrative relations:

- Under Article 73 & 62, both the union and state government have the executive power to implement laws made by legislature.
- Under Article 257(1), the executive power of the state shall be exercised in such a manner that it will not impede the executive power of the Union Government. The Union Government has the power to give direction to State Governments in this regard if the state government fails to follow the orders of the Union Government. The Union Government can take action against State Governments under Article 356.
- Article 263, provides for an interstate council, whose basic objective is to ensure coordination between union and states.

- Under Article 262, the Union Government can set up an interstate river water tribunal to resolve disputes between State Governments regarding sharing of river waters.

Challenges to Centre-state relations (brief):

- Role of governor and discretionary powers of the governor (Article 356 and Article 352).
- Absolute veto power of President.
- All India services.
- Tendency of Union Government to transfer subjects from state list to union and concurrent list.
- Tendency of Union Government to make legislations on subjects in state list.

Challenges to centre-state financial relations (pointers for exam):

- Devolution of tax revenues between union and states and between state governments.
- Grants in Aid given to the State Governments.
- Finance commission, its composition and Term-of-Reference and recommendation.
- Role of NITI Aayog
- Surcharge and cess imposed by Central Government.
- Implementation of GST.
- Loan raising capacities of union and state government (Article 292 &293).
- Sharing of profits from central PSU's located in states.
- Sharing of disinvestment proceeds.
- Royalty paid by the Central Government for the use of mineral resources of the state.
- Sharing of revenues from auctioning of natural resources like spectrum coal and others.
- FRBM legislation.
- Allocation of revenues to local self-government.
- Disaster relief.
- Special category status demanded by the some states.
- Writing off loans of State Governments by Centre.
- Centrally Sponsored Schemes is also a major contention between Centre and states.

Dynamics of Centre-State Relations:

Phase I: From 1947 to 1967, Unitary Form of Government:

For all practical purposes, India had a unitary form of government during this period. Both the Centre and the states were ruled by a single political party. Chief Ministers

and Governors were appointed by Nehru, who was the most powerful leader in the country.

Members of the Planning Commission were appointed by the Central Government, headed by PM. It had the power to formulate plans for the entire country. State Governments in general have accepted the superiority of the Planning Commission. It also enjoyed a huge amount of credibility among state governments.

Article 356 was never misused as Centre and states were ruled by the same political party except in 1959 when communist government in Kerala was dismissed using Article 356 for its failure to maintain Law & Order.

Phase II: From 1967 to 1990, confrontational federalism

During this phase, there was continuous confrontation between the central and state governments regarding their respective domains and rights. This period witnessed a strong Centre continuously rejecting the demands of States for more power and participation in governance.

Governor:

The Constitutional assembly discussed the position of Governor in a Federal form of government. During the British times, the governor was the real executive enjoying absolute powers even though the provincial governments had come to power.

With the country opting for a federal arrangement, the Council of Ministers headed by Chief Ministers at the state level was recognized as the real executive of the state. The question is whether we should continue with the office of governor or not. Ultimately it was decided to continue with the office for securing unity and integrity of the nation. Governor is expected to act as the representative of the Union Government at State Governments level, whose primary objective is to ensure constitutional governance at the state level.

As far as the election of governor is concerned, it was decided that the governor would be nominated by the Central Government to avoid conflict between the two constitutional heads, Governor and Chief Minister.

As far as the term of governor is concerned, it was decided that he would continue in office for the period for 5 years or during the pleasure of the President. He can be removed at any point of time before expiry of his term.

Que. —The gubernatorial position of the Governor is comfortably placed in the fuzzy area between “Withdrawal of pleasure of the President” and “Compelling reasons for removal”. —Discuss with some recent examples. (2014) (20M)

Powers of Governor:

It is said that the governor of a state enjoys more powers than the President of India. Article 163(2) gives wide discretionary powers to the governor of the state in terms of acting against the Council of Minister's advice.

Other discretionary powers of governor include:

- Power to appointment Chief Ministers & Council of Ministers, and power to remove them.
- Under Article 356, he can recommend to the President for imposition of President's rule in the state, if the constitutional machinery fails in the state.
- Governor also has to send regular reports to the Central Government regarding the situation prevailing in the state. He need not consult the State Governments while sending these reports.
- If a bill passed by the state assembly, Governor has the power to reject it if it is not a money bill, it can be returned by governor for reconsideration and the assembly passes the same bill with or without modifications the governor shall give his approval. The governor can also use pocket veto, and can keep the bill with himself for any length of time. Governor can also reserve the bill for Presidential assent under Articles 200 and 201.
- Governors also have power to appoint chancellors to state universities.
- They also have power to appoint members to Lokayukta, state information Commission, and other statutory bodies.

Que. —In very recent times, the role of the State Governor is found to be more of diplomatic than administrative nature.|| Comment on the statement with suitable examples. (2015) (20M)

Centre and State Confrontations:

Late 1960's and early 1970's witnessed drastic misuse of Article 356 by the central government for politically partisan purposes. In Rajasthan, the Governor did not invite the opposition parties to form the government even though they had majority on the floor of the House.

IN 1971, elections to West Bengal state assembly CPM emerged as the single largest party and with the support of other left parties, it got majority in the Assembly. Instead of inviting CPM to form the government, the Governor invited a political party with less than 10% of seats in Assembly to form the Government. It was given one month time to prove majority on the floor of the House. After it failed to prove majority, the Governor recommended for imposition of Article 356 and dissolution of State assembly. In 1977, Janata party recommended removal of 9 state governments ruled by Congress party using article 356. In 1980, Congress party removed the same 9 state governments ruled by Janata party using Article 356. In 1984, in Andhra Pradesh the Governor removed N T Rama Rao as chief minister and sworn in N

Bhaskar Rao as CM even though he did not enjoy majority on the floor of the House. Finally, the President had to intervene and remove the Governor and restore the Government of N T Rama RAo.

KARNATAKA:

S R Bommai was Chief Minister of Karnataka. The State Governor dismissed him using Article 356. Janata party approached the Supreme Court demanding Justice.

Sarkaria commission report:

Article 356 has been misused, for political purposes. In 1983 the union government appointed Justice Sarkaria as head of a commission to give recommendations regarding union state relations popularly known as Sarkaria Commission. In 1988, Sarkaria Commission on Centre State Relations came out with seven reports to improve union state relations.

By the end of the 3rd Five Year Plan, Planning Commission's failure was evident and whenever oppositions came to power in the other states, it was found that congress ruled states were given more allocations than other party ruled states.

Que. —In the coalition era with an elusive majority of a single party in the State Legislature, the role of the Governor becomes even more challenging." Discuss. (2018) (20M)

Que. Is there a need to dispense with the office of the Governor? Examine the context of coalition governments. (2013)(10M)

Phase III: From 1990 till now, co-operative federalism:

Emergence of coalition government at the central level:

Union-State relations have changed drastically since 1990's with the coming up of coalition governments at the central level. These coalition governments were formed on the basis of crucial support provided by regional political parties. The balance of power had shifted in favour of the State Governments. No longer can the Central Government use Article 356 in an indiscriminate manner. Regional political parties' were part of the coalition.

Regional Political Parties had for the first time become part of government at central level. Until then, their perspective was restricted to problems faced by the state. Only when they tasted power at the central level for the first time, did they realize the importance of the office of governor and Article 356. They stopped making these unreasonable demands.

In 1991, the country had opted for LPG to overcome the financial crisis. Good Governance demanded uniform policies between all federal units. The country can

attract foreign investment only when the union and state government follow similar economic policy. It had forced them to come together resulting in collaborative federalism. This period also witnessed judicial activism as the Supreme Court through successive judgements prevented misuse of Article 356. Presidential activism was on the rise as successive Presidents from Venkata Raman, have used their discretionary powers in a proactive manner to prevent misuses of Article 356.

Que. Article 356 acts, —very much like the proverbial bolt from the blue.... Without giving an opportunity or notices to the State Government to correct its alleged shortcoming|. This phenomenon not only undermines the autonomy of the State Government, but also demeans the statue of the President of India. Critically analyze. (2019) (20M)

Implementation of the 73rd Constitutional Amendment Act created a third tier in our federalism. Till then, it was only about union state relations from then onwards it was expanded to include Local Governments. State Governments were only demanding more powers from the centre. Now they also had the additional responsibility of transferring powers to Local Self Governments.

Media and civil society activism- with the spread of electronic media and social media along with NGOs it had become difficult for the Union Government to misuse emergency provisions. They were forced to proceed in a more democratic manner.

Supreme Court Judgement on Centre-State Relations:

S R BOMMAI CASE(1994)

The Supreme Court ruled that imposition of Article 356 can be reviewed by the judiciary for its constitutional validity. The Supreme Court believes that Article 356 has been misused for political purposes. It has the power to revoke imposition of Article 356 and restore the State Legislative Assembly.

As part of due process of law, the Supreme Court can look into intentions behind imposition of Article 356. The Governor must explore all opportunities to form government within the existing State Legislative Assembly, and dissolution of assembly should be only as a last resort. Once Article 356 is imposed, the assembly must be kept in suspended animation to give political parties time to form a new government in the existing assembly.

The Governor must ask Chief Ministers to prove majority on the Floor of House. Raj bhavan (governor residence) should not be the place to decide the majority of the government.

The SC laid down certain guidelines so as to prevent the misuse of Article 356 of the constitution.

1. The majority enjoyed by the Council of Ministers shall be tested on the floor of the House.
2. Centre should give a warning to the state and a time period of one week to reply.
3. The court cannot question the advice tendered by the CoMs to the President but it can question the material behind the satisfaction of the President. Hence, Judicial Review will involve three questions only:
 - a. Is there any material behind the proclamation
 - b. Is the material relevant.
4. Was there any malafide use of power.
5. If there is improper use of Article 356 then the court will provide remedy.
6. Under Article 356(3) it is the limitation on the powers of the President. Hence, the president shall not take any irreversible action until the proclamation is approved by the Parliament i.e. he shall not dissolve the assembly.
7. Article 356 is justified only when there is a breakdown of constitutional machinery and not administrative machinery

Article 356 shall be used sparingly by the center, otherwise it is likely to destroy the constitutional structure between the center and the states. Even Bhimrao Ambedkar envisaged it to remain a 'dead letter' in the constitution.

Based on the report of the Sarkaria Commission on Centre-state Relations(1988), the Supreme Court in Bommai case (1994) enlisted the situations where the exercise of power under Article 356 could be proper or improper.

Imposition of President's Rule in a state would be proper in the following situations:

- Where after general elections to the assembly, no party secures a majority, that is, Hung Assembly.
- Where the party having a majority in the assembly declines to form a ministry and the governor cannot find a coalition ministry commanding a majority in the assembly.
- Where a ministry resigns after its defeat in the assembly and no other party is willing or able to form a ministry commanding a majority in the assembly.
- Where a constitutional direction of the Central government is disregarded by the state government.
- Internal subversion where, for example, a government is deliberately acting against the Constitution and the law or is fomenting a violent revolt.
- Physical breakdown where the government willfully refuses to discharge its constitutional obligations endangering the security of the state.

The imposition of President's Rule in a state would be improper under the following situations:

- Where a ministry resigns or is dismissed on losing majority support in the assembly and the governor recommends imposition of President's Rule without probing the possibility of forming an alternative ministry.
- Where the governor makes his own assessment of the support of a ministry in the assembly and recommends imposition of President's Rule without allowing the ministry to prove its majority on the floor of the Assembly.

- Where the ruling party enjoying majority support in the assembly has suffered a massive defeat in the general elections to the Lok Sabha such as in 1977 and 1980.
- Internal disturbances not amounting to internal subversion or physical breakdown.
- Maladministration in the state or allegations of corruption against the ministry or stringent financial exigencies of the state.
- Where the state government is not given prior warning to rectify itself except in case of extreme urgency leading to disastrous consequences.
- Where the power is used to sort out intra-party problems of the ruling party, or for a purpose extraneous or irrelevant to the one for which it has been conferred by the Constitution.

Que. Various commissions have reiterated the crucial role of the Governor in Indian system of governance, but the successive governments have not heeded to make the Governor's office apolitical. Examine with examples. (2019) (10M)

Recommendations of Sarkaria Commission on appointment of Governor:

- A person from the same state must not be appointed as Governor of the state.
- Any person from an eminent walk of life should be appointed as governor.
- A political person should not be appointed as governor.
- Those who are appointed as governor should not have participated in politics in recent times.
- Once their term is over, they should not again become part of active politics.
- Assembly dissolution should take place only after both the houses of parliament give approval for imposition of Article 356.

Supreme Court judgement on appointment and removal of governor:

In 2004, UPA came to power. It had asked all governors appointed by the previous BJP government to resign. They were dismissed by the Central Government. They had approached the Supreme Court for their illegal removal from office, on which the Supreme Court came out with judgement in 2010 in B P Singhal Vs Union of India case..

- The Supreme Court had ruled that politicization of the office of Governor had taken place due to the method of appointment and removal of Governor. It repeated its judgment of SR Bommai case & Bihar assembly dissolution case, regarding appointment of governor.
- The Supreme Court felt that governors could not act independently, as they do not have any security of tenure. They stay in power till they enjoy the pleasure and confidence of the President. They must have security of tenure. They also do not have any post-retirement benefits.
- The Supreme Court ruled that governors are not representative of ruling political parties at center. They are custodians of the constitution. They cannot be

removed in an arbitrary manner. The Central Government must submit a written

report to the President explaining the reasons for removal of the governor. The President must satisfy himself with the content of the report before taking a decision, and the report need not be made public.

- The Supreme Court also suggested to the Central Government to provide post-retirement benefits to the governor in the form of pension. This was implemented by the Central Government.
- Punchhi Commission on Centre State Relations recommended that the Governor should be removed from the office same like a judge of the Supreme Court.

Recommendations of Sarkaria Commission and Punchhi Commission on Centre State Relations:

- If the situation of a hung assembly arises, the Governor must invite the single largest party to form the government. If no single party rejects, the Governor must invite a pre-poll alliance to form the government. In case of absence of pre-poll alliance, the Governor can invite a post-poll alliance which has majority on floor of the house to form the govt. If a post poll alliance also lacks majority, then the Governor should invite a coalition government with outside support to form a government.
- In case of withdrawal of support in a coalition, the Governor should ask the Chief Minister to prove the majority of government on the Floor of House. He should give reasonable time to Chief Ministers to prove their majority.
- Governors should recommend for dissolution of state assembly only when it's impossible to form a government within the existing assembly.

Que. Briefly discuss the main recommendations of the Punchhi Commission (2010) on Centre-State relations for transforming Indian Federal System (2015) (20M)

In case of passing of bills, Governor should follow the procedure mentioned below:

- If Chief Ministers have a majority on the Floor of House, the Governor should automatically give his approval for bills passed by the state assembly. He should not exercise any of the veto power under normal circumstances.
- If the Governor has any reservations regarding contents of the bill, he can send back the bill to the assembly for reconsideration explaining the reason. If assembly passes the same bill with or without modification, he shall give his approval.
- If the bill has any provision that conflicts union laws, the Governor can send the bill to the President for his approval. Once the President receives the bill, Punchhi Commission recommends that the President must give his opinion on the bill within two months. During this time the President can seek clarification from the state government.
- In the case of All India Services, both Sarkaria and Punchhi Commission on Centre State Relations have supported their constitution. Both Commissions on Centre State Relations praised the role played by AIS in ensuring unity and integrity of the

nation. These services are indispensable. They rejected the demand for discontinuation

of AIS; on the other hand they supported the expansion of more AIS in the form of All India Health Service, All India Education Service and All India Judicial Services.

- Regarding the questions related to transfer of subjects from State List to Union List & Concurrent List; both these Commissions have asked the union government to resist the temptation of transferring them.

Inter State river water disputes

In recent times, the country witnessed many conflict between the states regarding sharing of river waters. Regular conflicts are witnessed between Kanrataka and Tamil Nadu, Andhra Pradesh and Telanagana, between Tamil Nadu and Kerala and between Maharashtra and other states.

Many solutions were offered to solve this problem. They include,

1. Interlinking of river waters. But it is highly unaffordable, at least 15 lakh crore would be required. Physical geography is highly diverse and it is almost impossible to link rivers from North with that of rivers in the south.
2. Among all BRICS countries, Indian farmers have the highest per capita water consumption.
3. There must be a radical shift in cropping patterns from food and commercial crops to dryland farming.
4. At present, MSP is mainly given only to rice and wheat, even though it is announced for 23 crops. The government must encourage farmers to shift to dryland farming by providing MSP to these crops.
5. Government must end all subsidies related to water and electricity. Government must tax water and electricity to reduce wastage of these precious resources.
6. All state governments should focus on not constructing multipurpose dams which can cause huge damage to ecological equilibrium. Instead, focus should be on constructing canals, small ponds which can link these dams to agricultural fields in villages. These canals, lakes and ponds can serve different purposes in case of excess rainfall water can be stored in them.
7. Government must encourage farmers to take up other professions rather than just depending on agriculture. Agro processing industries and other secondary sources of income must be encouraged in rural areas to reduce dependence of farmers on water.
8. Government must encourage water harvesting.
9. There should be a single river water tribunal for all rivers with a permanent secretariat.
10. Water should be shifted from State List to Concurrent List, depending on states acceptance to ensure better coordination.

Demand for smaller states

- Since independence, reorganization of states has taken place on linguistic basis. Andhra Pradesh was the 1st state to be created on the basis of language.
- In the 1950s, 1st state reorganization Commission on Centre State Relations recommended creation of new states based on language.
- Later in the 1960s, Punjab was divided into Punjab and Haryana.
- In 2000, the NDA government had taken the decision to divide Uttar Pradesh, Madhya Pradesh and Bihar and created Uttarakhand, Chhattisgarh and Jharkhand.
- In 2014, Andhra Pradesh was divided into Andhra Pradesh and Telangana.
- At present, there are demands for new states in Uttar Pradesh, Maharashtra, Bengal, Bihar, Tamil Nadu and Karnataka.
- It is believed that creation of new states would fulfill demands of people regarding self-governance.

Supporters of small state claim that it would facilitate governance:

- America with 25 crore population has 50 states whereas India with 130 crore can at least have minimum 50 states.
- Small states also help in improving governance at local level.
- If demands for new states are not fulfilled, there is every possibility of regionalism, turning itself into a secessionist & terrorist movement like in North East & Jammu & Kashmir. On the other hand, if these demands are fulfilled, it can strengthen the unity and integrity of the nation.
- Some states like UP and MH have become so big that it is almost impossible to govern them taking into consideration geographical diversity and a very large population. Some of the concerns of these states are continuously neglected such as being very far from the State capital or absence of natural resources and also due to historical factors.

Those arguing against creation of small states

- A small state does not automatically mean better governance. The States of Jharkhand and Chhattisgarh have not shown much development even after almost 2 decades of creation.
- Creation of new states can result in more problems in interstate cooperation, and increase boundary disputes.
- Sharing of river waters, which is already a major problem, can get complicated further.
- sharing of finances is also a major handle in ensuring interstate coordination. Already many states are demanding special category status to overcome economic backwardness.
- Creation of new states does not automatically mean the end of regionalism. As long as backwardness is a major issue along with a sense of orientation, regionalism will always be a major problem.

- Law & Order can become a major issue with small states.

Small state means more political instability. States like Uttarakhand, Jharkhand, Goa and other NE states have witnessed a lot of political instability. It has also resulted in massive political corruption.

Solution

- There is a strong case for dividing bigger states like UP & MH as they have become unmanageable.
- State reorganization should take place by taking into consideration geographical, political, economics, administrative and cultural factors.
- It has been proved that language cannot be a unity factor for people of a particular region. The experiment with linguistic reorganization of states has not been successful.
- Economic viability should be the most important criteria along with administration, for creating a new state.
- Creation of new states may be necessary but not sufficient to ensure overall development. What is needed is decentralization of power to the lowest level, effective implementation of 73rd and 74th Constitutional Amendment Act. Opportunities must be given to the people at the lowest level to participate in government and to develop themselves. It has been suggested that it can be created along with development councils for backward regions of a state.

With the rationalisation of the party system and some visible change in the attitudes and behaviour patterns of central and state functionaries, the framework of political power in India has now become more federalized than ever before. State governments now are more autonomous and less insecure from central intervention.

The planning process has also become less centralized both on account of political federalization and economic liberalization and the resultant deregulation of the private sector and also disinvestment in the public sector. However, monetary and fiscal processes still continue to be highly centralized. The State governments continue to be restive about Centre's fiscal dominance. It is in these areas that India could do with a greater openness to the forces of federalization and economic liberalization.

Financial relations:

Article 280, has provisions for the Finance Commission. It states that the Central Government must set up a Finance Commission after an interval of 5 years to decide devolution of revenues. Under Article 280, Finance Commission is expected to give recommendation to the government regarding:

- Vertical devolution of revenues between union & states.
- Horizontal devolution of revenues between the states.
- Grants aid to be given to the states.
- Any other matter referred to the Finance Commission by the President.

Finance Commission members are appointed by the Central Government in a unilateral manner, without consulting State Governments. It has been recommended that states should also be given opportunities to appoint members of the Finance Commission in the true spirit of co-operative federalization.

Que. —The Finance Commission in India performs the job of statics aggregation.|| Comment (2013)(12M)

Devolution of tax revenues:

According to the constitution, State Governments are expected to perform around 70% of functions whereas they have only 30% of revenue allocated to them. On the other hand, Centre performs only 30% of functions but has 70% revenue. In order to revenue this a 14th Finance Commission recommended that 42% of overall tax revenues should be given to the states. It was more than 10% over the recommendations of 13th Finance Commission, and states are demanding that at least 50% of overall tax revenue be given.

Horizontal devolution:

Horizontal devolution of tax revenues between states is mostly decided based on and efficiency, performance of state government in terms of reducing poverty levels, improving tax revenues, reducing revenue deficits and so on. Equity in terms of backwardness, poverty, unemployment, population and so on is considered.

On the basis of equity, states like UP and Bihar have the maximum amount of revenue distributed to them overall. In Tax revenues performing states have complained that they have been penalized for their performance by successive Finance Commissions. The 13th Finance Commission addressed the concerns of performing states by including efficiency as one of the criteria for devolution of tax revenue. 17.5% weightage to fiscal performance of a state but 14th Finance Commission removed this criteria and came out with new criteria for devolution of tax revenue.

- Population 1971(17.5%)-2001(10%)
- Area of the state.
- Forest cover-7.5%
- Income distance -50%

15th Finance Commission

Terms of Reference of 15th Finance Commission were unilaterally decided by the Central Government without state consultation.

The Finance Commission is a constitutional body formed by the President of India to give suggestions on centre-state financial relations. The 15th Finance Commission (Chair: Mr. N. K. Singh) was required to submit two reports. The first report, consisting of recommendations for the financial year 2020-21, was tabled in Parliament in February 2020. The final report with recommendations for the 2021-26

period was tabled in Parliament on February 1, 2021. Key recommendations in the report for 2021-26 include:

Share of states in central taxes

The share of states in the central taxes for the 2021-26 period is recommended to be 41%, same as that for 2020-21. This is less than the 42% share recommended by the 14th Finance Commission for 2015-20 period. The adjustment of 1% is to provide for the newly formed union territories of Jammu and Kashmir, and Ladakh from the resources of the centre.

Criteria for devolution

Table 1 below shows the criteria used by the Commission to determine each state's share in central taxes, and the weight assigned to each criterion. The criteria for distribution of central taxes among states for 2021-26 period is same as that for 2020-21. However, the reference period for computing income distance and tax efforts are different (2015-18 for 2020-21 and 2016-19 for 2021-26), hence, the individual share of states may still change.

1 : Criteria for devolution

Criteria	14 th FC 2015- 20	15 th FC 2020- 21	15 th FC 2021- 26
Income Distance	50.0	45.0	45.0
Area	15.0	15.0	15.0
Population (1971)	17.5	-	-
Population (2011) [#]	10.0	15.0	15.0
Demographic Performance	-	12.5	12.5
Forest Cover	7.5	-	-
Forest and Ecology	-	10.0	10.0

Tax and fiscal efforts*	-	2.5	2.5
Total	100	100	100

Note: #14th FC used the term —demographic change‖ which was defined as Population in 2011. *The report for 2020-21 used the term —tax effort‖, the definition of the criterion is same.

Sources: Reports of the 14th and 15th Finance Commissions;

- **Income distance:** Income distance is the distance of a state’s income from the state with the highest income. Income of a state has been computed as average per capita GSDP during the three-year period between 2016-17 and 2018-19. A state with lower per capita income will have a higher share to maintain equity among states.
- **Demographic performance:** The Terms of Reference of the Commission required it to use the population data of 2011 while making recommendations. Accordingly, the Commission used 2011 population data for its recommendations. The demographic performance criterion has been used to reward efforts made by states in controlling their populationStates with a lower fertility ratio will be scored higher on this criterion.
- **Forest and ecology:** This criterion has been arrived at by calculating the share of the dense forest of each state in the total dense forest of all the states.
- **Tax and fiscal efforts:** This criterion has been used to reward states with higher tax collection efficiency. It is measured as the ratio of the average per capita own tax revenue and the average per capita state GDP during the three years between 2016-17 and 2018-19.

Grants

Over the 2021-26 period, the following grants will be provided from the centre’s resources (see Table 3 and 4 in the annexure for more details):

- **Revenue deficit grants:** 17 states will receive grants worth Rs 2.9 lakh crore to eliminate revenue deficit.
- **Sector-specific grants:** Sector-specific grants of Rs 1.3 lakh crore will be given to states for eight sectors: (i) health, (ii) school education, (iii) higher education, (iv) implementation of agricultural reforms, (v) maintenance of PMGSY roads, (vi) judiciary, (vii) statistics, and (viii) aspirational districts and blocks. A portion of these grants will be performance-linked.
- **State-specific grants:** The Commission recommended state-specific grants of Rs 49,599 crore. These will be given in the areas of: (i) social needs, (ii) administrative governance and infrastructure, (iii) water and sanitation, (iv) preservation of culture and historical monuments, (v) high-cost physical infrastructure, and (vi) tourism. The Commission recommended a high-level

committee at state-level to review and monitor utilisation of state-specific and sector-specific grants.

- **Grants to local bodies:** The total grants to local bodies will be Rs 4.36 lakh crore (a portion of grants to be performance-linked) including: (i) Rs 2.4 lakh crore for rural local bodies, (ii) Rs 1.2 lakh crore for urban local bodies, and (iii) Rs 70,051 crore for health grants through local governments. The grants to local bodies will be made available to all three tiers of Panchayat- village, block, and district. The health grants will be provided for: (i) conversion of rural sub-centres and primary healthcare centres (PHCs) to health and wellness centres (HWCs), (ii) support for diagnostic infrastructure for primary healthcare activities, and (iii) support for urban HWCs, sub-centres, PHCs, and public health units at the block level.
- Grants to local bodies (other than health grants) will be distributed among states based on population and area, with 90% and 10% weightage, respectively. The Commission has prescribed certain conditions for availing these grants (except health grants). The entry-level criteria include: (i) publishing provisional and audited accounts in the public domain and (ii) fixation of minimum floor rates for property taxes by states and improvement in the collection of property taxes (an additional requirement after 2021-22 for urban bodies). No grants will be released to local bodies of a state after March 2024 if the state does not constitute State Finance Commission and act upon its recommendations by then.
- **Disaster risk management:** The Commission recommended retaining the existing cost-sharing patterns between the centre and states for disaster management funds. The cost-sharing pattern between centre and states is: (i) 90:10 for north-eastern and Himalayan states, and (ii) 75:25 for all other states. State disaster management funds will have a corpus of Rs 1.6 lakh crore (centre's share is Rs 1.2 lakh crore).

Grants in aid:

Grants in Aid are given to State Governments to finance their revenue deficits so that they can spend more money on capital expenditure. Performing states have complained that they have been penalized for their performance. The Finance Commission has argued that revenue deficits of State Governments will be decided by the Finance Commission independently by taking into considerations the revenue expenditure and revenue income of the state.

Que. Critically examines the criteria adopted by the 15th Finance Commission for allocation of resources to States. What have been the major issues of contention since the 10th Finance Commission? (2018) (20M)

Goods and service tax (GST):

Due to the high tax regime, Indian goods were highly uncompetitive. During 1970's, Customs duty was as high as 300 to 400%. India's share in global trade was meagre. In 1991, economic reforms were introduced to make Indian products competitive in the global markets. As part of these reforms, tax reforms were implemented by the Government to rationalise the taxation regimes and also to expand the tax base. Customs and excise duties were brought down to globally acceptable levels of around 10% and in order to increase tax revenues, service tax was also introduced. Valued Added Tax (VAT) was also introduced to evade tax evasion and expand tax base.

Finally all these indirect tax reforms culminated in the implementation of Goods and Service Tax (GST). After approximately 14 years of varying discussions & debates, GST was implemented in 2017. Fearing loss of revenue from sales tax, State Governments demanded compensation for losses incurred. When GST was implemented, neither Central Government nor State Governments were ready for the loss.

In 2017, a constitutional amendment (101) was passed by union and state governments, to implement GST. Implementation of GST, as rightly pointed out by the Economic Survey, is an example of cooperative federalism. State Governments initially objected to the implementation of GST as they would be losing their major source of revenue, which is sales tax. They demanded that the Union government must fully compensate for any loss of revenue with implementation of GST.

Initially, the Central Government agreed to compensate fairly for any loss of revenue but State Governments demanded full compensation. After prolonged negotiations, finally the Union government agreed to fully compensate State Governments for a period of five years. State Governments were able to protect their rights and the Central Government was also willing to be flexible to implement GST.

All the decisions related to imposition of new taxes and changes in existing tax rates would be taken by the GST Council consisting of state finance ministers and union cabinet ministers, normally based on consensus and unanimity which again is an example of co-operative federalism.

But implementation of GST also faced many challenges:

- The objective of one country one tax has not been realized because the present GST has 6 different slabs with the highest being 28%. No other country which implemented GST has so many slabs. It complicated the entire tax regime. For GST to be effective, India must move towards maximum 2 or 3 tax rates.
- GST had also become problematic. Many items were kept out of GST like petroleum products, liquor, electricity charges and registration fee. The combined tax imposed by central & states together on petroleum products is more than 65% over the cost of production. It made GST totally ineffective.

- Liquor and tobacco are not part of GST taxes, and these products are highly taxed by states. In western countries, these products were also part of GST. Ultimately these products should also be included in GST.
- Real estate and registration charges are not included in GST. Different State Governments levy different taxes defeating the vary purposes of GST.
- Electricity charges are also not included in GST. This huge amount of variation in electricity charges in different state governments has come in the way of attracting foreign investment.

But implementation of GST faced many issues in the last few years.

1. Due to decline in GDP, overall tax revenues of the Government had also come down drastically forcing the Central government to delay the compensation to be paid to the States. It was agreed that the State Governments will be paid for any loss of revenues for a period of 5 years. It was calculated that nominal increase in tax revenues per year would be 14%. (8% GDP growth and 6% inflation). But since 2017 onwards, the country went into recession due to demonetization and implementation of GST. Finally the Union Government was forced to pay compensation to the States.
2. Corona crisis has also led to conflict between the Union and State governments regarding compensation to be paid to the Sates. Union government had asked the State Government to take loans to compensate for the loss of revenue. Union Government also differentiated between loss of revenues under normal circumstances and loss due to corona disaster. Attorney General had argued in the meeting that Corona is an act of God and Union Government need not pay any compensation to the States. Finally a solution was found wherein Reserve Bank of India had provided loans to the Central Government to compensate the State Governments for loss of revenues. The Central government in turn will impose cess on products repay the loan the rate of interest. This loan will not become part of the fiscal deficit of the Government.
3. Decision making in the GST council also had come in for criticism. It is decided that the decision by GST council should be unanimous in the true spirit of cooperative federalism. But in recent times, there were conflicts between the opposition ruled states and the Union Government. Under the existing rules, in case of any conflict decisions should be taken with 75% majority. In GST council, all states combined together have 66% of votes with the Union Government having the rest. It means that even if all States come together, it is not possible for them to get their decision implemented as the Union Government can veto their decisions. In true spirit of Cooperative federalism, it is suggested that States should be given more weightage in the GST council decisions.

Que. Even if all the States combine together, they cannot have their way in the decision-making in the GST Council, unless the Union agrees to it. Analyse this in the perspective of federalism in India. (2020) (10M)

Que. —Implementation of Goods and Services Tax (GST) has led to a paradigm shift in the Centre-State relations, both financially and politically.|| Analyse with examples (2017) (20M)

Que. "Introduction of G.S.T. (Goods and Services Tax) no doubt has economic benefits, but tends to compromise the States' inherent right to impose taxes." In this context, comment on the changing nature of Union-State financial relations. (2016) (20M)

Sharing of dividends from central PSEs to states:

State governments are demanding that they should be paid 50% of the dividends of central Public Sector Enterprises. At present, the central government decides the share of State Governments. The Central Government is in favour of sharing 50% dividends, provided State Governments are willing to share the losses also.

Disinvestment proceeds:

Every year the central government is raising significant amounts of money through disinvestment in Public Sector Enterprises. State Governments are demanding that Centre should share these proceeds with the State Governments. This demand was rejected by the Central Government. It has argued that under the Finance Commission recommendation the Central Government should share only revenues.

Punchhi Commission on Centre State Relations has recommended that the Central Government can share the disinvestment proceeds with the states in true spirit of co-operative federalism

Sharing of revenues from sale of spectrum, coal and other natural resources:

- After liberalization, the Central Government is earning huge amounts of money through sale of these natural resources. State Governments are demanding that they should be given share in this revenue also.
- The Central Government rejected the demand of State Governments as it is not part of the Finance Commission recommendation.
- Recently, the Central Government has agreed to share the revenues from auctioning of coal mines. Punchhi Commission on Centre State Relations recommended that the Central Government should share these revenues with the State Governments.

Imposition of Cess and Surcharge by Central Government

In the last seven years, central Government has earned around 21 lakh crores of rupees through cess and surcharge on petroleum products. This goes against the spirit of cooperative federalism wherein the Union Government is expected to share all its tax revenues.

Sarkaria Commission on Centre State Relations, Punchhi Commission on Centre State Relations and 2nd Administrative Reforms Commission have strongly recommended that the imposition of surcharge/cess should be immediately stopped by the Central Government as it is against the spirit of federal constitution.

Special category status demanded by various state governments:

The 5th Finance Commission has recommended that special financial assistance should be given to those State Governments which are economically backward, based on the particular conditions prevailing in those states. On the basis of recommendations given by the Finance Commission, the union government introduced Special Category Status to provide additional financial assistance. Planning Commission was expected to recommend SCS which was to be ratified by the National Development Council.

Initially, 7 North-Eastern states were given Special Category Status. Later, it was extended to other states like HP, J&K Sikkim & Uttarakhand. At present, these 11 states enjoy Special Category Status. The Planning Commission had come out with criteria regarding a state to be recognised as Special Category Status.

- Those states where tribal population is very high in terms of total population of states.
- Hilly states and those with difficult terrain.
- Those states which share an international border.
- Those states which are economically unavailable, which have very high fiscal and revenue deficits.

Special Category Status has become a controversial issue in recent times with many states demanding Special Category Status.

- For normal states, financing of centrally sponsored schemes would be 70:30.
- For Special Category Status states, it is 90:10. Special Category Status states are given soft loans by the Central Government.
- They are given loans with a very nominal rate of interest in comparison to other state governments.
- The gestation period is also very long in comparison to other states. In order to attract investments, Special Category Status states are given tax incentives.

In 2014, as part of Andhra Pradesh state Reorganization Bill, the then Prime Minister promised to provide AP with Special Category Status for a period of 5 years. It has led

to demands from other states for Special Category Status like Odisha, West Bengal, Bihar, etc. have also demanded Special Category Status.

The Central Government refused the demand of AP State government as 14th Finance Commission removed Special Category Status. The 14th Finance Commission recommended that since state governments are given 42% of overall tax revenues, it is not necessary to provide Special Category Status to them in 2017. The Central Government extended Special Category Status to the existing 11 states for a period of 10 years.

FRBM legislation:

In order to control rising fiscal and revenue deficit, the Central Government introduced FRBM legislation on the floor of the house. Under Article 292, parliament can impose restrictions on borrowings of the Central Government. Similarly, under Article 293, the Central Government can impose restrictions on borrowings of State Governments.

Even though it was passed, it was not implemented. Revenue deficit is very high; fiscal deficit targets remained unachieved. At the central level the target could not be achieved due to various factors:

- As part of political populism after 2005, many flagship schemes were introduced by the Central Government including food security act, Right to Work in MGNREGA, Right to Health in NRHM, Right to Education in Sarva Shiksha Abhiyan. The Central Government had spent huge amounts of money which resulted in an increase in fiscal and revenue deficits.
- After the 2008 global financial crisis, as part of the revival of the economic system the Central Government, had come out with stimulus packages. It had reduced the tax rates and increased spending on welfare schemes to revive the economy, resulting in increased deficits. In recent times, due to economic stagnation and also due to launching of various flagship schemes like PM KISAN and AYUSHMAN BHARAT and other schemes it has been difficult for the Central Government to ensure fiscal discipline.
- State Governments have complained that while the centre did not implement the provisions of FRBM, why they were forced to implement it strictly. State Governments cannot raise loans without the permissions of RBI, if they have outstanding debt with RBI. Whereas, the Central Government can raise any amount of loans. In the 1950s in the overall public debt, the ratio of Central Government & State Governments was 50-50%. At present, the ratio is 80-20%.

Recent developments

Even before Covid-19 hit their finances hard, state governments had faced severe revenue constraints through the second half of the last fiscal. Tax revenues of 14 states – whose budgets were reviewed by FE – grew a measly 1.9% in the first eleven

months of FY20, against 13% a year ago. To soften the blow to their balance sheets, these states applied the brakes on capital expenditure (flat growth against 20% growth a year ago), but might still have to report fiscal slippages for FY20. The combined fiscal deficit of all states was budgeted at 2.6% of GDP in FY20, up from 2.4% in FY19. However, the actual combined fiscal deficit of states in FY20 is believed to have risen from the budgeted level.

The states' revenues could suffer massively in FY21 due to lockdown and social distancing to check the spread of coronavirus. At the same time, their expenditure obligations have risen. Officials from over half a dozen states told FE that their states' own tax revenues (OTRs) in April were less than a fourth of the usual (estimated) level, with some putting the figure at even 10%. This had prompted several state chief ministers have demanded that the FRBM-mandated fiscal deficit ceiling be raised from 3% of GSDP to 5% for FY21 to enable them to borrow more funds. While petitioning the Centre for additional funds to combat the pandemic, many states have front-loaded their borrowings. Some even used more than 90% of the Q1 borrowing window, even disregarding high interest costs.

The Centre acceded to a strident demand from states that their market borrowing limit be enhanced to meet the expenditure contingencies of the Covid-19 pandemic amid a glaring revenue deficit. However, the government did a smart thing by linking a considerable part of the extra borrowing freedom to efforts towards and fulfillment of long-pending reforms, including in the key areas of ease of doing business and the power sector, where free play of market forces continues to be a political anathema. The move is also being seen a sequel to the Centre's recent informal advisories to the states, urging them to undertake labour and land reforms, that are critical to enhancing the global competitiveness of Indian industries.

Finance minister Nirmala Sitharaman raised the net borrowing limit for state governments from 3% of the gross state domestic product (GSDP) to 5% to make available an additional Rs 4.28 lakh crore to all the states combined. While 0.5 percentage point (pps) of the extra borrowing window will be available to all states unconditionally, one pps will be made available in four equal tranches with each to clearly —specified, measurable and feasible reform actions॥

The balance 0.5 pps can be accessed if milestones are 'completely achieved' in at least three out of four reform areas. While a specific scheme will be notified by the expenditure department, the reform linkage will be in four areas – universalisation of 'One Nation One Ration card', ease of doing business, power distribution and augmentation of urban local body revenues.

Sitharaman pointed out that the states together have only utilised 14% of Rs 4.8 lakh crore (75% of the FY21 net borrowing limit of Rs 6.41 lakh crore set earlier for the full year) so far this fiscal. Even though the FY21 net borrowing limit is being raised

to Rs 10.69 lakh crore, the states may not find it easy to tap market for funds given the recent spike in state development loans (SDLs).

The spike in SDLs forced some states like Andhra Pradesh not to accept bids in recent auctions while Kerala was forced to borrow at a high rate of 8.9%.

To create competition among states on the ease of doing business, the endeavour will likely be to make the processes simpler and transparent, reduce the timelines for various regulatory approvals and eliminate physical interface between the department and the business with the ultimate aim of increasing investments in the states to boost exports. While there may not be any direct reference to land and labour reforms, the Centre could also push states in this regard. The 15th Finance Commission chairman has on several occasions sought reforms in important factors of production such as land and labour to boost private investments.

After failing to get the backing of the opposition parties, who have objected to proposed removal of the mandatory social impact assessment and consent clauses from the land acquisition Act, the first Narendra Modi government had kept its plan on hold in 2015. Since the land is on the concurrent list, where both the Centre and states have jurisdictions, there is a change in strategy to let the states bring about changes which will later be approved by the Centre.

The states will also likely play a key role in labour reforms as the Centre is amalgamating 44 central labour Acts into four codes. The Industrial Relations Code empowers states to offer flexibility to the investors, employing up to 300 from 100 now, to resort to layoff, retrenchment or closure without government permission. Taking the lead, the Uttar Pradesh government has decided to keep most labour laws in abeyance for the next three years, while Madhya Pradesh chief minister Shivraj Singh Chouhan said his government would seize the current opportunity to bring the much-needed reforms in the state's labour laws to lure investors, including those likely relocating from China.

—States need to get their act together doing discom reforms, ULB revenue, ration card and ease of doing business. These 4 conditions are quite open ended and would have to be defined by the Centre or else there could be ambiguity,|| CARE Ratings said.

- Punchhi Commission on Centre State Relations has recommended that the center must strictly adhere to FRBM and should allow State Governments to raise money from markets.

Foreign Aid Received:

The Central Government would convert this Aid into Aid and loan. States must pay back with interest. The Central Government argued that it can do so as State Governments get all these loans and Aid due to the sovereign backing of the union

government. In case of default by State Governments, the Central Government has to pay back. The Aid is converted to loan by the Central Government to finance repayment of loans taken by State Governments from multilateral institutions.

Centrally Sponsored Schemes:

At present, there are more than 1200 Centrally Sponsored Schemes out of which 150 are active and around 65 of them receive significant revenues from budgets. From 1st Pay Commission to NITI Aayog, all Commissions have strongly recommended reducing the number of Centrally Sponsored Schemes to less than 10.

There Are Different Types Of Centrally Sponsored Schemes:

State Governments are strongly opposing Centrally Sponsored Scheme for various reasons:

- The transfers are conditional transfers. 70% of funding would be provided by the Central Government only when states also provide their share of 30%.
- Most of the Centrally Sponsored Schemes (CSS) have been a failure. One size fits all approaches cannot be successful in India. India has huge geographical, political, economic and cultural diversities. A scheme suitable for one state may be totally irrelevant for another state.

For example, in Assam problems are related to flood management whereas in RJ, GJ, MH, KA and Telangana it is about drought management. The money is allocated for flood management by the Central Government under the Centrally Sponsored Scheme would remain unspent in most of the states.

- Most of these Centrally Sponsored Schemes are named after leaders ruling political parties at centre. State Governments ruled by opposition parties have complained that it is the Central Government that scored political mileage when the scheme was successful even though implementation was under exclusive domain for State Governments.
- Another reason why State Governments have opposed the Centrally Sponsored Scheme is that after implementing these schemes, states are left with very little money to spend for their own welfare and development schemes. Political parties cannot win elections without the help of welfare schemes.

In spite of so many weaknesses in implementation of the Centrally Sponsored Scheme, the number of Centrally Sponsored Schemes are increasing.

- After NDA had come to power at centre in 2014, it had introduced many flagship schemes like Make in India Start up India, Smart cities and smart villages, KISAN, AYUSHMAN BHARAT, UJJWALA and many others.
- These schemes are introduced by the Central Government mostly for political reasons. In India, elections are held separately for Parliament and state Assemblies.

- When political parties are contesting elections for Parliament, they must make nationwide promises to people. These promises are transferred into the Centrally Sponsored Scheme even though they are ineffective ultimately.
- The Central Government must reduce the number of Centrally Sponsored Schemes to less than 10 so that the states have more freedom in determining policies and programs according to local conditions and problems.

Que. —The Centre-State relations have acquired new dimensions in recent times due to several political parties being in power at the Centre and the States.¹¹ (Second Administrative Reforms Commission) Do you agree? Give reasons to support your arguments (2014) (10M)

Disaster Relief:

As and when disaster strikes a state, State Governments demand the Central Government to provide the immediate relief to the state. But State Governments have regularly complained that opposition ruled states are discriminated against by the Central Government in providing disaster relief. For example, in Kerala when the state was severely impacted by floods, the State Government demanded Rs 20,000 cr for financial assistance from the Central Government but the Central Government had given only Rs 500 cr.

The 14th Finance Commission has recommended a scientific mechanism to evaluate the impact of disaster so that the State Governments can receive timely financial assistance from the centre.

NDMA (National Disaster Management Authority) along with other institutions are expected to conduct scientific surveys regarding impact of these disasters so that it does not result in unnecessary conflict between centre and state. Whenever a natural disaster strikes a particular state, the State Governments demand that the disaster to be declared a National calamity so that Central Government would provide more financial assistance along with other administrative scientific support.

The 14th Finance Commission has recommended that NDMA must come up with specific guidelines to declare any disaster as national calamity to reduce discretion on part of the Central Government.

Pay Commission Recommendations:

The Central Government constitutes a pay commission every 10 years, regularly to revise salaries and allowances of Central Government employees. Whenever their salaries are revised, State Governments employees also demand an increase in their salaries. State Governments were forced to increase salaries of their employees which increased their revenue deficit. Punchhi Commission on Centre State Relations

recommended that the Central Government can compensate State Governments to implement pay commissions recommendations.

Que. Do you agree that the Seventh Pay Commission's recommendations do not reflect and correlate the need for civil service reforms and accountability with pay increase? Justify your answer. (2016) (20M)

Discretionary Transfers from Union Ministry to State Governments:

After the dissolution of the Planning Commission in 2014 the central ministers and departments have been given power to decide funds to be transferred to State Governments to implement central schemes.

The 14th Finance Commission has suggested criteria for transfer of funds not only to states but also to Local Self Governments. It will reduce scope for leakages in transfer of funds. With the implementation of 73rd & 74th Constitutional Amendment Acts, local bodies are also getting funds directly as part of the Finance Commission recommendations.

The 14th Finance Commission suggested that the 2011 population census should be taken as criteria to devolution of funds to Local Self Government. These grants should be divided into 2 parts. They should be further subdivided into basic grants and performance grants. In case of gram panchayat ratio is 90:10, 90% basic grants and 10% performance grants. In case municipal corporations, grants ratio should be 80:20, 80% basic & 20% performance grants. Objective is to encourage better performance of states in terms of implementation of schemes.

Que. Comment on the recent changes in the approach and methodology of devolution of responsibilities and transfer of funds from the Union to the States. (2015) (10M)

Royalty Paid By Central Government for Use of Mineral Resources of States:

Central Public Sector Enterprises located in the states use the mineral resources of the state. The Central Government will pay royalty to State Governments for use of mineral resources. States like Jharkhand & Odisha are demanding more royalty. It should be revised every 3 years by the Central Government. It is not required within those 3 years that the central government should compensate the State Governments for the use of mineral resources.

In the age of liberalisation & globalisation as rightly pointed out by Punchhi Commission on Centre State Relations, co-operation is no longer a voluntary task. They must come together and co-operate with each other with the objective of achieving overall growth & development of the country. This is the essence of collaborative and cooperative federalism. At present Centre State relations are not

about vertical relationships with centre at the top and states at the bottom. It allows horizontal relationships between federal units. Centre and states, therefore are equal partners in the process of development.

It should be in such a manner that union, state and local self-governments coming together and resolving their disputes in a harmonious manner. What is needed is integration between these units rather than confrontation.

The Constitution might be locked heavily in favour of the Central Government due to circumstances at the time of independence but during the present changing scenario it must be willing to sacrifice its power to states. Also, at the same time, State Governments must be more responsible in protecting unity and integrity of the nation.

Que. Examine the efficacy of the measures taken to redefine and execute cooperative federalism in India (2016)(10M)

Que. —Management of intra-governmental relations is as important as that of intergovernmental relations.|| Examine the impact upon the performance of the government. (2014) (20M)

Chief Minister and Council of Ministers

As noted already, the CM is formally appointed and removed by the Governor. Besides, all decisions made by the cabinet generally need to be endorsed by the Governor. If the Governor does not agree with a cabinet proposal he can send back the proposals for reconsideration.

But in case the same proposal should be endorsed once again by the state cabinet, the Governor is obliged to accept the decision and endorse it. Under Article 167(1) of the Constitution, the CM has to communicate to the Governor all decisions of the council of ministers (CoMs) related to the administration of the state and proposals for legislation. The Governor cannot, however, interfere in the proceedings of the cabinet.

Relations with Legislature and MLAs

All-important money and non-money bills, before their introduction in the state legislative assembly, are approved by the cabinet headed by the CM. Money Bills, however; also require the consent of the Governor before they can be introduced in the Assembly.

The state budget is prepared by the Finance Minister and his team but, during the whole process, the Chief Minister is taken into confidence and his views given weight. There may be occasions when the CM himself may be the Finance Minister.

Besides, the CM guides the piloting of important bills through the various stages in the legislature. Being the leader of the majority party in the Assembly, the CM is required to help other ministers in case they are unable to satisfy the House with their replies or when a situation goes out of control in the Assembly. In normal times, the texts of the ordinances issued by the Governor are in reality prepared by the CM and the cabinet. But, the Governor has the power under Article 213 to withhold his assent to an ordinance.

Que. "Legislatures have become a place for infighting rather than for proper policy making." Comment in the context of the working of State Governments. (2016) (10M)

Administrative Role

From time to time, a Chief Minister may keep one or more portfolios under his charge. Such departments attain special importance in the government. The CM's leadership provides them with influence, prestige, power and added responsibility. There are no limitations or rules regarding the number of portfolios a CM can or should keep. Herein lies the question of variations in the individual capacity of a CM in managing public affairs.

However, it would be desirable for a CM to have, under his direct control, only as many departments as he can efficiently manage. In administering these departments, the C.M.'s administrative role gains significance. In order to explain the point, a reference may be made to the case of Rajasthan.

Parliamentary Control

Introduction:

- The government administration today is called upon to manage the entire affairs of the socio-economic life of the people. The massive expansion of public services has led to the expansion of bureaucracy or bureaucratisation. After independence, the Government opted for planned economic development with the public sector playing a vital role in the development of the country.
- The importance given to the public sector and planning led to rapid increase in the expenditure of the government. In a democracy, it is imperative for the institutions like the Parliament & State Legislatures to control the expenditure by the executive for the benefit of the people. The enormous increase in

government expenditure led to formation of an effective control mechanism by the Parliament.

- The Constitution has provided a mechanism for effective parliamentary control over public finances.

Parliamentary Control over Financial System:

- Legislative control is the most effective and real instrument of control, defining the broad objectives of administration and providing the funds essential to achieve them.
- Regular activities of bureaucracy are also open to legislative scrutiny through different methods.
- The notice of legislative control has been subject to 2 different interpretations. It may mean a general political control or in depth examination of governmental activities.
- The common political control implies that the legislature has a right to express its agreement or disagreement with the way the government intends to orient or has oriented its activities. In this model, parliament exercises control through the cabinet.
- The 2nd interpretation involves the detailed examination of government activities and ex-post facto scrutiny i.e. before a policy has been implemented. It is the second type of control which is worth consideration and true or effective control.

The financial system consists of two branches, **revenue and expenditure**:

- (1) As regards revenue
 - ❖ It is explicitly laid down by our Constitution (Art 265) that no tax shall be levied or collected except by authority of law.
 - ❖ The result is that the Executive cannot impose any tax without legislative sanction.
 - ❖ If any tax is imposed without legislative authority, the aggrieved person can obtain his relief from the courts of law.
- (2) As regards expenditure
 - ❖ The pivot of parliamentary control is the Consolidated Fund of India.
 - ❖ This is the reservoir into which all the revenues received by the Government of India as well as all loans raised by it are paid and the constitution provides that no money shall be appropriated out of the Consolidated Fund of India except in accordance with law (Art 266(3)).
 - ❖ This law means an Act of Appropriation passed in conformity with Art. 114.

While an Act of appropriation ensures that there cannot be any expenditure of the public revenues without the sanction of Parliament, Parliament's control over the expenditure cannot be complete unless it is able to ensure economy in the volume of expenditure. On this point, however, reconciliation has to be made between two

conflicting principles, namely, the need for parliamentary control and the responsibility of the Government in power for the administration and its policies.

Control through Parliamentary Committees:

Effective parliamentary control over the administration of the country involves scrutiny into the details of accounts & operations, but the parliament itself may not be a suitable organisation to probe into such minute points of detail, for it generally lacks the time as well as facilities for such detailed examination.

The Parliament of India, in order to exercise effective control over the general and financial administration of the country has set up a number of committees of the House.

- (1) The Public Accounts Committee
- (2) The Estimates Committee
- (3) The Committee on Public Undertakings

Public Accounts Committee:

- The Public Accounts Committee (PAC), constituted by both the Houses of parliament, is without doubt, a powerful organ to complete the accountability of the executive government in the matter of finance.
- While scrutinising the Appropriation Accounts and the Audit Report thereon by the C&AG, the Committee has to satisfy itself: that due economy has been exercised in the financial transactions of executive government; and, that high standards of public morality have been observed in all matters of finance.
- It consists of 15 members from the Lok Sabha and 7 members from the Rajya Sabha.
- The members of the Public Accounts Committee are elected by the Parliament every year from amongst its members as per the principle of proportional representation by means of single transferable vote so that all parties may find de representation on it.
- The selection of members of the committee is made with great care, usually from amongst those having a financial & business background.
- The Chairman of the Public Accounts Committee generally belongs to the ruling party although on two occasions opposition members in the Lok Sabha have also been elected to this office.

Functions of the Committee :

- That the money shown in the accounts as having been disbursed were legally available for & applicable to the service or purpose to which they have applied or charged.
- That the expenditure confirms to the authority which governs it; &
- That every re-appropriation has been made as per the provision made in this behalf under rules framed by competent authority.

It shall be the duty of the PAC to examine:

- In the light of the report of the CAG, the statement of accounts showing the income and expenditure of State Corporations, trading and manufacturing schemes and projects together with the balance sheet and statements of profit and loss

accounts, which the President may have required to be prepared or are prepared under the provisions of the Statutory rules regulating financing of a particular corporation, trading concern or project.

- To examine the statement of accounts showing the income & expenditure of autonomous bodies that audit of which may be conducted by the CAG, either under the directions of the President or by a statute of Parliament; and
- To consider the report of the CAG in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores & stocks.

The main function of the PAC is to examine the report of the CAG in order to determine whether the money granted by the Parliament has been spent by the Government within the scope of the demands.

The examination of the PAC extends beyond the formalities of the expenditure to its wisdom, faithfulness and economy; It is the duty of the Committee among other things, to draw the attention of the Parliament to cases of improper, wasteful expenditure. It is thus to detect malpractices, frauds or irregularities, misappropriation, etc.

The Committee may send for persons, papers & records. The conclusion of the Committee are submitted to Parliament in the form of a report to enable intensive examination; the committee is nowadays taking resort to the practice of consulting study groups, dealing with specified departments such as, Defence, Railways, etc. These study groups submit their reports to the Committee.

The Committee in turn considers them and makes recommendations to the government in anticipation of the final report, which is placed before the House. This arrangement is in response to the general criticism that by the time the public accounts are scrutinized, the issues become old and stale. A convention has evolved that the recommendations of the Committee are accepted by the Government.

Recently, the PAC headed by Mr. Buta Singh expressed its inability to submit the report on Defence purchases by the Government, saying that the Government has withheld some vital information from the Committee. This led to criticism by the Opposition Parties and the Government was forced to reply to the charges of the opposition.

Criticism against PAC:

- At best, the PAC probe relates to transactions completed and damage done.
- It conducts post-mortem examinations of public accounts. According to experts, it led to decline in the importance of the PAC as auditing is done after the work is completed and nothing can be changed at that point of time. Some say it is also a useless exercise.

- But the above criticism is not valid because the recommendations by the Committee are used as a guide for both the future estimates and future policies.
- However, regular recurrence and ever changing pattern of official neglect or default brought to light, year after year, does suggest that the value of the PAC's deliberations is limited.

The Estimates committee:

Parliamentary control over financial administration is further strengthened by the Estimates Committee. Although the parliament discusses the estimates for a fairly adequate period, it has neither the time nor the flexibility to probe into the details and technical aspects of the estimates. Therefore, before the estimates are presented to the parliament, they were projected to scrutiny by this independent financial committee.

The idea of an Estimates Committee in India was first urged in 1937, but the proposal could not materialise. There had been the Standing Finance Committee, first created in 1921 and attached to the Finance Department of the government of India. The Estimates Committee was first created after the inauguration of our Constitution on the suggestion of Dr. John Mathai the then Finance Minister in April 1950.

Members of the Committee:

- The Estimates Committee is a **standing committee**; as it is set up every year from amongst the members of the Lok Sabha according to the principle of proportional representation by means of single transferable vote.
- Its functions are laid down in the Rules of Procedure and Conduct of Business in the Lok Sabha. It consists of members **from Lok Sabha only**.
- The Chairman is appointed by the speaker and if the Deputy Speaker happens to be a member of the committee, he automatically becomes the chairman.
- A Minister cannot be a member of the committee. Though the term is one year, it is renewed every year with only one third of its members retiring every year and usually the same members are re-elected year after year.

Functions of the Committee:

- The most significant function of the committee is to suggest economies in expenditure. The Committee is strictly not concerned with the policy of the government.
- Its business is to ensure that within the framework of the policy laid down by the government & the House, only the minimum expenditure needed for the purpose of fulfilling the objectives of the government would be incurred.

Other functions include:

- To report what economics, efficiency or administrative reform, improvements in organisation, consistent with the policies underlying the estimates may be effected.
- To recommend alternative policies in order to bring about efficiency and economy in administration;
- To examine whether the money is well laid out within the limits of the policy implied in the estimates;
- To suggest the form in which the estimates can be presented to the parliament.

- If the committee finds that a particular policy laid down by parliament is not leading to the expected or desired results or is leading to waste, it has a duty to bring it to the notice of the Lok Sabha that a change in policy is called for.

Que. Parliamentary committees are at the deliberative core of parliamentary work which is crucial for refining legislation. Elucidate. (2020) (10M)

Working of the Committee:

The Committee is constituted in June and its work starts from July. The year plan is prepared by selecting such of the estimates as may seem fit to it. Then the office of the committee collects & collates the relevant material. It may constitute sub committees, each of them having the powers of the undivided committee, to examine any matters that may be referred to it, & the reports of these sub-committees are deemed to be the reports of the whole committee, if they are approved at a sitting of the whole committee.

A copy of the report will be submitted to the Lok Sabha. There is no formal debate on the reports of the Estimates Committee.

The report contains three types of recommendations:

- (1) for improving the organisation.
- (2) for securing the economy.
- (3) for providing guidance in the presentation of estimates.

Evaluation of the Committee:

The performance of the Estimates Committee is to the satisfaction of Lok Sabha. It is performing valuable work in spotlighting the various acts of omission & commission of the government. In its various reports submitted from time to time, the committee recommended various reforms in financial as well as administrative systems.

The control exercised by the Estimates Committee consists of:

- (1) it being judicial in approach
- (2) in representing the peoples' approach
- (3) in preventing the executive from being apprehensive
- (4) in creating a training ground for the legislators
- (5) in influencing the policies of government
- (6) in acting as a link between the people & the government.

But of late, the Estimates Committees are bypassing their mandate by giving recommendations on the policies & on the structure of departmental organisation to the relevant exclusion of a detailed examination of the estimates for which they are primarily meant.

But the Estimates Committee is performing a valuable role in the Indian administrative system. It keeps the machinery of administration under parliamentary control, which is a very healthy characteristic. It acts as a standing committee on administrative improvement by highlighting the mistakes and shortcomings of public

organisations. Its role is quite important as the Government accepts almost all its recommendations.

Committee on Public Undertakings:

Since 1964, the Committee on Public Undertakings has taken the work relating to autonomous public Enterprises from the two financial committees. The Committee's most important functions include: the examination of reports and accounts of public undertakings; examination of reports, if any, of the C&AG on the public undertakings; to examine in the context of autonomy and efficiency, if the public undertakings are being managed in accordance with sound business principles & prudent commercial practices; and to discharge other functions assigned to it by the speaker from time to time. The Committee undertakes its studies of individual public undertaking by rotation.

Control over Finances:

Parliament gets innumerable opportunities to examine and review the public administration through the institution of parliamentary debates and questions, but it does not get a chance of close and continuous examination of the detailed functioning of the executive government.

However, administration comes under close scrutiny of parliament when the budget is under discussion. This is really a crucial time for the government. During the general discussion and voting on demands for grants, the members of parliament get an opportunity to discuss and criticise the working of each ministry, department or other agencies of government.

There is no matter which can't be raised during the debate. Questions of policy economy, complaints, grievances, adequacy or inadequacy of projects, schemes and outlays can always be raised and the minister has to give satisfactory reply be let off.

Audit Reports:

- As the examination of intricate government accounts and the scrutiny of the technical soundness of the financial transactions is a specialised task, in the first instance this job is commonly entrusted to an independent organisation whose reports are placed before the legislature for consideration.
- This organisation is the Audit Department. —Audit, like the judiciary, the executive & the legislature, is one of the important ingredients of democracy.||
- Its primary purpose is to ensure that in the process of spending governments funds all canons of official proprietary have been observed, that the rules and regulations which govern expenditures are adhered to, that the expenditure has been incurred by the authority which is empowered to incur it, and that it has been incurred for the purpose for which it has been appropriated by the parliament.

- The Comptroller and Auditor General annually reports about these aspects of government transactions to the legislature. The audit is, thus, one of the most important instruments of parliamentary control over administration.

Effectiveness of Parliamentary Control:

The system of parliamentary control as provided in India for control over administration is quite elaborate and seems impressive. If the institutions are effective, misuse of power by the bureaucracy is much less possible. But an institutional arrangement, however rational and elaborate it may be, does not itself achieve the purposes of taming and toning up the bureaucracy.

The effectiveness of parliamentary control depends upon at least three important conditions.

- Firstly, as a matter of principle the legislature can be effective for its control over the executive only in proportion to the strength of the opposition, which by virtue of its strength and appeal to the electorate, expects that someday it would have a chance to form the government.
- Second conditions are the strength and equality of public opinion. Representative legislatures backed by a strong public opinion can effectively contain executive and administrative actions.
- Thirdly, the effectiveness of legislative control over the executive depends on the devices and procedures instituted by the legislature in carrying out its functions to meet the changing needs of modern society.

However, legislative procedures are only a means to an end, the end being responsible and democratic discussion of public issues in Parliament and the protection of the right of democratic and uninhibited debate. A lot depends upon the leadership provided by the cabinet and the Prime Minister, and their effectiveness, in turn depends on the party system operating in the country.

If cabinets are unstable, and if the parties in Parliament are busy in manoeuvring and manipulating the rise or fall of cabinets, bureaucracy is left free to accomplish whatever as it sees fit. At the same time, the lack of strong opposition to the single dominant party in India has weakened the effectiveness of parliamentary control, as the ruling party doesn't see any challenge to its power by the weak and fragmented opposition political parties.

Apart from the above conditions, studies and experience has indicated certain factors leading to somewhat ineffectiveness of the instrumentality of Parliamentary control.

These are:

- insufficiency of time at the disposal of Houses
- unwillingness of members to sit longer in the Houses
- lack of adequate interest on member's part in the proceedings of the Houses' quality of members
- inadequacy of expert knowledge and specialisation and want of the sense of independence in them
- wastage of time in sensations or political colourful matters at the cost of constructive issues
- Indifference of the public.

Towards the end it can be suggested that to make the control more effective specialised knowledge, information and capacity of members will have to be increased; while at the same time this point should be taken care of that administration is no enemy of the people or their representatives and whatever control is exercised should be positive one, towards the promotion of general welfare.

Role of Ministry of Finance in control over Public Expenditure:

The financial control by the executive could be exercised when estimates are prepared & expenditure is incurred. The heads of subordinate agencies scrutinise expenditure proposals enacting from within in terms of their need & spending capacity. This process moves upward to the heads of the departments who are expected to moderate the estimates in the light of accepted policies of the government & needs of programmes.

Under the cabinet system, the central financial agency is entrusted with the responsibility of consolidating the estimates of the different departments. While discharging this function, the central budget may be able to modify departmental estimates through scrutiny and advice in terms of national policies & priorities, norms of expenditure and constraints of resources. The powers & influence of the central budget agency may vary from country to country. In India, the central budget agency is the ministry of finance while in Britain it is the treasury.

The control exercised by the finance ministry of India may be divided into 3 stages: approval of policies and programmes in principle, acceptance of provisions in the budget estimates and prior sanction to incurring of expenditure subject to such powers as have been delegated to the administrative ministries. It is the control at the 3rd stage that generally impinges on the day to day working of the administrative agencies.

This control is exercised through 3 instrumentalities namely, rules of business, a system of internal financial advisers & internal audit. The existing rules of business provide that, with the exception of particular orders issued by the ministry, no department can, without the previous concurrence of the finance ministry, issue any orders involving;

- any abandonment of revenue or incurred any expenditure for which no provision has been made in the Appropriation Act;
- any grant of land or assignment of concession or revenue, grant, lease or license if mineral or forests, right to water, power or any casement or privileged respecting such concession,
- the number of grades of posts or the strength of a service of the pay or allowances of government servant or to any other conditions of their service having financial implications; and
- any other financial aspect. In addition the financial code provides that no public servant can spend a single ‘paisa’ out of the public funds unless the expenditure

has been sanctioned by the competent authority & the expenditure to be incurred is within the limit of the appropriations granted by parliament for the current year.

Besides, the finance ministry sends its own finance officers to each ministry (except railway and defence), who exercises the control over expenditure through scrutiny and examination of the legality, accuracy & propriety of expenditure. They also advise the departmental heads on the financial implications of their schemes & plans and furnish to the finance ministry reports on the financial administration of the ministry to which they are attached.

The departmental control of expenditure takes place through a detailed system of returns and reports frequently submitted by officers at various levels to their superior officers and ultimately to the head of the department. The accounts are to be maintained in a prescribed manner. Vouchers are to be certified as per the rules. Payment is to be made in accordance with the prescribed procedure. The disbursing officers maintain the record of all accounts & which are examined by the controlling Officer.

The controlling officer prepares a statement and sends it to the head of the department. On the basis of the return received by him, the head of the department prepares an account showing the complete expenditure out of the grant at his disposal upto the end of the preceding month and submits the same to the office of the accountant-General.

**Que. Parliamentary Committees bring about accountability in public expenditure.
Discuss. (2014) (10M)**

Comptroller and Auditor General of India

Introduction:

Public audit is a crucial instrument of ensuring supremacy of Parliament over executive & enforcing public accountability. Public audit institutions developed over time to help legislatures to implement the power of the purse.

This power had 2 essential elements:

- granting of the money
- Supervision of expenditure.

State audit in its present form was introduced for the first time in Great Britain as an integral part of parliamentary control over national finance with the enactment of the Exchequer & Audit Department Act in 1866.

- The Act required all departments for the first time to produce annual accounts known as appropriation accounts.
- The act also established the position of Comptroller and Auditor General (CAG) and an Exchequer and Audit department to provide the supportive staff from within the civil service. The results of CAG's investigations were

considered by a dedicated parliamentary committee called the Committee on Public Accounts thus establishing a circle of parliamentary financial control.

The system of Government accounting and auditing and the organisational structure of the Indian Audit & Accounts department (IAAD) as it exists today in our country is the legacy of British Raj and is more or less patterned on the British model. The Indian Audit & Accounts department (IAAD) has a history dating back to 1858 when the East India Company administration was taken over by the British Government and an Auditor General of India, who looked after both audit & accounts functions, was appointed. The introduction of constitutional reforms in 1919 brought about statutory recognition to the Auditor General. The Government of India Act 1935, gave further recognition to the importance & status of the Auditor General.

Constitutional and Statutory Mandate:

The Constitution of India gave special status to Comptroller and Auditor General (CAG) as laid down in Articles 148 to 152. The CAG's Act, 1971 regulates the powers, duties and condition of service of the Comptroller and Auditor General.

Section 13, 16 & 17 of the Act gives authority to CAG to audit all expenditure from and receipt into the consolidated fund of India and the State. Section 14, 15, & 20 of the Act authorises CAG to audit the receipts & expenditure of bodies or authorities substantially financed by loans or grants from Union or State or Union Territory. Article 151 of the Indian Constitution prescribes that Audit Reports on the accounts of Union and the States be submitted to Parliament /State Legislature.

Organisational Structure:

The CAG is the head of the Indian Audit and Accounts Department. The office of the CAG directs, controls and monitors the activities of the various offices of the department and is responsible for development of organisational objectives and policies, auditing standards & systems, laying down policies for management of manpower and final approval of the Audit reports. For carrying on these responsibilities field formations exist for each specific area of auditing & accounting.

The offices of Indian Audit & Accounts department (IAAD) are spread all over the country. There are 34 Union Government Audit Offices headed by Director General or Principal Director of Audit and 60 State Accounts and Audit offices headed by Principal Accountant General and Accountant General. There are 60000 personnel in the Indian Audit & Accounts department (IAAD) with about 500 Group A officers belonging to the Indian Audit & Accounts Service (IA&AS).The total budget of the Indian Audit & Accounts department (IAAD) is around Rs 846 crs bulk of which constitutes expenditure on pay & allowances of the staff.

Appointment of Comptroller and Auditor General:

- The most significant instrument of accountability, the Comptroller and Auditor General of India (CAG) has a dual role to perform.

- Firstly, as an agency to function on behalf of the Legislature to ensure that the Executive complies with the various laws, passed by the Legislature in letter & spirit.
- Secondly, on behalf of the Executive to ensure compliance by subordinate authorities with the rules and orders issued by it.
- The Comptroller & Auditor General (CAG), as the head of the Indian Audit and Accounts Department, is thus neither a part of the Legislature nor the Executive but is an officer created by the Constitution of India to see that diverse authorities act in regard to all financial matters in accordance with the Constitution and the laws and rules framed thereunder.

There are numerous provisions enshrined in the Constitution to safeguard his independent function,

- The President of India appoints him by warrant under his hand & seal and his oath of office requires him to uphold the Constitution of India and the laws made thereunder.
- He can be removed from office only on the grounds of proved misbehaviour or incapacity after an address by both Houses of Parliament supported by a two-third majority.
- His salary and conditions of service can't be varied to his disadvantage after his appointment.
- He shall not be eligible for further office under the Government of India or any of the State after retirement.
- His administrative powers & the conditions of service of persons serving in the Indian Audit and Accounts Department (IAAD) shall be prescribed by rules made by the President only after consulting him.
- The administrative expenses of his office are charged upon the Consolidated Fund of India and are not subject to being voted by Parliament.

The legal basis for the auditory functions of the Comptroller & Auditor General of India(CAG) is provided by the Comptroller and Auditor General's(Duties, Powers and Conditions of Service) Act, 1971. Although India has a federal setup, the Constitution provides for a unitary audit by the Comptroller & Auditor General (CAG), who conducts audit of the accounts of both the Union and State Governments.

Que. Justify the constitutional provision to treat certain expenditure as charged upon the Consolidated Fund of India. (2013) (10M)

Extracts from the Constitution of India (Articles 148 to 151)

148. Comptroller and Auditor-General of India - (1) There shall be a Comptroller and Auditor-General of India(CAG) who shall be appointed by the President by warrant under his hand & seal and shall only be removed from office in like manner and on like grounds as a Judge of the Supreme Court.

(2) Every person appointed to be the Comptroller & Auditor-General of India (CAG) shall, before he enters upon his office, make and subscribe before the President or some As person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the 3rd Schedule.

(3) The salary and other conditions of service of the Comptroller & Auditor-General (CAG) shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the 2nd Schedule, provided that neither the salary of a Comptroller and Auditor-General (CAG) nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General (CAG) shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department (IAAD) and the administrative powers of the Comptroller & Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the CAG.

(6) The administrative expenses of the office of the Comptroller & Auditor-General including all salaries, allowances & pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

149. Duties & Powers of the Comptroller and Auditor-General (CAG) - The Comptroller and Auditor-General (CAG) shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States & of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties & exercise such powers in relation to the accounts of the Union & of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of the Constitution in relation to the accounts of the Dominion of India and of the provinces respectively.

150. Form of accounts of the Union and of the States - The accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the Comptroller and Auditor-General of India, prescribe.

151. Audit Reports - (1) The reports of the Comptroller and Auditor-General of India (CAG) related to the accounts of the Union shall be submitted to the president, who shall cause them to be laid before each House of the Parliament.

(2) The reports of the Comptroller and Auditor-General of India related to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

During the last 3 decades the appointment of CAG has always been mired with controversy. From the time the Constitution came into being in 1950, the four CAG's appointed to the post, were senior members of the Indian Audit & Accounts Service. However, from 1978 onwards the last 4 incumbents are from the Indian Administrative Service (IAS). The appointment of CAG who does not possess the requisite background of auditing and accounting has been subject of severe criticism by Chairman of the Public Accounts Committee, public spirited men, press, Officers & Staff association of the Audit department.

The Indian Constitution does not lay down qualification for the post of CAG nor the manner of his selection. However, the matter was discussed during the Constituent Assembly debates held in May 1949. From the debates, it seems that framers of the Constitution's intention was that a person who had sufficient knowledge of finance & accounting systems and had practical experience of the work of the Finance department and had worked as Accountant General would only be appointed. However, in practice this assurance has not been honoured by successive governments.

Que. The office of the Comptroller & Auditor General of India stands on the pillar of autonomy. Discuss the major lacunae in the functioning of this constitutional body and also suggest measures for its strengthening. (2020)(20m)

Que. —Social auditing of flagship programmes of the Central government facilitates the performance of the Comptroller and Auditor-General(CAG).|| Elaborate the statement with appropriate examples. (2014) (20M)

Evolution of Audit since Independence:

The traditional audit conducted by the supreme audit institutions (SAI) is known as **Regularity audit** which means checking upon the legality of an action taken by a public official or a person using public fund and whether the decision or its implementation is according to the law, rules or regulations governing that activity. Gradually its dimension was extended to *Financial audit* and now to *Value for Money audit*.

Financial Audit basically means audit of financial statements and whether they provide reasonable assurance that they present fairly the financial position, results of operations, & cash flows of an audited entity in accordance with normally accepted accounting principles. In Financial audit, State auditors do almost the same kind of job which the Chartered Accountants do while auditing a public limited company.

Value for Money or 3 E's Audit: also known as Performance audit is an independent assessment of the performance of an organisation, programme, project or an activity in terms of its goals & objectives- how far expected results have been achieved from the use of available resources of money, men & material. Put it differently, an examination is made regarding **economy, efficiency & effectiveness** of public spending, which has come to be known as 3E's audit.

- Economy: minimising the cost of resources used or required - *spending less*;
- Efficiency: the relationship between the output of goods & services and the resources to produce them- *spending well*;

- Effectiveness: the relationship between the intended & actual results of public spending - *spending wisely*.

The concept and techniques of audit have undergone a major change during the last fifty years. Before Independence, the government audit was mostly confined to check against provision of funds, rules & orders and competence of authority concerned to sanction expenditure.

With the introduction of the Five Year plans (FYP) for economic and social development there has been change in the pattern of government expenditure necessitating a shift in the emphasis, concept & practice of audit as scrutiny of individual transactions became inadequate as it tended to mistake wood for the tree. The Parliament and the public are more interested to know whether various welfare and development programmes are being executed efficiently and whether they are producing the expected results. This led the Audit department to enter in the area of *Performance Evaluation and Value for Money Audit*. The Audit department is now producing a large number of performance reviews every year covering almost every facet of government's working.

Audit of Revenue: CAG after some initial resistance on the part of the revenue department were able to extend its dimension to audit of revenues which includes audit of tax assessment such as Income tax, Central Excise and Customs, Sales tax etc. The audit of receipts has helped bring considerable revenue for the government by pointing out cases of under assessment of tax, and also assisted in better functioning of tax administration machinery by pointing out lacunae or loopholes in the Act or Rules and deficiencies in the functioning of tax administration.

Audit of Commercial Enterprises: The audit of government companies was brought within the purview of CAG's audit at the insistence of then CAG by introducing an appropriate provision in the Companies Act 1956, although there were initial attempts to exclude his jurisdiction. Thus, while Chartered Accountants (CA) are required to certify Annual Accounts of government companies, CAG has been granted the right to conduct supplementary audits.

Weakness of the Existing System:

- No Powers to Enforce Audit Findings Violation of Rules.

One of the primary functions of audit is to see that provisions of law, rules & regulation are properly applied while incurring expenditure or collecting revenue. In order to regulate usage of money, elaborate rules and regulations have been drawn by the government. While the audit notices systematic violation of law, rules & regulations by departmental officers it is unable to take an effective action to prevent them.

- ✓ The Bihar fodder scam will illustrate the point.

- Serious financial misappropriation and irregularities of government funds were being committed by senior government functionaries and the Treasury officials all acting together in collusion.
- The Accountant General (AG) Bihar couldn't detect the irregularity in time as Treasury officers suppressed the vouchers through which money was drawn and did not transmit them to AG thus preventing its audit.
- CAG has been making mention of excess withdrawal over voted provision in its Audit Report presented to Bihar Legislature but the Public Accounts Committee, it is said did not even meet to discuss the report leave apart take preventive action.
- After the scam became public knowledge, CAG has produced a well-documented Audit Report but it is more a case of getting wise after the event—after crores of public money has been looted and shutting the stable door after the steed has been stolen.

The account keeping of State government companies is in a chaotic state. Out of about 900 State government companies the Annual Accounts of about 700 companies is in arrears sometimes for periods as long as 10 to 12 years.

The Companies Act stipulates that the Annual Accounts of these companies should be audited by Statutory auditors (Chartered Accountants) and C&AG within six months of the close of the financial year i.e. 30th September. Should a situation where management of these companies violate with impunity the legal provision laid down in the Companies Act be allowed? Similar is the situation with a large number of autonomous bodies, which receive substantial grants from the government every year. Many of them don't submit their Annual Accounts in time for audit. In many cases, accounts when prepared don't follow the accounting standards, contain serious mistakes & when pointed out, the concerned organisations refuse to rectify the errors. And yet they continue to get government grants every year. Should not CAG be empowered to take legal action against management of such defaulting organisations, so that taxpayers are assured that no misuse and misappropriation of public funds has taken place?

Que. —Accounting is the essence of producing promptly and clearly the facts relating to financial condition & operations that are required as a basis of management.|| Substantiate the statement in the context of accounting methods and techniques in government. (2013) (20M)

Legal position:

- Section 13 of the Comptroller and Auditor General's Act (CAG's Act), lays down that it is the duty of audit: to ascertain that the money, which has been disbursed was legally available for the service/ purpose on which it has been applied and there is a proper authority to spend the money. What happens when a public official spends money, which is not legally available viz., it is in violation of laid down rules & regulations.

- The Act is silent about it – all that the last sentence of Section 13 says, —In each case to report on the expenditure, transaction or accounts so audited by him.||
- *If the CAG make a report about the irregular usage of money to the Department whose officials have committed the default and they contest CAG's decision or don't take any action, it virtually amounts to the departments sitting over judgement on C&AG's findings and obstructing the duty he is required to perform under the law. In no other country of the world the State audit finds itself in such a helpless situation.*

Position in Advanced Countries:

Most Supreme Audit Institutions (SAI) have been vested with powers to fix responsibility on the officials who have caused loss to the exchequer & have legal power for its recovery. In **New Zealand** under the Public Finance Act of 1977, the Controller and Auditor General (CAG) is empowered to hold an enquiry which may require any evidence to be given either orally or in writing and to which the provisions of Crimes Act relating to perjury applies. The CAG has power for surcharge if he finds that there is deficiency or loss of money or store caused through fraud, mistake, default, negligence, error or improper or unauthorized use.

In **Japan** the Board of Audit has powers to adjudicate and can order an official to indemnify the loss and direct the supervising officer to take disciplinary action against the delinquent official when it finds that the official has caused grave loss to the State either deliberately or by gross negligence.

Need for Conferring Legal Powers:

The situation in our country needs to be remedied by conferring legal power to Audit Officers to enable them to implement their findings by making appropriate provisions in the C&AG's Act on the lines enjoyed by State audit institutions of other countries. The Act should entrust Audit Officers with following powers:

- (a) Powers to summon the concerned officers before it for evidence on oath
- (b) Where default is established after giving due opportunity, they be required to make good the loss
- (c) In case the official doesn't make good the loss & the default or neglect is established, the report be made to the higher authority of the department where officer is working for taking disciplinary action under the Civil Services Conduct Rule
- (d) Where the action of a public official involves criminal liability, the public prosecutor can be informed either by the Audit official or by the Department to which he belongs for initiating criminal action under the Penal code.
- (e) For discharging this quasi-judicial function, the powers similar to those available under Commission of Enquiry Act be vested with the Accountant General / Principal Director of Audit who are heads of department by making suitable legal provision to that effect.
- (f) To make the system transparent and fair, there should also be a provision of appeal with final appellate stage at the level of Addl./Dy. Comptroller and Auditor General at the headquarters of C&AG's office.

Need For Collegiate Decision: Audit Commission

In our country there is no system of finalisation of audit reports through a formal committee system in which the Dy CAG/ Accountant General / Principal Directors of Audit participate. The audit reports of both the Central and State governments are processed on files by the Dy CAG and Additional Dy CAG and approval of C&AG taken.

Expenditure & revenue transactions of the government have increased hundred fold with remarkable growth in government's activities after independence. It is simply not possible for one individual viz. C&AG to be responsible for all audit work of Central as well as State government. There is a need for wider sharing of responsibility.

The current system results in neglect of audit & poor quality of Audit Reports. There is also no system of discussion with Secretaries to government or heads of department before the Audit report is finalised. This leaves a yawning gap in the Report, facts & conclusions are often challenged with the result that the main purpose of audit viz. improvement of the administrative set-up and the systems and procedure takes a back seat.

The existing system needs an overhaul. Audit Reports should be finalised through collegiate decision making of an Audit Commission in which all the Dy CAG's and Addl Dy CAGs should be represented besides C&AG. The position of CAG should be that of primus inter pares. For proposed Audit Commission to be effective it's members should be given a status similar to that of a High Court Judge with age of retirement as 62.

Strengthening PAC:

The two Parliamentary Committees are able to examine only a few paras and reviews out of a large number of audit reports submitted to them which defeats the very purpose of parliamentary financial control and the accountability of the Executive which the Parliament is required to enforce. For example, during 1997-98 out of 16 Reports submitted to Parliament containing 1209 paras or reviews the number of paras / reviews selected for examination was 76, out of which only 16 could be discussed by the PAC. In the States there is a huge backlog of work before the PAC's.

In order to strengthen parliamentary control over the executive, it is necessary to devise a system which envisages that PAC examines all the reports submitted by CAG and submits its recommendations to Legislature within a time limit of say 18 months. This is possible only if the volume of CAG's Audit reports is reduced and their quality and content improved and only matters of critical importance are included in the Audit Reports. (Other financial irregularities noticed during audit need to be settled with the concerned Ministries or departments through forums such as Audit Committees which need to be devised in consultation with the Ministry of Finance).

For PAC to function effectively and its members to develop specialization, the life of PAC be made 5 years coextensive with the life of Parliament/ State legislature with one- third of its members retiring every year. It should be sent for consideration whether

PAC be given a Constitutional status with clearly defined mandate, duties and functions.

C&AG and Parliament: In parliamentary democratic form, State audit tends to be classified as part of the legislative branch as the institution has developed over time to implement the power of the purse. State audit with its access to information and review of governmental activities, fulfils an increasingly important role in providing legislature with detailed reliable information necessary for control.

A realisation of this fact has led to major restructuring of the audit department in the U.K with the passing of the National Audit Act of 1983. Under the act C&AG has been made an officer of the House of Commons. Another Commonwealth country, Australia in line with British system stem and under a 1997 act the Auditor General will be an independent officer of Parliament. In the U.S.A the General Accounting Office from the time of its constitution in 1921, has been recognised as an agency within the legislative branch of the government and enjoys a special working relationship with the American Congress.

It is for consideration whether C&AG should be made an officer of the Lok Sabha so that he could work in greater cooperation with Parliament and its Finance committees with a view to make parliamentary financial control more effective.

Chapter 11 - Rural Development

Syllabus: Institutions and agencies since independence; Rural development

programs: foci and strategies; Decentralization and Panchayati Raj; 73rd Constitutional amendment.

The case for rural development is formidable. It is also true that the need for rural development, which is an important segment of development, which is an important segment of development administration, had been emphasised by the national political leadership even under colonial rule.

The Indian National Congress was committed to a rural amelioration programme since the twenties when Mahatma Gandhi emerged to guide its destiny. Attention to India's villages became more or less organised and systematic with the enforcement. In 1921, of the Government of India Act, 1919, which, it may be recalled, placed the nation-making activities including rural development under the popularly elected ministers in the provinces.

Why is Rural Development Important in India?

- At the time of independence, more than 90% of our population was living in areas.
- During Mughal times, villages were mostly isolated from urban centres and were self-sufficient. The major source of revenue for the government was land revenue and agricultural tax. It used to vary from $1/4$ to $1/3^{\text{rd}}$ of the produce. Villages were headed mostly by traditional authority i.e. head of village position was mostly hereditary in nature.
- During the British times, there was drastic change in government at local level with district administrations headed by Collector. Powers of the village heads were taken away and vested in the hands of district Collector.
- Britishers deliberately destroyed village rule in India and introduced administrates at the local level. Lord Ripon introduced the reforms in Local Self Government but they were not implemented by successive Governor Generals. The British realized that it would be almost impossible for them to rule the country from the lowest level in administration i.e. villages. They made the district the basis unit of administration. It continued till independence. Primary objective of British rule was to exploit India, economically. They did not focus much on development.
- After Independence, the government realized that the development of villages and rural areas is a must for overall growth and development of the country.

Que. Do you think that the role of Panchayati Raj should go beyond development administration? Give reasons for your answer. (2014)(10M)

Que. —A government next-door is the government that matters most for the people.|| Discuss the statement with special reference to the values of local government. (2018) (10M)

Decentralization & Panchayati Raj:

Panchayati Raj System was introduced in India for strengthening the grassroots democracy through democratic decentralisation. Without such an arrangement rural development would have remained a non-starter in the nascent Indian democracy desirous of rural upliftment. It was felt that most of the programmes for the development of rural communities could show better results if local people's institutions like Panchayats were fully involved in the planning and implementation of development programmes. To this end administration had to be linked with the people and power had to be linked with the people and power had to percolate down to them. Accordingly, Panchayati Raj institutions became a viable instrument to empower the people at grassroots.

Que. Do you think that the functioning of Panchayati Raj Institutions (PRIs), in practice, reflects genuine devolution of powers and resources? Give reasons for your answer. (2015) (10M)

Origin of Panchayat Raj Institutions (PRI):

- **The Constitution of India:** Our Constitution brings out the provision for PRI. Article 40 on Directive principles read: "The State shall take steps to organise village panchayats and endow them to function as units of self-government." The provision of the Constitution is an inspiration for the P.R. institutions to bring about self-government at village level. The 73rd Constitutional Amendment Act now gives Panchayati Raj Institutions (PRIs), a Constitutional status.
- **Gandhian Philosophy:** Gandhiji's concept of self-sufficient village, both economically and politically inspired most of the political leaders to evolve PRI. Provisions regarding P.R. in Directive principles of state policy reflected his views with regard to grassroot democracy.
- **Five Year Plans:** The administrative necessity of planned development also served as a stimulus for Panchayat Raj system institutions. According to the First Five Year Plan, "we believe that panchayats will be able to perform their civic functions satisfactorily only if they are associated with an active process of development in which the village panchayat is given an efficient role." The subsequent plans reflected the government's broad philosophy on public relations.
- **Community Development Programs:** The community development programmes were initiated for improving the socio-economic conditions of the villages. The programmes' goals were, first and foremost, to significantly increase agricultural production in the country, improve the nation's communication system, and promote education in villages. Second, to initiate a process of integrated social, economic, and cultural change with the ultimate goal of transforming village social

and economic life. Third, the ultimate responsibility belonged to the people. People's participation in the planning and execution of the programme was regarded as a critical component of Community development programmes.

Phase 1947 to 1992:

During this period, the country had opted for centralised top down approach to the development. Initially, two programmes were launched with focus and development of rural areas in the 1950s.

- Community Development Program (CDP) (1952)
- National Extension Service (NES) (1953)

As part of CDP, the focus was on all-round development of rural areas including agriculture, educational, health, infrastructure, employment and so on. But these programmes had failed to realise the described objectives. The government had appointed **BALVANTRAI MEHTA COMMITTEE** to look for reasons for failure of CDP. The committee came out with reasons:

- Absence of people's participation
- Absence of accountability mechanism at the lowest level.

Since Local Self Governments were part of the state level, the Central Government had recommended to the State Governments to implement the recommendations of the BALVANTRAI MEHTA committee. Some states like Rajasthan, West Bengal, Andhra Pradesh and Madhya Pradesh implemented them but most of the states did not implement this recommendation.

In the 1950s, rural development was equated to agricultural development. Education, health, infrastructure, and Small Scale Industries were ignored during this period. Green revolution was introduced in late 1960s which helped India to overcome the food crisis. CDP continued in the 1960s also with little success otherwise rural development had not progressed much during this period.

In the 1970s, the focus of development administration had shifted from production from output to distribution of income and wealth as part of socialistic objectives. Strategies adopted by the government during this period would be divided into 2 categories from rural development.

1. Area Based Approach
2. Target Based Approach

As part of ABA the government identified certain areas for development it started major programmes,

- Desert Area Development Program
- Drought prone Area Development Program

- Hill Area Development Program

Target based approach include

1. Small and Marginal Farmers Development Agency
2. Mahila Samurdhi Yojana
3. Development of Women and Children in Rural Areas
4. Training of Rural Youth for Self Employment (TRYSEM)

Other important programmes

- Integrated Rural Development Programme
- Jawahar Rozgar Yojana (JRY) in which the National Rural Employment Programme and Rural Landless Employment Programme were merged.
- Employment Assurance Scheme
- Indira Awas Yojana
- Million Wells Scheme
- National Social Assistance Programme which has three components
 - National Old Age Pension Scheme
 - National Family Benefit Scheme
 - National Maternity benefit scheme
- Operation Black Board
- Development of Women and Children in Rural Areas (DWCRA)
- Training of Rural Youth for Self-Employment

The 1980s continued with the welfare approach with the launch of more development and welfare schemes in rural areas IRDP was launched to merge in NREGP and RLEGP. Jawahar Rogan Yojana was launched with the objective of providing employment to people in rural areas. The government had spent 1000s of crores of Rupees in implementation of these schemes. Mostly these were financed through revenue generated from urban areas but most of this schemes were a failure.

In 1977 Janata party came to power and changed the development strategy. It had opted for Gandhian socialism instead of Nehruvian socialism adopted by the previous government. Nehruvian socialism focused more on heavy and large-scale industries neglecting rural areas & Small Scale Industries, Gandhian socialism gave importance to development of rural areas & Small Scale Industries.

The Janata government appointed another Commission under Ashok Mehta to suggest recommendations regarding Local Self Government in rural areas.

Ashok Mehta Committee suggested 2- tier governance in rural areas.

- Mandal Panchayats or Block Panchayat
- Zilla Panchayats at district level

It was realised that the development programmes were a failure due to following reasons:

- Centralized planning process
- Top Down approach to implementation.
- Bureaucracy Centric development
- Complete absence of stakeholders' participation
- Absence of Accountability
- Absence of Democratic governments at local levels
- High levels of secrecy
- Lack of awareness among stakeholder about the schemes implemented by the Government
- Colonial attitudes of bureaucracy
- Bureaucracy was only morally responsible for development process but not legally.
- High levels of corruption.
- Mismatch between the needs of the people at the ground level and programmes formulated at the top. For example, people in rural areas were looking for some productive employment in the urban areas, but the programme was TRYSEM which focussed mostly on rural employment resulting in its failure.
- Weberian bureaucracy was given the responsibility of performing developmental functions. They neither possessed the skills nor the attitude and values needed to ensure the success of development administration.

In spite of the recommendations of BHALAVANTH RAI and ASHOK MEHTA committees, State Governments had not shown any interest in conducting elections to local bodies and also to transfer power to them. In order to overcome this problem, in 1989, the government introduced two significant constitutional amendments, 65 & 66th Constitutional Amendment Acts to empower rural and urban government at local level. They were passed by Lok Sabha but failed to get approval in Rajya Sabha. This was the period of confrontational federalism. Opposition ruled states felt that these amendments were introduced with the aim of taking power of State Governments. They voted against these amendments in Rajya Sabha.

In 1992, some amendments were re-introduced as 73rd & 74th Constitutional Amendment Act due to changes in political sceneries in country, they were passed by both houses of parliament and by 1995, and all state assembly gave their approval too,

Important features of 73rd Constitutional Amendment Act:

a) Gram Sabha

Gram Sabha is a body consisting of all the persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level. Since

all the persons registered in electoral rolls are members of Gram Sabha, there are no elected representatives. Further, Gram Sabha is the only permanent unit in Panchayati Raj system and not constituted for a particular period. Although it serves as foundation of the Panchayati Raj, yet it is not among the three tiers of the same. The powers and functions of Gram Sabha are fixed by state legislature by law.

b) Three Tiers of Panchayati Raj

Part IX provides for a 3 tier Panchayat system, which would be constituted in every state at the village level, intermediate level and district level. This provision brought the uniformity in the Panchayati Raj structure in India. However, the states which were having population below 20 Lakh were given an option to not to have the intermediate level.

All the members of these three level are elected. Further, the chairperson of panchayats at the intermediate and district levels are indirectly elected from amongst the elected members. But at the village level, the election of chairperson of Panchayat (Sarpanch) may be direct or indirect as provided by the state in its own Panchayati Raj Act.

c) Reservation in Panchayats

There is a provision of reservation of seats for SCs and STs at every level of Panchayat. The seats are to be reserved for SCs and STs in proportion to their population at each level. Out of the Reserved Seats, 1/3rd have to be reserved for the women of the SC and ST. Out of the total number of seats to be filled by the direct elections, 1/3rd have to be reserved for women. There has been an amendment bill pending that seeks to increase reservation for women to 50%. The reserved seats may be allotted by rotation to different constituencies in the Panchayat. The State by law may also provide for reservations for the offices of the Chairpersons.

d) Duration of Panchayats

A clear term for 5 years has been provided for the Panchayats and elections must take place before the expiry of the terms. However, the Panchayat may be dissolved earlier on specific grounds in accordance with the state legislations. In that case the elections must take place before expiry of 6 months of the dissolution.

e) Disqualification of Members

Article 243F makes provisions for disqualifications from the membership. As per this article, any person who is qualified to become an MLA is qualified to become a member of the Panchayat, but for Panchayat the minimum age prescribed is 21 years. Further, the disqualification criteria are to be decided by the state legislature by law.

f) Finance Commission

State Government needs to appoint a finance commission every five years, which shall review the financial position of the Panchayats and to make recommendation on the following:

- The Distribution of the taxes, duties, tolls, fees etc. levied by the state which is to

be divided between the Panchayats.

- Allocation of proceeds between various tiers.
- Taxes, tolls, fees assigned to Panchayats
- Grant in aids.

This report of the Finance Commission would be laid on the table in the State legislature. Further, the Union Finance Commission also suggests the measures needed to augment the Consolidated Funds of States to supplement the resources of the panchayats in the states.

g) Powers and Functions: 11th Schedule

The state legislatures are needed to enact laws to endow powers and authority to the Panchayats to enable them functions of local government. The 11th schedule enshrines the distribution of powers between the State legislature and the Panchayats.

11th Schedule of the Constitution

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Irrigation.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centers and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

11th Schedule of the Constitution

15. Non-conventional energy sources.

Further, the state legislature can authorize the Panchayats to collect and appropriate suitable local taxes and provide grant in aids to the Panchayats from the Consolidated Funds of the states.

h) Audit of Accounts

State Government can make provisions for audit of accounts of the Panchayats.

i) Elections

Article 243K enshrines the provisions with respect to elections of the Panchayats. This article provides for constitution of a State Election Commission in respect of the Panchayats. This State Election Commission would have the power to supervise, direct and control the elections to the Panchayats and also prepare the electoral rolls. The article maintains the independence of the election commission by making provisions that the election commissioner of this commission would be removed only by manner and on same grounds as a Judge of the High Court.

If there is a dispute in the Panchayat elections, the Courts have NO jurisdiction over them. This means that the Panchayat election can be questioned only in the form of an election petition presented to an authority which the State legislature by law can prescribe. (Important) The election commissioner for this reason is to be appointed by the Governor. The terms and conditions of the office of the Election commissioners have also to be decided by the Governor.

j) Applications to Union Territories

Provisions of Panchayats shall be applicable to the UTs in same way as in case of the states but the President by a public notification may make any modifications in the applications of any part.

k) Exempted areas and states

The provisions of part IX are not applicable to the following:

- Entire states of Nagaland, Meghalaya and Mizoram
- Hill areas in the State of Manipur for which District Councils
- Further, the district level provisions shall not apply to the hill areas of the District of Darjeeling in the State of West Bengal which affect the Darjeeling Gorkha Hill Council.
- The reservation provisions are not applicable to Arunachal Pradesh.

Que. —The second generation reforms in the Panchayati Raj institutions have changed Panchayats from the agency of development at local level into a political institution.|| Discuss. (2013) (12M)

Que. "The goals of good governance will remain utopian if local governments, responsible for providing all basic services directly to the citizens, are not empowered as mandated by the 73rd and 74th Constitutional Amendment Acts." Critically evaluate the status of empowerment of the local bodies. (2016) (20M)

Problems in Implementation Of 73rd & 74th Constitutional Amendment Acts:

Gram Sabha: Mahatma Gandhi famously said that real freedom is not about freedom from the British. It can be achieved only when we can transform our villages into self-sufficient & independent republics. There must be complete decentralization of power to people at the lowest level. They should be given complete freedom to take decisions and implement them.

This was believed that Gram Sabha would help in realizing this dream of Mahatma Gandhi but unfortunately, they had failed due to various reasons:

- The size of Gram Sabha when these amendments were passed- it was based on the assumption that the size would be 1500-2000 people. They would meet, discuss & debate & finally take decisions & implement them. But due to the large population and very dense population, it's impossible for all of them to meet together and make decisions. Average size of Gram Sabha in some of the States had increased to more than 25000 people making it almost impossible to hold meetings.
- Participation of women due to social & cultural restrictions. Women are more or less never allowed to attend the meetings of Gram Sabha.
- Meetings of Gram Sabha are never held regularly; it is expected that Gram Sabha would meet at least 2-3 times in a year & take decisions but these meetings are never held.
- Under the 73rd Constitutional Amendment Act, Gram Sabha should act like an assembly at the local level with Gram Panchayat as executives is expected to implement the decisions taken by Gram Sabhas. But in reality, Gram Panchayat would take decisions, directly without involving Gram Sabha, defeating the very purpose of 73rd Constitutional Amendment Act.
- As and when the meetings of Gram Sabha are held, they are held mostly in secrecy. Efforts are not made to inform all the stakeholders regarding the meetings of Gram Sabha. Mostly the relatives and friends of panchayat members would attend the meetings of Gram Sabha.

Que. Despite the adoption of decentralized planning, participatory initiatives remain marginalized and divisive in many regions. Discuss. (2014) (10M)

Que. —The institution of Gram Sabha has very little connection with the Gandhian spirit of direct democracy.|| Critically examine (2017) (10M)

Participation of Women & Empowerment of Women:

The 73rd Constitutional Amendment Act had provisions for reservation for women in panchayat bodies. 33% reservation envisaged and some states like Bihar has 50% reservation for women. In spite of reservations, it has not resulted in their empowerment. All decisions were taken by the male members of the family without informing women. It did not result from their empowerment.

Reservations: were also provided for SC & ST, but it did not result in empowerment of these backward castes. Mostly forward caste people ruled panchayat bodies in the name of backward castes.

Que. Despite the constitutional provisions for representation, the voice of weaker sections is not having the desired impact in the realms of Panchayati Raj Institutions. Critically examine. (2020) (20M)

As a result of election to PRIs in States/Union Territories, 2,27,698 Panchayats at village level, 5906 Panchayats at intermediate level and 474 Panchayats at the district level have been constituted in the country. These Panchayats are being manned by about 34 lakhs elected representatives at all levels; of them one-third are women. This is the broadest representative base that exists in any country in the world.

Chief Minister's Conference: had identified 3 major problems in implementation of 73rd Constitutional Amendment Act.

- Function.
- Functionaries
- Finances

As part of 73rd Constitutional Amendment Act, 29 subjects were to be transferred to Local Self Government. Similarly, State Governments were also expected to transfer functionaries to local bodies for implementation of development and welfare schemes. Finance was to be given to local bodies as per State Finance Commission recommendation.

Que. "The objectives of fiscal devolution to local bodies as mandated by the 73rd and 74th Constitutional Amendment Acts has been derailed by the actual working of the State Finance Commissions." Comment. (2016) (20M)

Que. Efforts to strengthen State Finance Commissions have faced apathy of State Governments over the years, which has also affected the successive Central Finance Commissions in recommending appropriate fiscal transfers to local bodies. Substantiate the answer with example (2019) (20M)

Activity Mapping: was done by the Ministry of Panchayati Raj to find out the number of activities performed by panchayat bodies at local level. According to functions given to them under schedule, here too the performance was not up to the mark.

Lack of Infrastructure: 68% Panchayat Bodies do not have separate buildings of their own. They are in highly dangerous condition. Most of the panchayat bodies do not have manpower. Also, they don't have access to the internet.

Most of the members of the panchayat bodies are poor, illiterate, & backward with no administration experience. It has come in the way of their functioning. States like RJ, Haryana have come out with minimum education qualification for contesting for PRI.

In States like Gujarat, Madhya Pradesh, Maharashtra, Karnataka, Kerala, Orissa, Rajasthan, Tripura, Uttar Pradesh and West Bengal detailed instructions have already been issued and in several cases departmental functionaries have been placed with the Panchayats. The Government of Madhya Pradesh has transferred 18 Departments to the PRIs.

In some States, functions and functionaries have not been transferred to PRIs. For instance, in the field of decentralisation, the State Government of Andhra Pradesh is implementing 'JANMABHOOMI' mainly through the State bureaucracy, which is against the spirit of the 73rd Constitution Amendment Act, 1992. However, after strong protests from Sarpanches, the State Government has agreed to transfer 16 out of the 29 subjects of rural administration to the local bodies.

In real terms, no improvement in local resource base is likely as a result of the recommendations of SFCs. Moreover, the SFC reports have paid far less attention to issues of autonomy, financial management and auditing procedures. The main deficiency of the reports lies in the fact that the recommendations are not based on a clear statement of the spending responsibilities of local bodies. Indeed the absence of attention to the elementary principle, that expenditure assignment must precede any tax or revenue assignment, has made most of the SFC's recommendations suspect. All PRIs have a poor fiscal base. While resource mobilisation by the PRIs is generally limited, it is imperative to provide PRIs with revenue raising powers of their own in order to reduce their excessive dependence on the State and Central Governments.

Constitution of District Planning Committees (DPCs):

Despite long years of delay, many States are yet to constitute the DPCs. Only nine States, namely, Haryana (just in 3 Districts), Karnataka (10 out of 27 districts), Kerala, Madhya Pradesh, Rajasthan, Sikkim, Tamil Nadu, Tripura and West Bengal and two Union Territories, namely, Andaman & Nicobar Islands and Daman & Diu have taken action to constitute DPCs. In Tamil Nadu, operational orders for DPCs are yet to be issued.

The provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) have come into force on 24th December 1996. The Act extends Panchayats to tribal areas of eight States namely, Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Orissa and Rajasthan; it will enable tribal society to assume control of its own destiny to preserve and conserve the traditional rights over natural resources. All States barring Bihar and Rajasthan have enacted State 268 Legislation to give effect to the provisions contained in Act 40, 1996 as mandated under the Central Act. Rajasthan promulgated an ordinance in this regard recently.

The strength and sustenance of local institutions in India has shifted from their formative phase of Functions, Functionaries and Funds‘ to the contemporary stage of Functionality‘.

Functionality refers to the quality of being suited to serve a purpose well. It points to aspects of a situation that include the actual doing or experience of something. It is about the objective that something is intended or expected to accomplish. The critical challenges faced by local institutions in terms of their functionality in recent times are:

- 1) Most states have conformed to the 73rd and 74th Constitutional Amendment Acts only on paper. The state governments have yet to devolve the actual functional autonomy excluding Kerala, Karnataka, Madhya Pradesh etc.
- 2) Since delegation of powers, functions and finances is not mandated, as the case is with the creation of local self-governing bodies, they struggle to achieve their objectives.
- 3) Governance functions related to education, health, sanitation and water are not coded and specified. It becomes difficult to set the targets and attain them.
- 4) State executive authorities influence and direct their functionality trying to accommodate the vast differences through the one-size-fits-all approach.
- 5) Functionality subsists on financial intervention, but there are many blockages in raising their own revenue through local taxes and receiving intergovernmental transfers.
- 6) The framework of governance has no consistency across vertical and horizontal cooperation.
- 7) Local planning, development and administration are in need of Standard Operating Procedure (SOP) Culture.
- 8) Due to the lack of human resource and physical infrastructure, local institutions face difficulties in delivering their services efficiently

Que. The evidence suggests that the dream of deliberative democracy could not be realized in practice at the grassroot level. Evaluate the impediments in the functioning of Gram Sabha. (2019) (10M)

Solutions:

- In those villages where the size of population is very big, it should be divided into ward Sabha with a population of not more than 1500 people.
- To ensure empowerment of women & backward caste, funds should not be disbursed to villages unless the concerned officer is confident about the fact that the head of the panchayat has complete information about how money is going to be spent. It ensures that they have knowledge about the programme he implemented is also about expenditure.
- **Proper training** should be given to the heads of Local Self Government at all levels in administration, so that they can participate in implementation of development and welfare schemes.
- State budgets must have a special window for Local Self Government so that the Local Self Government can receive complete funds within the specific time period.
- Recommendation of state Finance Commission must be made mandatory like that of central Finance Commission. State Governments should not be allowed to divert the funds meant for local bodies.
- The Chief Minister's Conference suggested that Devolution Index must be made the necessary condition for the release of grants from the Central Government to the states. Those states that perform well on the Devolution Index should be given more funds & vice versa.

Que. Performance grants developed by the Finance Commission of India have increased the Financial accountability of the local bodies. Elaborate. (2019)(10M)

Que. —Effectiveness of local-self government institutions is hampered due to the lack of capacity building of the elected representatives.|| Elaborate (2017)(10M)

Que. The 13th Finance Commission highlighted an indispensable need to improve the finance of rural and urban level bodies. Does this make local bodies more accountable in the discharge of their functions? (2014) (20M)

- Principle of subsidiarity should be followed while delegating functions & finance as local bodies. Those functions which can be best performed at the lowest level, should only be performed at the lowest level. Those functions which cannot be formed by local governments should be transferred to the State Government and Central Government.
- Activity mapping should be made mandatory for all State Governments. This will indicate the performance of State Governments in transferring real powers to State Governments.
- Number of Central Sector Schemes should be drastically reduced so that these panchayat bodies can become institutions of self-governance. If they are not reduced, panchayat bodies should be given freedom to identify benefits.

- Distance learning techniques can be used to provide basic education to members of panchayats.
- There should be a separate district civil service on the lines of All India Services and State Civil Services.
- A small portion of Central Sector Schemes should be spent on improving infrastructure of Local Self Government. Every panchayat institution must have basic amenities like separate buildings, minimum administrative staff, along with internet connection.
- When these panchayat bodies are dissolved before the expiry of their term, it should be made mandatory for State Governments to conduct elections within 6 months.

Que. —The 73rd Amendment, it is felt, may accentuate fiscal indiscipline by establishing between State and Local Governments a system of transfers similar to the one in place between the Central and State Governments.|| (World Bank) Comment. (2013) (20M)

SMART VILLAGES:

- It is said that India requires 1, 00,000 smart villages rather than 100 smart cities. Agriculture, which provides employment to more than 50% of our populations, is part of our rural life. Even in our present times, food security depends on agriculture.
- In 2014, the government launched Pradhan Mantri Adarsh Gram Yojana, wherein every MP was expected to adopt some villages in their respective constituencies.
- On the financial side, small village programmes focus on making villages self-sufficient & sustainable. In the long term, it is expected to raise finance on their own. Development of villages should not be the exclusive of people elected representatives.

Smart Village^l India gets its foundation from Mahatma Gandhi's vision of *Adarsh Gram* (model village) and *Gram Swaraj* (Village self-rule/independence). Gandhi in two texts, *Hind Swaraj* and *Gram (Village) Swaraj*, promotes the concept of integrated rural development to impact majority of the population, as the primary initiative after India Independence in 1947. In the concept of "Smart Village" the development of the village shall be based on the five paths Retrofitting, Redevelopment, Green fields, e-Pan, Livelihood.

For democracy to be successful at the national level, the grass root organisations have to be strong. The local authorities have to respond to the felt-needs of the people. The citizens have faith in the efficacy of the administrative system so that distance between people and the government is reduced. The administration, for good governance, has to be accessible.

In developing countries, it is the government, which initiates and implements development programmes. It must gain support of the people in the discharge of these programmes, particularly at the cutting-edge. Such support would strengthen democracy as well as a positive response of the community to development programmes which should be the ultimate goal of good governance.

Self Help Groups:

- "Small economically homogeneous affinity group of rural poor voluntarily formed to save and mutually contribute to a common fund to be lent to its members as per the group member's decision."
- A self-help group is a method of organising poor and marginalised people to work together to solve their individual problems. The SHG method is used by governments, NGOs, and others all over the world. The poor gather their savings and deposit them in banks. In exchange, they are given easy access to low-interest loans to help them start their micro-enterprise. Thousands of India's poor and marginalised people are using self-help groups to better their lives, families, and society.
- —No, these women needed opportunity, not charity – They want chance, not bleeding hearts॥ – Prof. Mohammed Yunus.
- Self-Help Groups are not simply charitable or community-based organisations. They are created and controlled by the people who are affected. Members of the group are not volunteers. Despite the fact that the work is usually unpaid, members work to improve their own situation and mutual support is provided. The knowledge base of self-help mutual support groups is experiential, indigenous, and based on the wisdom gained from overcoming problems in concrete, shared ways. Self-help groups capitalise on their members' strengths.

Que. —Self-Help Groups (SHGs) have contributed to a change in the role of rural women in development — from symbolic participation to empowerment.॥ Discuss. (2013) (10M)

Model Answers

Que 1. All weather rural connectivity scheme to even unconnected rural habitations has the potential to transform the rural economy. Do you agree? Justify. (2019) (10M)

Rural India was said to be made of —village republics॥, which were largely unconnected from one another. While this is not true today as the rural hinterland is

getting integrated, the gulf between rural and urban areas remains. An estimated 40% of rural habitations lacked all-weather connectivity at the turn of the 21st century.

The rural economy is primarily agrarian and greater connectivity will ensure market access and can thus transform the rural economy.

How it has the potential to transform the rural economy:

- Market access: For agricultural produce through connectivity to APMC, GrAMs, etc. Thus, the agricultural sector (which employs about half of the workforce in India) can grow better due to lower wastage, find better prices and respond to demand adequately.
- Export potential: Connectivity allows for setting up of agro-based food-processing industries, handloom industries, etc. which can contribute to exports earnings. Greater connectivity will also reduce the cost of logistics (currently at 15%) improving competitiveness of Indian exports and enhance ease of doing business. Rural economies can diversify beyond agrarian.
- Creation of jobs: construction of roads and infrastructure is a source of jobs under MGNREGA.
- Connectivity means more people to people contact between rural and urban areas leading to potential for cross-pollination of ideas and potential for innovation through start-ups.
- Service delivery by administration: Connectivity will enable administrators to accurately assess the ground situation as well as allow participation of people. This is especially true in case of Left-wing extremism and insurgency hit areas. Connectivity also will ensure that administration can respond fast in case of disasters.
- Access to essentials: In India, education and health are largely concentrated in urban areas. Connectivity will ensure that even people of rural areas can access these. Super specialty hospitals like AIIMS cannot be set up in all areas due to economic considerations. However, connectivity will ensure everyone can access these and bring about the effects of agglomeration.

The lockdown following the COVID pandemic has exposed the limitations of urban-led development, while the rural economy remained as a bright spot of the economy. Ensuring all weather connectivity is thus a rational course of action economically as well as socially. Thus schemes like the PM- Gramin Sadak Yojana need to be expanded upon.

PM-Gramin Sadak Yojana:

- PMGSY was launched in December 2000 with the objective of bringing single all-weather road connectivity to eligible unconnected habitations of a certain population size (500+ in plain areas and 250+ in North-East, hill, tribal, and desert areas, according to Census 2001) for overall socio-economic development of the areas.
- The funds would be segmented 60:40 between the Centre and the states, with the

exception of eight North Eastern and three Himalayan states (Jammu and Kashmir, Himachal Pradesh, and Uttarakhand), which would be segmented 90:10.

- Important sub-projects include - Road Connectivity Project for Left Wing Extremism Area, consolidation of Through Routes and Major Rural Links connecting habitations to Gramin Agricultural Markets (GrAMs), Higher Secondary Schools and Hospitals.

Que 2. “Rural development programmes have failed to effectively address the problems of small and marginal farmers.” Analyse and give suggestions. (2018) (20M)

The agriculture census classifies farmers into 5 types based on size of landholding. Small farmers own 1ha to 2Ha of land and marginal farmers own less than 1Ha. The small and marginal farmers comprise over 85% of the farmers in India, though they own less than half of the total land.

A brief look at rural development schemes:

• Infrastructure creation	<ul style="list-style-type: none"> PM- Gram Sadak Yojana, road laying. SAUBHAGYA yojana, universal electrification. Bharatnet project, ensuring broadband connection to every gram panchayat area. Jal jeevan Mission-Har Ghar Jal, tapped water for all. Swachh Bharat Mission (Gramin) creation of sanitation infrastructure and toilets. Shyamaprasad Mookerjee Rurban mission- aims to provide basic urban facilities in all rural areas.
• Ensuring Livelihood	<ul style="list-style-type: none"> Deendayal Antyodaya Yojana -National Rural Livelihood Mission: to alleviate rural poverty and create sustainable livelihood opportunities for the rural poor. Promotes SHGs and co-operatives, as well as promotes entrepreneurship. Deen Dayal Upadhyaya Grameen Kaushalya Yojana – skilling for enhancing employability of rural youth. MGNREGA – provides assured 100 days of unskilled work.
• Schemes for agriculture	<ul style="list-style-type: none"> Schemes for agricultural marketing at APMCs, e-NAM and GrAMs. Schemes for agricultural inputs.

	<ul style="list-style-type: none"> Various subsidies for fertilizers, electricity, etc. (by states as well as Union). Creation of Community Hiring centers for machinery PM- Krishi Sinchayee Yojana for irrigation and so on. Schemes for remunerative pricing MSP regime, price-deficiency payments, price support mechanisms. Kisan rail and kisan udan for improving transport of produce and reducing wastage. Security net. Crop insurance under PM-Fasal Bima Yojana. Conditional DBT in the form of PM-KISAN (6000 per year).
<ul style="list-style-type: none"> Credit Creation 	<ul style="list-style-type: none"> RBI norms that mandate minimum 25% branches of banks in rural areas. Creation of regional rural banks (RRB Act, 1976). Priority sector lending norms for Agriculture and rural enterprises.
<ul style="list-style-type: none"> Health 	<ul style="list-style-type: none"> National Rural Health Mission. Creation of Health and wellness centers under Ayushman Bharat. Health Insurance under PM Jan Arogya Yojana.

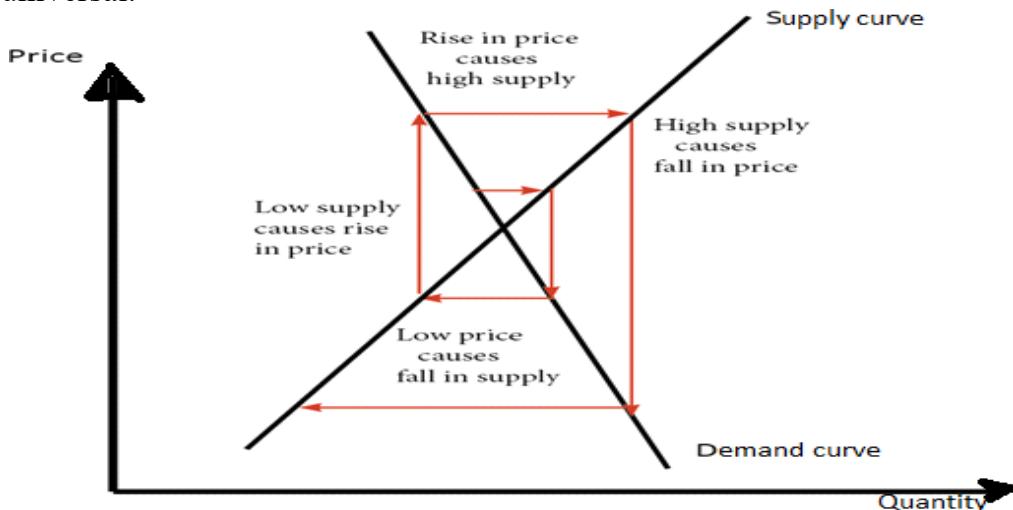
Have rural development programs failed to effectively address the problems of small and marginal farmers?

As the problems of land fragmentation and declining productivity continue, the number of small and marginal farmers (SMF) is increasing.

Issues related to debt and indebtedness (based on NAFIS data)

- Access to formal credit is still a problem. Non institutional credit comprises of over 28% of total, while average loan from non-institutional source is almost double that of formal credit
- About 48% of farming households are indebted.
- Average monthly income of an agricultural household is low at nearly 8900 rupees.
- While recent years have seen rise of debt waiver schemes by state governments for farmers to free them from debt overhang, it does not address the root cause of continuing indebtedness.
- Adoption of Innovation and new techniques in agriculture is low. This is due to inadequate extension services and relatively high cost of modern machinery.
- Reducing productivity of land and ecological problems, especially due to overuse of fertilizers and over-irrigation indicate unintended consequences of subsidy schemes.

- Remunerative prices have not been available- due to gaps in MSP regime and costs associated with APMC charges, corruption and middlemen. The Shanta Kumar committee estimated that only 6% of farmers are benefited by MSP.
- Asymmetry in information leads to cobweb phenomenon and farmers have to face a specter of losses due to price crash and natural phenomena. Insurance coverage is not yet universal.



- Lack of proper irrigation facilities. Only 45% of land is irrigated.
- Land reforms are yet unfinished. Digitization of land records is not yet complete which leads to issues in accessing credit, as well as disincentivizes investment of farmers into land.
- Increasing underemployment in agriculture as other sectors are not able to absorb excess workforce away from agriculture.

However rural development programs have not been an entire failure:

- Schemes for enhancing agricultural productivity like Soil health Card scheme, PM-KUSUM have reduced the ecological impact and have successfully improved agricultural income for farmers.
- Social security net in the form of rations under PDS scheme, MGNREGA, etc. benefit the lower strata of agricultural households.
- Adoption of JAM trinity and DBT in subsidies is eliminating leakages and ensuring beneficiaries receive what they are entitled to.
- Innovative schemes spearheaded by states and Union such as price deficiency payment schemes and conditional DBT have helped to improve the life of farmers.

Suggestions for improvement:

- Teach a man to fish, rather than feed him a fish while measures such as loan waivers may act as short term band-aids, farmers should be made self-sufficient by promotion of Farmer Producer Organizations, Contract farming and Agro-based industries. The recent farm law amendments are a step in this direction. Administration should be guided by the philosophy of New Public service in this regard.
- Eliminating leakages and corruption by use of JAM trinity and DBT.
- Use of ICT:

- Using satellite data for weather prediction and effective communication to farmers via mobile
- Use of drones and GIS for land record updation and digitization (SWAMITVA scheme)
- Use of multiple communication channels for effective extension services
- Enhancing remuneration by sustainable means promotion of micro-irrigation, organic agriculture, Zero-budget natural farming, climate-smart agriculture etc.
- Outcome- orientation should be undertaken in implementation of schemes. For example, instead of measuring how many kilometers of roads have been laid in a district under Gram sadak yojana, other measures such as reduction in average time to reach APMCs or average time for evacuation of agricultural output can also be considered.
- Participatory governance via panchayati raj institutions (PRIs) should be promoted by supporting PRIs with 3 Fs- funds, functions and functionaries. This will give voice to small and marginal farmers and allow them to work towards their betterment in a bottom-up manner.
- Enhancing Accountability via social audit.

Sustainable rural development requires the development and uplift of all. To this end, the small and marginal farmers are key. Thus, rural development should be given greater emphasis to realize the dream of —sabka saath, sabka vikas॥

Chapter 12- Urban Local Government

Syllabus: Municipal governance: main features, structures, finance and problem areas; 74th Constitutional Amendment; Global-local debate; New localism; Development dynamics, politics and administration with special reference to city management.

- As per the 2011 census, only 31.16 per cent of India's population was classified as urban. But, in terms of absolute numbers, India's actual urban population of 377 million is massive as evident from the fact that it nearly is more than the total population of the USA.
- Urbanisation is an incessant trend and its pace is accelerating. Poverty and lack of employment in the villages lead to migration from rural to urban areas; increasing industrialisation has contributed to the growth of new towns; the expansion of means of transport has facilitated easy movement of men and material and, above all, cities provide a better quality of life, in terms of educational and health facilities.

Evolution of Urban Local Government in India:

The Pre-Independence Period:

- Municipal administration in India can be traced back to 1687, when a Municipal Corporation was established in Madras to shift the financial burden of local administration to the local city council. Later, in 1720, the Royal Charter of Madras, Bombay, and Calcutta established a Mayor's Court in each of the three Presidency towns. In 1850, an Act was passed for the entire British India allowing the formation of local committees to make better public health provisions. Lord Mayo's resolution of 1870 provided for the strengthening of municipal institutions and the increased participation of Indians in these bodies.
- Yet, it was Lord Ripon's Resolution of 18 May 1882 that was hailed as the Magna Carta of local government and got for Lord Ripon the title of —father of local self-government in India.|| Ripon suggested reforms for instilling life into the local bodies. He advocated the establishment of a network of local self-governing institutions, financial decentralization, the adoption of election as a means of constituting local bodies and the reduction of the official element to not more than a third of the total membership.
- However, these reforms were hampered by several factors such as the obstructive tactics of bureaucracy, domination of these institutions by the Deputy Commissioner and the hostile attitude of Lord Curzon, who succeeded Lord Ripon, towards local bodies. It is ironic that when the prime movers of reforms leave the scene, the spirit of their reforms also gets affected adversely.

- The Government of India Act 1919 introduced the system of dyarchy and the local self-government became a transferred subject under the charge of the powers of local bodies, lowered the franchise, reduced the nominated element and extended the communal electorate to a larger number of municipalities. This experiment was both a success and a failure. It was a success because the local bodies became popular and provided the people with some political education. It was a failure because communal representation hindered the spirit of unity, the dyarchy system was confusing, and municipal personnel were untrained. Finally, the 1935 Government of India Act, which emphasised provincial autonomy, declared local government to be a provincial subject once more. The Act made no provision for local governments to levy taxes. The introduction of popular ministries was supposed to revitalise municipal institutions. However, due to the outbreak of World War II, little progress could be made in this direction.

Que. Urban local governance is perpetually afflicted with lack of financial autonomy and starvation of funds. Elaborate. (2020) (10M)

The Post-Independence Period:

The Indian Constitution, which entered into force on January 26, 1950, directs the state through Article 40 to organise panchayats but does not impose a corresponding duty on the state in terms of the creation of urban bodies.

Two entries are the only ones that mention urban self-government:

—Local Government, that is to say, the constitution and powers of Municipal Corporations, Improvement Trusts, District Boards, mining settlement authorities, and other local authorities for the purpose of local self-government or village administration,|| says Entry 5 of List 11 of the Seventh Schedule, referring to the State List.

Entry 20 of the Concurrent List reads: —Economic and Social Planning, Urban Planning would fall within the ambit of both Entry 5 of the State List and Entry 20 of the Concurrent List.||

The Five-Year Plans also highlighted the municipal bodies' problems and inability to meet the growing demands of urbanisation on a regular basis. The Central Government has appointed several commissions and committees to address the need to improve urban bodies on a timely manner.

The most important ones and their contributions are:

- The Local Finance Enquiry Committee (1949-51) primarily proposed broadening the scope of taxation of urban bodies.

- The Taxation Enquiry Commission (1955–54) advocated for the exclusive use of certain taxes by or for local government.
- The Committee on the Training of Municipal Employees (1963) emphasised the establishment of training institutes at both the national and state levels to train municipal personnel.
- The Rural-Urban Relationship Committee (1963-66) prepared a detailed report on the subject, looking into all aspects of municipal administration such as personnel, planning, and taxation, as well as the town's interdependence with its surrounding villages.
- The Committee of Ministers on the Augmentation of Financial Resources of Urban Local Bodies (1963) stated that urban bodies were not levying taxes even in areas designated for them and urged local bodies to establish statutory Urban Development Boards to undertake town development.
- The Committee on Service Conditions of Municipal Employees (1965-68) advocated for the establishment of a statewide cadre of municipal employees.
- The National Commission on Urbanization (1988) made broad recommendations for revitalising urban government.

THE 74th CONSTITUTION AMENDMENT ACT:

- Following the National Front Government's assumption of power in December 1989, the provisions of the Constitution 65th Amendment Bill 1989 were reviewed. In September 1990, a revised Amendment Bill was introduced in the Lok Sabha, incorporating provisions relating to Panchayats as well as municipalities. This bill also lapsed as a result of the dissolution of the then Lok Sabha.
- On September 16, 1991, the Narasimha Rao government took charge and introduced a Constitution Amendment bill pertaining to municipalities in the Lok Sabha. It was essentially based on the 65th Amendment Bill, with a few changes. In December 1992, both Houses approved it. The bill has since been ratified by a resolution passed by at least half of the state legislatures. It received the President's assent on April 20, 1993, and was published in the Gazette on the same day as the Constitution 74th Amendment Act, 1992.
- The 74th Amendment establishes the District Planning Committee, tasked with developing a draught development plan for the entire district, including both rural and urban areas. Where there are DPC, they have tended to be rather unwieldy, as its composition comprises a very large number of people.

Que. It is observed that non-functioning of District Planning Committees is preventing the convergence of rural and urban planning needs. Do you agree? Justify. (2019) (20M)

Que. ‘District Planning Committee (DPC) has been the weakest structure in the local self-government mechanism in India.’ Analyze with examples (2017)(10M)

Que. —Municipal Administration in India faces both structural and operational challenges.|| Examine in the context of the post-74th Amendment Act. (2013) (10M)

Structure and Functioning:

In India, various types of municipal bodies are established for the administration of urban areas, depending on their size, population, industrial or other importance, and so on. These are the bodies:

Municipal Corporation:

- Municipal corporations are only established in big metropolitan cities.
- The 74th Amendment Act stipulates that the areas for various types of urban bodies would be specified by the Governor of the state, taking into account the population, density of the population therein, revenue generated by the local body, percentage of employment has a statutory status because it is created by an Act on the state legislature or Parliament in the case of a union territory.
- The council of the corporation comprises the councillors who serve for a period of five years.
- The composition of municipal bodies has also changed as a result of the 74th Amendment Act to the Constitution.
- It specifies that all seats will be filled through direct elections, with the municipal area divided into wards.
- Each seat in the municipality shall represent a ward. Aside from seats filled through direct elections, some seats may be filled through nominations of individuals with special knowledge or experience in municipal administration, but such members will not have voting rights.
- Besides, the Members of Parliament (MP) and of the state legislature (MLA) will also be voting members in a municipality.
- The Act also specifies the reservation of seats for SC/ST, women, and backward classes. The proportion of seats reserved for SC/ST to the total number of seats reserved for SC/ST shall be reserved for SC/ST women. Women will be given at least one-third of the total number of seats in the municipal body. (This includes the seats reserved for women from SC/ST groups.) A state legislature may make an optional provision for adequate representation of SC/ST and women in the office of municipality chairperson.
- The Municipal Commissioner is the corporation's chief executive officer. He is at the top of the municipal hierarchy and is the key officer in charge of the corporation's administrative machinery. He is appointed by the state

government. In the case of a union territory, the appointment is made by the central government.

- Officers from the Indian Administrative Service (IAS) are generally appointed to this position; however, at the state level, a state service officer may be appointed. Because a municipal commissioner is the centre of municipal administration, he is responsible for a wide range of responsibilities. He carries out or puts into action the decisions of the council and its committees. All municipal records are in his possession; he prepares budget estimates, appoints to certain categories of positions, and can enter into contracts on behalf of the corporation up to Rs. 25,000.

Functions:

- Municipalities are carrying out their traditional civic functions. The 74th Constitutional Amendment, on the other hand, states that municipalities must go beyond simply providing civic amenities.
- They are now expected to play a critical role in the formulation of local development plans as well as the implementation of development projects and programmes, including those specifically designed to alleviate urban poverty.

The Twelfth Schedule of the Constitution includes an illustration list of functions that may be delegated to municipalities. A state legislature would be free to choose from or add to this list while defining the functions that municipalities would perform.

Following list of functions has been laid down in the Twelfth Schedule is as follows:

- Urban planning, including town planning.
- Regulation of land use and construction of buildings.
- Planning for economic and social development.
- Roads and bridges.
- Water supply for domestic, industrial and commercial purposes.
- Public health, sanitation, conservancy and solid waste management.
- Fire services.
- Urban forestry, protection of the environment and promotion of ecological aspects.
- Safeguarding the interests of weaker sections of society, including the handicapped and the mentally retarded.
- Slum improvement and upgradation.
- Urban poverty alleviation.
- Provision of urban amenities and facilities such as parks, gardens, playgrounds.
- Promotion of cultural, educational and aesthetic aspects.
- Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
- Cattle ponds; prevention of cruelty to animals.

- Vital statistics including registration of births and deaths.
- Public amenities, including street lighting, parking lots, bus stops and public conveniences.
- Regulation of slaughterhouses and tanneries.

Municipal Council/Committee/Municipality:

- A municipal council is a statutory body established by a state legislature Act, and the criteria for its establishment differ from state to state.
- These are, in broad terms: population of city, size of city, sources of income, industrial/commercial future and prospects of the city. Even within a state, the criteria may differ.
- Despite its small population, a city with advanced industrialization may have a municipality.
- The state government determines the size of a municipality, but the minimum number of councillors should be five. As the population grows, so does the size.
- As per the Constitution 74th Amendment Act, 1992, their tenure/term is five years.
- The municipal council elects a President from among its members for a five-year term. The council also elects one or two Vice Presidents, one senior and one junior, who are removable by the council.
- The President is an important figure in municipal administration, with real deliberative and executive powers. He presides over council meetings, guides deliberations, and ensures that decisions are carried out. He is the administrative head of all municipal officers, the custodian of municipal records, the approver of all financial matters before they are presented to the council, and the council's representative on national and social occasions. He possesses extraordinary powers that allow him to order the immediate execution or suspension of any work.

Some Other Provisions of the 74th Constitution Amendment Act:

- In addition to the various forms of urban local government that exist today, the Act provides for the establishment of Nagar Panchayats. A transitional area will be served by a Nagar Panchayat. Such an area is primarily rural in nature, but it is likely to develop urban characteristics over time.
- Each state/UT will be required to establish a State Election Commission (SEC), which will be led by a State Election Commissioner appointed by the governor of the state.
- In order that the financial position of the municipalities is reviewed periodically, it has been laid down that a State Finance Commission will have to be constituted by the Governor of the state within one year from the commencement of the Constitution 74th Amendment Act, and, thereafter, at the expiry of every five years.

- Distribution of income between the state government and municipalities, determination of taxes, duties, tolls and fees to be assigned or appropriated to the municipalities, grants-in-aid to municipalities from the Consolidated Fund of the state, measures needed to improve the financial position of the municipalities, grants-in-aid to municipalities from the Consolidated Fund of the state, measures needed to improve the financial position of the municipalities and allocation of the shares of such proceeds between the municipalities at all levels in a state.
- The Act also provides for setting up ward committees in order to provide the citizens ready access to their elected representatives.

Notified Area Committee (NAC):

- The Notified Area Committee is formed for an area that does not yet meet all of the prerequisites/conditions for the creation of a municipality but is deemed important by the state government. In general, it is created in a rapidly developing area where new industries are being established.
- It is created by a notification in the government gazette rather than by statute, hence the name "notified area." To administer this area, the state government forms a committee known as the Notified Area Committee (NAC). This committee's members are all appointed by the state government; there are no elected members.

Town Area Committee (TAC):

- It is a semi-municipal authority composed of small towns. There are such committees in several states, but Uttar Pradesh has the most of them. The TAC is established and governed by a state legislature Act, which specifies its composition and functions. Its membership varies from one state to the next. The committee can be partly elected, partly nominated, or wholly elected or wholly nominated.

Township:

- In India, several large-scale public enterprises have been established. Steel plants in Rourkela, Bhilai, and Jamshedpur are examples, as are Heavy Electricals Limited near Bhopal and Hindustan Aeronautics near Bangalore. Housing colonies for staff and workers have been built near the plants. Because these industries provide employment, people from both urban and rural areas are drawn to them, and as a result, small townships form around them. Among the well-known examples are the townships of Jugsalai and Adityapur near Jamshedpur.

Cantonment Board:

- Cantonment Board is the form of Urban Local Government which is also a British legacy. Cantonment boards were established for the first time in 1924 under the Cantonments Act. While all other urban governance institutions are administered by the state government, these are the only bodies that are administered centrally by the Defence Ministry.
- When a military station is established in an area, the military personnel move in, and a sizable civilian population joins the developing area to provide them with everyday amenities. Colonies, markets, and other amenities sprout up near such military bases. Cantonment boards are formed to administer these areas.
- As of 1987, there were 63 cantonment boards in India which were grouped into three classes:
 - **SPECIAL PURPOSE AGENCIES:**
 - These agencies are established as government departments or as statutory bodies under separate state government Acts. Housing boards, pollution control boards, and water supply and sewerage boards are examples of such agencies. Even though other municipal agencies exist for the same area, such bodies are established because certain activities require expertise, concentrated attention, and special skills that municipal bodies do not have. Besides, the municipal bodies are already overburdened, they lack the requisite administrative machinery and the necessary resources in order to deal with problems arising out of rapid urbanization.
- **HOUSING BOARDS:**
- Almost every state has established housing boards to address housing issues. The constitution of a housing board varies by state. A housing board at the state level, on the other hand, is generally led by a chairman who is either a serving civil servant or a citizen from public life. Representatives from the state departments of finance, industry, education, health, labour, and local self-government serve on the board. The Chief Town Planner, the Mayor or the Municipal Commissioner, and some citizens, including members of the Central and State legislatures, are also members.
- **IMPROVEMENT TRUSTS:**
- An Urban Improvement Trust is a statutory body formed with the explicit purpose of promoting a city's development. In general, a city's areas are divided between the municipal council and the improvement trust. The majority of the time, it is the "newer" city or the outlying areas that fall under the purview of a development trust.

Personnel Administration in Urban Bodies:

Three types of municipal personnel systems are obtained in the Indian states and union territories. They are:

- ***The Separate Personnel System:*** Each local authority in this system has the authority to appoint its own personnel. Such personnel are managed and controlled by the local government and cannot be transferred to another unit.
- ***The Unified Personnel System:*** According to this system, all or some local bodies form a single career service for the entire state, from which officers and other employees are posted in various units and are also transferable within the state. The service is run by the state government.
- ***The Integrated Personnel System:*** Personnel from local governments and the state government work together as part of the same service in this model. This service may be used to recruit all or some categories of local government personnel. The local civil service has been absorbed by the state civil service. The state government has the authority to transfer them from the municipal government to other departments.

In India, all three systems are operational in different states. Separate personnel systems can be found in West Bengal and Gujarat, where urban units serve multiple states. Municipal services have been established in such states, and the system now operates in Rajasthan, Uttar Pradesh, Andhra Pradesh, Tamil Nadu, and other states.

Decentralisation, Democratisation, Finances and Constitution with regard to Local Self Governments:

The passing of the 73rd and 74th amendments to the Indian constitution in 1992, decentralisation came into its own in the Indian polity. The process of decentralisation, so referred to because it was recognised that there had been excessive centralisation, was to deepen the democratic foundations of the Indian nation. People were to have a say in how their communities developed, with their elected representatives at the local level empowered to act in the public interest. These amendments were the result of extensive debate in the country.

When it was enacted, the Indian constitution established two levels of government: the Union Government or the Government of India, and the State governments, each with functions specified in lists. A number of articles in the constitution define the relationship between these two levels of government. It is ironic that many states, which argued for greater state autonomy in financial and administrative matters pertaining to the Union, are uninterested in further devolution from their level to local bodies. They are especially hesitant to consider local bodies to be —government, despite the fact that the amendments refer to them as such.

Scheme Implementation:

There would be elected bodies at the village and taluk levels on and off. These were only to assist officials in the implementation of schemes and had no authority in any

of the states. When they were well run, they were consulted; when they were not, they were often superseded and forgotten. Funds were moved in this hierarchical system, which was subject to rigid and inflexible rules, which frequently resulted in money not being spent as intended. The state's Local Fund Audit Department is in charge of auditing at the local level.

Decentralisation After the 74th amendment:

The 74th amendment also has a provision for a District Planning Committee, which has the mandate of integrating the plans of rural and urban bodies, for the first time, a horizontal integration of development schemes has become possible. The basic unit is the gram sabha, the electorate of the area. Above this come the elected bodies.

Supervision and Monitoring:

The elected bodies, whose existence became mandatory following the 73rd amendment, have been incorporated into the existing structure with minimal changes from what existed previously. Autonomous societies continue to exist as they have in the past. Officials can now—and do—claim that they are not liable for any shortcomings because they act on the decisions of elected representatives. Decentralisation is the appearance, but not the substance, of what occurs locally.

Decentralisation As It Should Be: A Possible Future

Where do we stand? The conclusion that states have fulfilled the legal requirements of the constitutional amendment without devolving funds, functions, or functionaries is unavoidable. This is not to deny that some limited progress has been made; rather, it is to acknowledge the nature of such progress. If we are to pass judgement on how decentralisation works in this country, we must ensure that the spirit of the constitutional amendments is truly implemented. If the essence of democracy is that people decide their own fate, then decentralisation is merely the first step in that process.

Mere elections are not enough. India has decentralised in a legal sense—democracy requires that the process be deepened so that the people can make their own decisions and implement them. This would require decentralisation of staff and funds—the two go together. Suggestions for a structure that allows this are provided below in desperate brevity. The goal is to create a debate that is different from what has already taken place.

First, without waiting for constitutional approval, several steps can be taken under existing law. Sub-committees are led by elected members in panchayats. Together with the President, these chairmen/chairwomen can act as a local council of ministers. As the head of the district government, the President serves as the district's chief minister. He reports to the zilla panchayat, which has the authority to remove him by passing a vote of no-confidence.

There is a Finance Committee. This committee can begin to supervise the use of local funds. The Chairman of the Committee can begin to act in the capacity of the local finance minister. To begin, he can present a budget to the zilla, taluk, or gram panchayat each year, outlining what revenues are available and what uses are planned for them. The fact that this body does not currently have legislative authority does not preclude such a presentation or discussion. It will improve information flow. It will cause people to consider their problems. In the process, it will make it easier to set priorities in a fund-scarce local situation. Such priorities can be used for fund allocations in the future.

The District Planning Committee is a statutory body. It should receive plans, programmes, and priorities from lower-level bodies. It should then engage in a discussion about what should be done and what should be postponed due to financial constraints. As the Kerala experience demonstrates, a bottom-up planning process can yield results.

There are significant obstacles to overcome. We lack the type of information required for effective planning at the local level. Our statistical system has been designed to provide national level estimates—the National Sample Survey gives state level estimates only for 14 major states. Sub-state level information is conspicuously lacking. It must be collected using systems that have been put in place. Rather, systems for utilising information gathered by state government bodies must be put in place. Much can be learned from the experience of the NRDMS experiment of the Department of Science and Technology of the Government of India.

The DPC should meet on a regular basis to ensure that the district's rural and urban areas are developed in tandem. It should eventually become the district's primary planning and approving agency, taking power away from the state government. Once a district's funds are determined, the DPC should make all decisions within that budget. It could be delegated plan approving authority within budgeted amounts, as in Madhya Pradesh, to reduce the rigidity in the financial system. To use James Manor's terminology, what is required is a combination of de-concentration and decentralisation.

Just as the constitution has provided for an Inter-State Council, there can be an Inter-District Council, with the Governor of the state as Chair, and all district presidents and the Chief Minister as members. Other ministers can be special invitees as needed. This body should deal with inter-district issues, and set guidelines for the state government on matters that come under the local list.

It is not necessary to wait for a constitutional amendment to establish an Inter-district Council. It is possible to accomplish this by reaching an agreement with the presidents of the ZPs and the Chief Minister; after all, that is how the National Development

Council was established, and it works when it comes to approving the FiveYear Plans. It is simply a matter of political will on the part of the government.

Administrative support for local authorities will need to be restructured. Departments and Directorates must be enhanced to the level of district-level bodies. The CEO of the Zilla Panchayat, as well as the urban body, should be a senior IAS officer on the supertime scale. This will provide them with the clout they need to get things done. According to Karnataka's 1983 Act, these officers must report to the President of the ZP. The IDC must take over the coordinating functions that the Departments used to perform in the state capital. As a result, authority can be delegated to the district level, and scheme implementation should improve from its current state.

Conclusion:

It has frequently been asked whether decentralisation reduces corruption. It has frequently been stated that decentralisation has only decentralised corruption and that there is no good reason to continue with it. Corruption must be combated, but it does not have to be linked solely to decentralisation.

Corruption has indeed become a cancer in this society. However, the case for decentralisation must be made on the basis of its democratic credentials, not its impact on corruption. Decentralisation, in my opinion, is at best neutral in terms of corruption. We need to decentralise because it is the right thing to do in a democracy to empower people to look after themselves.

There is another aspect to this. Often, in talking of corruption, the reference is not to spend money and rent seeking activity but to the fact that projects are delayed, time and cost estimates are over-run in a routine way. This is because of centralised bureaucratic decision making. The disastrous experience of the Soviet Union with such planning is well known. There is little doubt that empowering local governments in the matter of project implementation will lead to significant savings in the form of time and cost overruns avoided--and this of course is a matter of some importance.

This can also be achieved by a measure of de-concentration, which is a half-hearted decentralisation, for it has no element of democracy in it. But it should, nevertheless, be encouraged as a first step.

Critical Appraisal of Local Bodies after The Passage Of 74th Constitutional Amendments Act:

The goal of the constitutional amendments at the national level was clearly to revitalise local government. This was viewed as a means of encouraging greater community participation and involvement in developmental efforts, thereby improving the Indian developmental state's dismal record in the areas of human development and public goods provision. The attempt to revitalise local government in India mirrors attempts in other countries in that the impetus for the amendments came from a widespread consensus regarding the failures of the bureaucratic and

centralised apparatus of the Indian developmental state, supplemented, in some circles, with a political agenda of democratic deepening. But there are several key respects in which the Indian case stands out and these need to be highlighted at the outset.

Que. "The disempowerment and depoliticisation of urban local government has happened in multiple ways." Comment. (2018) (10M)

First, because the Indian constitution grants the states exclusive legislative domain over local governments, unlike in many other countries where the impetus for decentralisation originated at the national level and implementation responsibility also resided at the national level, the final responsibility for the design and implementation of local government reforms lay with the states in India. Unsurprisingly, given the diversity in their historical trajectories and current socio-political and economic situations, across the states there has been tremendous variation in the design, scope and extent of devolution to local governments.

Second, and relatedly, the Indian case also differs from some others in that there have been attempts in the past to empower local governments. As a result, the most recent effort to revitalise local government is far from a "greenfield" initiative. This means that the novelty of the reforms—the extent to which they differ significantly from the pre-1993 scenario—varies across states.

The constitutional setting and the 74th amendments:

Until the passage of 74th constitutional amendments, the states were the only sub-national units officially recognized by the Indian constitution. Furthermore, the constitution gives individual states significant legislative autonomy. The state legislatures' and the national parliament's respective legislative domains are explicitly delineated in Schedule Seven of the constitution. List I, also known as the "Union List," specifies the functional areas over which the national parliament has exclusive jurisdiction. Defense, foreign affairs, currency, income taxes, interstate commerce, and critical infrastructure are among the items on this list.

Because local governments are a state subject under Schedule Seven of the constitution, any legislation reforming the structure of local government must be enacted at the state level. The states' first task was to pass conformity acts, which either introduced new legislation or amended existing legislation to bring state laws in line with the amendment's provisions. States had a year from the date the amendment went into effect to do so, according to the amendments.

Two more points should be made. The first is that, while the 74th Amendment Act primarily applies to urban local governments, a key provision in that amendment also applies to rural local governments. Article 243ZD requires the formation of District

Planning Committees to consolidate plans prepared by both rural and urban local bodies. The second point is that the 73rd amendment's provisions did not apply to Scheduled Areas, which are constitutionally recognised areas of the country with large Adivasi populations.

The amendment did, however, include a provision reserving parliament's right to extend the amendment's provisions concerning local bodies to Scheduled Areas at a later date without the need for a further constitutional amendment. Parallel provisions governing local governments in Scheduled Areas were eventually enacted as part of the Panchayats (Extension to Scheduled Areas) Act of 1996.

Prior to 1994, the state legislative assembly members were the elected representatives who were effectively closest to the voters (MLAs). This equated to a population of nearly 200,000 or more per MLA on average. After 1994, most states reduced this number to a few hundred, with the village panchayat representative being closest to the population. Local body elections had not been held on a regular basis in most states prior to 1994, with the exception of West Bengal since 1978. Elections were often postponed as a result of writ petitions filed in court by groups other than the state government.

In others, state governments unilaterally postponed elections, citing a variety of reasons ranging from natural disasters to civil unrest to school holidays. The constitutional amendment sought to limit the discretionary authority of state governments by mandating regular elections to local government institutions. The amendment even includes a provision (Article 243O) prohibiting courts from interfering in electoral matters.

Que. —Municipal governance in India is not sufficiently prepared to meet the challenges of frequent natural disasters. Elucidate the statement and add your own suggestions. (2015) (20M)

Chief Ministers' Conference on "Poverty Alleviation and Rural Prosperity Through Panchayati Raj"

District Rural Development Authority:

The Standing Committee on Urban and Rural Development of Parliament has repeatedly urged the merger of the DRDA and the Zilla Parishads so that authority and responsibility are vested in elected officials rather than usurped by bureaucracy. Indeed, the Standing Committee was disturbed to learn that, rather than dismantling the DRDAs, the previous government proposed to —strengthen them.

Of course, elected officials, whether at the Centre, the States, or the PRIs, require administrative and technical assistance from professionals and technical specialists.

However, just as the bureaucracy and technocracy are subordinated to the elected authority at the Centre and in the States in all democracies, including India, the Constitutional requirement of —self-government¹ requires the bureaucracy and technocracy at the local government level to be subordinated to the elected local body.

Panchayats and municipalities should be informed as early as possible of what they can expect to receive in terms of tied and untied funds under various budgetary heads for implementing various schemes in order to facilitate well-planned husbanding of available resources. This is a necessary prerequisite for each tier of the Panchayati Raj system to prepare plans for its areas of responsibility, as defined by Activity Mapping, and for all of these plans, along with municipal plans, to be "consolidated" by District Planning Committees (DPC), as mandated by Article 243 ZD of the Constitution. It needs to be underlined that the Constitution does not provide for DPCs to prepare district plans on their own, but to —consolidate" local area plans drawn up at lower tiers in both rural and urban areas of each district (A different provision of the Constitution covers district planning for Metropolitan areas).

Que. Why has District Planning been marginalized in many States and remained prominent in a few States? Explain.(2015)(10M)

Planning:

Article 243 ZD of the Constitution provides for the formation of DPCs to —consolidate¹ plans prepared within the district by panchayats at all levels and the municipalities. Unfortunately, many States are yet to fulfil their mandatory constitutional obligation to constitute DPCs. Even when DPCs have been constituted, in the absence of local area plans being prepared in the panchayats and municipalities, DPCs are not consolidating, so much as directing, the activities to be undertaken.

Instead of plans being formulated at the State or even District level, and subsequently disaggregated and farmed out to the panchayats and municipalities at various levels, it is important that panchayats and municipalities be empowered and integrated to formulate their own plans in consultation with the Gram Sabha / Ward Sabha.

To this end, the experience in Kerala needs to be replicated elsewhere after being refracted through the objective reality of economic, socio-political and cultural-educational diversities prevailing in different States.

Action Points:

Effective Devolution:

Devolution should be based on the principle of —subsidiarity¹, that is, whatever can be accomplished at a lower level should be entrusted to that level. Only that which cannot be effectively implemented at a lower tier might be taken to a higher tier.

Devolution may also be made irreversible: a function once devolved should not be arbitrarily taken back. Therefore, it would be preferable to make provision for devolution through legislation rather than administrative orders.

Finances:

It has to be considered whether money for programmes related to functions devolved in terms of the Eleventh and Twelfth Schedules – estimated at Rs. 31,000 crore per annum, are channeled directly to the panchayats at the appropriate level. Restructuring of planning and implementation mechanisms and monitoring agencies at the central level may be needed to ensure there is no centralization in the name of decentralization. Central and centrally-sponsored schemes should be conceived and executed as to promote and not impede effective devolution and the larger constitutional purposes of elected local bodies functioning as institutions of local self-government.

State Finance Commission recommendations are recommendatory not mandatory in nature. The State Governments should place the recommendations of the State Finance Commissions before the legislatures with an Action Taken Report, and fully implement the recommendations. State governments may undertake a review of the state of implementation of all accepted recommendations. Consideration may also be given to establishing a standing committee of the state legislature to keep a watch on the —sound finances[¶] of the elected local bodies, particularly with a view to supervising and monitoring the progress in implementing central and state finance commission recommendations.

Moreover, fiscal responsibility will evolve only when local bodies are empowered and obliged to complement grants received by raising their own finances through taxation, particularly forms of taxation which enable the local bodies, in accordance with the provisions of Articles 243H and 243X, to —appropriate[¶] the revenues so raised for their own purposes instead of being obliged to credit them to the consolidated fund. District panchayats and municipalities may also be encouraged and assisted in raising funds through bond issues.

Planning:

Many states are still to fulfill their mandatory constitutional obligation to constitute District Planning Committees (DPCs) in accordance with the procedure set out in Article 243 ZD of Part IXA of the Constitution. As this amounts to a serious violation of Constitutional provisions, it is essential that DPCs be duly constituted in every district.

Few states have demonstrated adequate awareness of the centrality accorded by the Constitution to planning at the grass-roots level. —The preparation of plans for economic development and social justice[¶] is the key functional obligation devolved on the panchayats/municipalities as —institutions of self-government[¶] by Articles 243G and 243W respectively.

Such planning is required by the constitution at each level of the PRIs, including the village panchayat, intermediate panchayat, and district panchayat. Similarly, Nagar Panchayats and Municipalities must develop their own plans.

The DPC is required by Article 243ZD to undertake the "consolidation" of all these separate plans, of the panchayats and municipalities. The state authority will then be notified of the consolidated district plan. Consideration may be given to the convening of a general assembly of all panchayat/municipality representatives to endorse the plan consolidated by the DPC so as to strengthen the democratic credentials of the DPC plan for integration into the state plan. Such detailed district planning according to the constitutional scheme is being undertaken virtually nowhere. A five-year road-map, with annual milestones, for effective participatory district planning in each state is thus an imperative need.

District plans are essential for effective state planning, just as state plans are crucial for national-level planning. Therefore, the national goal should be to ensure that the Eleventh Plan commencing in 2007 is firmly anchored in district plans prepared by the DPCs according to the constitutional mandate.

The Planning Commission, for its part, must recognize that it can and must play a crucial role in encouraging grassroots planning by insisting on the district plans component before sanctioning the annual state plans.

The constitutional mandate stipulates that planning by the elected local bodies shall be subject to such conditions as may be laid down by the state legislatures. States may please ensure that adequate legislative provision is made for effective district planning. Such legislative provision may pay particular attention to the requirements of—social justice stipulated in the Constitution. This is essential to ensure that the weaker sections, including women, are fully benefited by and not discriminated against in the processes of grassroots planning.

Moreover, professionally qualified and experienced elements of the local community (serving and retired) should be mobilized and co-opted into rationally assessing and explaining the alternatives to the people to facilitate informed choice by the local community.

Each state may, in association with civil society representatives, make arrangements for launching such a people's movement.

Implementation of programs:

Chairpersons of local bodies must act as chairpersons-in-council, requiring the consent of the panchayat/municipality's body for all decisions. To that end, not only must the elected local body as a whole, rather than just the chairperson, be the implementing authority, but the gram/ward/neighbourhood sabha must be deeply and

continuously involved in the process as well. Concurrent social auditing is the most effective anti-corruption measure.

Que. Ward committees in urban local governance have remained mere paper tigers. The ideal of realizing effective people's participation in collaboration with local functionaries is still in the pipeline. Evaluate the gap in theory and practice. (2020) (20M)

Parallel Bodies:

The practise of appointing bureaucrats or ministers as DPC chairpersons should be discouraged because it tends to turn DPCs into parallel bodies. Furthermore, because district plans, according to the Constitution (Articles 243G and W, respectively), must conform to the "conditions" stipulated by the state legislature and must, in any case, be submitted to the state authority, ministers and state governments should have their say in the state capital, not at the district level. Therefore, to ensure that DPCs reflect the consensus of the elected local bodies rather than perspectives imposed from outside, the chairpersonship of the DPC should invariably vest in the chairperson of the district panchayat chairperson.

Equally, planning mechanisms which second-guess or substitute the functions of the DPCs at the district level must be wound up forthwith as they are subversive of elected local bodies fulfilling their constitutional role as —institutions of local self-government.

Capacity-building and Training

In association with specialist academic institutions and experts, NGOs, and civil society in general, state governments need to embark on a sustained programme of capacity-building and training at all levels from the gram/mahila sabha and the elected local bodies (especially women and the weaker sections of society) to the DPCs and the bureaucracy at all levels, extending to MPs and MLAs, to optimize the working of Panchayati Raj to the benefit of all.

Distance education is especially important in training, and the multimedia programmes developed by the Indira Gandhi Open University deserve special attention. Indeed, electronic media is the single most cost-effective method of reaching a large number of people interested in the best available training talent in the state and country.

Jurisprudence:

The Constitution requires that existing legislation be reviewed to ensure that it does not conflict with the provisions of Parts IX and IXA of the Constitution. However, almost no state government has undertaken this task. It is recommended that the Law Commissions of the Centre and the States be asked to investigate the matter and that action be taken as soon as possible.

Impact of globalisation and decentralisation on Urban Local Governance in India

In India, the decentralisation initiative is frequently regarded as a process that was purposefully implemented as a result of a need arising from various local, political, and economic factors. Others see decentralisation as a natural progression of the globalisation and liberalisation processes. Much of the literature on decentralisation is based on industrialised countries and assumes the existence of institutions that are usually very weak in developing countries.

The opening up of the Indian economy following the advent of globalisation has resulted in the creation of 'global cities.' For example, in 1991, three of the world's twenty largest cities were from India, and by 2001, six of the world's twenty largest cities were from India.

In 1991 there were 23 million plus cities in India and their number increased to 40 in 2001 and is expected to go up to 70 in 2021. In 1991 26% of the population was living in urban areas and has increased to 33% in 2001 and is expected to go up to 40% by 2021. These cities grew into industrial and economic powerhouses, as well as desirable destinations for foreign direct investment. It has become a significant challenge for civil agencies, particularly those in larger cities, to provide internationally competitive infrastructure in order to attract FDI flows.

As Indian markets are being opened to international markets decentralisation became inevitable to make the local bodies more accountable to the stakeholders. Larger cities became the hub of economic alacrity because they were able to provide basic infrastructure required for overall development. It has resulted in the need to dissolve power and authorities to the lower tier of the government i.e. municipal bodies to provide infrastructural facilities within city limits.

Decentralisation implies that the subnational units of government have the discretion available to them to engage in effective decision making affecting their area. It is a behavioural concept that can be affected by structural characteristics i.e. local government. Having a high degree of discretion can be considered decentralised despite lying in a highly centralized system.

Basic Characteristics of sustainable Urban Development:

- (1) Controlled population for whom adequate meaningful employment is available.
- (2) Efficient basic civic amenities and their management for a reasonably comfortable existence. For example, due to shortage of power more than 50% of power is illegally consumed resulting in corruption, financial losses and wastage of resources.
- (3) Efficient transport planning to reduce total vehicle miles driven in congested areas thus reducing pollution and emission of green-house gases.

- (4) Effective environmental infrastructure to address issues like polluted rivers, lakes and coastal zones threatening the quality of aquatic systems.
- (5) Efficient urban private sector which reduces poverty by generating jobs and facilitating economic growth.
- (6) Efficient health care system that would address issues of family planning and sanitation.
- (7) Citizens should be law abiding, conscious of their role and contribute to all aspects of growth.
- (8) Adequate government services which can meet the needs of population, community participation, sense of identity, sense of responsibilities, transparency and equity in local institutions.

Benefits of municipal bonds route:

Bonds provide more structuring flexibility to ULBs than bank loans due to longer tenures, annual interest payments, and fixed coupon rates.

In addition, the capital market has a large investor base and can be more competitive than bank borrowing.

The government's move to develop civic infrastructure across the country through the AMRUT (Atal Mission for Rejuvenation and Urban Transformation) and SMART City missions requires significant capital spending by ULBs. These will have to be paid for with market borrowings as well as government grants.

QUE. How do the Union Government policies on Smart and AMRUT Cities address the problems of management of urban development? Explain. (2015) (20M)

Global Local Debate:

Globalization is a continuous process, and there have been constructive discussions on the impact of globalisation, particularly in developing countries, since its inception.

- (1) Some argue that the process of globalisation is an inexorable integration of markets, nation states, and technologies; whereas others argue that it is a deliberate ideological project to assert market supremacy.
- (2) Some argue that globalisation heralds a new era of development and that global integration heralds the end of the nation state, whereas others strongly disagree, believing that globalisation is simply another form of capitalism.
- (3) Globalization would result in cultural integration by reducing differences between cultures. Global norms, ideas, and practises encroach on local cultures. It would result in 'cultural imperialism,' but some argue that rather than creating homogeneous cultures, globalisation would increase heterogeneity. Intercultural

interaction would result in the formation of new cultures as global norms and practises are integrated differently based on local traditions.

Global Vs Local Debate:

Global vs Local debate has resulted due to the emergence of globalization which is a mixture of Globalization and Localization. The term *gloocal* refers to individual group organization and community which is willing to think globally and act locally. The term has been used to show the human capacity to bridge the scale (from local to global) and to overcome traditional thinking processes. Traditional views on Globalization always treated it as a major threat facing developing nations but could never recognize its positive aspects. The process of glocalization helps in enhancing the capabilities of people at the ground level to maximise the benefits of Globalization.

New Localism, Participation and Networked Community Governance:

Effective local governance has a vital role to play in tackling social, economic and environmental problems. It calls for a new localism, a strategic approach to devolution- to allow local communities and governments to involve themselves in the decisions that affect their social, economic and political environment. In a global world where national governments still play an important role, a nested but powerful role for local governance remains the most appealing option.

New localism arose as people became more aware of the limitations of centrally-driven policy implementation. It entailed acknowledging that standardised approaches imposed from on high could not solve local problems, and that local agencies needed room to adapt and innovate within the policy framework.

An effective new localism when combined with a realised practice of public engagement and participation lays the foundations for a new form of networked community governance. This form of governance goes beyond traditional public administration and new public management-inspired forms of local governance to provide a focus for both integrated service and programme delivery and the capacity to engage and involve a large number of stakeholders in influencing policy.

Que. "The concept of 'new localism' is related to the emerging nature of the relationship between the State Governments and local government bodies." Explain. (2016) (10M)

New localism and 'old localism':

As a result, new localism is distinguished by a cautious devolution of power to the local level in an attempt to better implement national goals.

It emphasises managerial power devolution over political power devolution; the goal is to allow local managers to meet national priorities more effectively, rather than to allow local politicians to deviate from national goals.

New localism differs from the implicit 'old localism' in two important senses. First, it accepts the role of the central government in driving change at the local level, something that the localists of the 1980s strongly resisted. Second, it does not center on the role of the local authority, but takes a wider view of the locality that includes communities and other public service organizations such as health and police services.

1. New Localism: an emerging governance principle

Within an agreed framework of national minimum standards and policy priorities, New Localism can be defined as a strategy aimed at devolving power and resources away from central control and towards front-line managers, local democratic structures, and local consumers and communities.

In summary, it is a practical response to a significant practical challenge: how to manage a wide range of state service provision and interventions in a world that defies the application of simple rule-driven solutions and where the recipient of the service must be actively engaged if the intervention is to be effective. Building a road or providing electricity are both tasks that necessitate a level of state capacity in order to create a better environment for citizens. Creating the conditions for a damaged child or community to reach their full potential necessitates a slightly different and more subtle capacity.

The case for New Localism is based on three points. For starters, it is a reasonable response to the complexities of modern governance. Second, it addresses the need for a more engaging form of democracy that is appropriate for the twenty-first century. Third, New Localism fosters the dimensions of trust, empathy, and social capital, and thus promotes civil renewal. The case for New Localism is based on concerns that local decision-making is either failing or leading to more inequitable outcomes. These arguments for and against New Localism will be discussed in greater detail below.

Complexity:

There are few problems that communities face today that have simple solutions. Protecting the environment, building a strong economy, maintaining healthy communities, and assisting in the prevention of crime all necessitate a complex set of actions from people and organisations at various spatial and sectoral levels. It would be nice to argue that we should abandon complexity in favour of simplicity. That may be true in a self-help book, but when it comes to running a modern society's business, the allure of simplicity is deceptive. As the saying goes, "there is a simple answer to every complex problem, and it is always wrong."

New Localism is appealing because we can only hope to meet the challenge posed by these complexities by allowing for local capacity building and the development of local solutions within the context of a national framework. Networked community governance is the solution to complexity because it is only through this approach that local knowledge and action can be linked to a larger network of support and learning. This allows us to create solutions for a wide range of diverse and complex circumstances.

Democracy: Engaging Participants

To commit to New Localism means recognising that conventional understandings of democracy are valuable but limited. We can agree that several of the features of the conventional vision of democracy remain essential: the protection of fundamental citizen rights and freedom of organisation and assembly for groups and individuals. But we need different answers to two fundamental questions: what are the building blocks of democracy and what is the nature of accountability.

The conventional answer to these two questions sees the nation state, national assemblies and central government as the ultimate and indeed prime building blocks of democracy and accountability as led by elected representatives being held to account by their electorates. This top down view of democracy is not appropriate when we think about making democracy work in our complex societies.

New Localism draws in broad terms from the ideas of associative democracy advocated by the late Paul Hirst.

- First, democracy must have a strong local dimension; the nation state is not the core institution of democracy. Democracy comes to life when it is practised at the local, regional, and international levels, as well as at the level of the nation state. Furthermore, the central government should be an enabler, regulator, and perhaps a standard setter, rather than a direct provider or the level for making decisions about detailed directions or the substance of services.
- Second, that provision itself must be plural through a variety of organisations and associations, so that ordinary citizens can participate in service decisions and assess the capacity of various institutions to deliver. Third, democracy can be organised in both functional and territorial ways.
- Finally, in this understanding of democracy, accountability is viewed as a more complex process. The right of the electorate to choose their representatives is still important, but people should have more opportunities to engage in direct discussions with service providers and judge their performance. In short, accountability entails providing reasons, questioning, and a continuous exchange between the provider and the relevant public. In terms of minimum standards, service providers will also be held accountable to the centre. Multiple and overlapping lines of accountability exist.

Addressing Competence and Equity Concerns:

There are two common grounds for objecting to local decision-making.

- One school of thought holds that community perspectives are inherently limited and limiting. The danger of too much local decision-making is that it exposes too many decisions to the narrow-minded concerns of individuals and threatens the ideas and practise of a broader welfare politics. Behind the romantic notions of community is a real world of insular, "not in my back yard" politics. Most forms of progressive politics, it is argued, require a larger canvas than local politics can provide.
- The second objection is that if the problems faced by communities are to be addressed, interventions to address the inequalities faced by specific communities are required. To address inequality, national or even international intervention is required, and expanding the scope for local decision-making only serves to exacerbate or even reinforce existing inequalities. Rich areas will remain rich, while poor areas will be allowed to spend non-existent resources on addressing the problems they experience.

New Localism must be understood in the context of national framework creation and funding. Indeed, the localism advocated is part of a larger multi-level governance system. Furthermore, nothing in New Localism implies that it simply assumes that local politics is free of the tensions that characterise politics at other levels.

Conflicts between interests, and the resolution of those conflicts, continue to be at the heart of politics, no matter where it is practised. Localism does not imply a romantic faith in communities to solve problems for the common good. It is also not incompatible with the redistribution of resources provided by higher levels of government.

The New Localism argument is one for a shift in the balance of governance, one that allows for more scope for local decision making and communities. It is based on the idea that involving people in the difficult, rationing choices of politics in the context of a shared sense of citizenship leads to a more mature and sustainable democracy. It is also based on the notion that addressing the challenge of equity does not imply treating all communities or individuals the same way, but rather entails tailoring solutions to specific needs. That proposition would be widely accepted, and localism can help ensure that the tailoring process is successful and responsive to local needs and circumstances.

Que. The concept of new localism arrangement may defeat the very purpose of local self-governance. Do you agree? Justify. (2019) (10M)

Summary and review:

The complexity of what the modern state is attempting to achieve, the need for a more engaging form of politics, and an acknowledgement of the importance of issues of empathy and feelings of involvement in enabling social and political mobilisation all make the case for a New Localism, because some of these challenges can best be met at the local level. The point isn't that all social and political action and decision-making should be done locally, but that more of it should be.

The vision of New Localism must be carefully defined so that it recognises community diversity and is concerned with equity issues. The case is not for a romantic return to community decision-making or for a rampant 'beggar by neighbour' localism. It is about a critical and expanding role for local involvement in decision-making about public services and the public realm as part of a larger multi-level governance system.

The following measures must be implemented to ensure that sustainable development occurs within urban local governments.

- (i) In order to ensure their effective participation, these forms of Government cannot be suspended by the state governments at their own will and to ensure inclusive development and women participation, women should be given 1/3rd reservation in district councils.
- (ii) State level finance commission should be granted more powers to recommend for developmental finances to Local Self Government.
- (iii) A Prospective plan for a period of 25 years should be prepared by the state government and should be implemented through Urban Local bodies.
- (iv) People's participation in policy formulation should be encouraged at the local level to ensure transparency in administration.
- (v) Control of elected representatives over employees of local bodies by clearly defining local bodies' roles and powers. It should also make the flow of funds to local governments easier and faster.
- (vi) Allocation of funds by the center to the state government should be conditioned upon the performance of the state in implementing the provisions of the 74 Amendment.
- (vii) Developing guidelines for states to assist cities in levying taxes, charging user fees, borrowing funds, and incurring expenditure.
- (viii) Facilitating necessary municipal reforms in order for municipal bodies to raise the necessary funds.
- (ix) Raising awareness among all segments of the community about the importance of active citizen participation.
- (x) Local governments should have their own laws, rules, and regulations in order to effectively implement local projects.
- (xi) Promoting Public Private Partnership at local level as a single agency or government is not in a position to effectively address the issues of poverty.

- (xii) To ensure transparency in administration, laws, rules, and procedures must be simplified so that the average person can understand them.
- (xiii) Improving efficiency of local bodies through enhanced technical, administrative and financial capabilities. Development of appropriate municipal information systems for the people to conduct the process of governance at the local level.
- (xiv) Computerization of various departments of local bodies and usage of geographical information systems for better decision making.
- (xv) Assessment of the training requirements of those involved in urban administration.
- (xvi) Creation of an interactive platform for municipal administration to share municipal innovation and experience.

The problems and challenges that humanity faces are global in nature, but they must be addressed on a local level. To combat the problems of environmental degradation, poverty, and unemployment, it was suggested that stakeholders be involved at the grass roots level and that governance be prioritised. Involvement of the community in decision-making powers can only provide effective solutions to urban problems. The concept of new localism should be used to delink politics from administration in urban areas.

Techniques of New Public Management should be used at the local level to increase efficiency while also ensuring administration accountability to stakeholders. Governance should include, in addition to traditional institutions under Local Self Government, Non-Governmental Organisations (NGOs), civil society, user groups, pressure groups, and the people themselves. Participatory management of the local level can only provide effective solutions to the challenges of administration of urban bodies at the local level.

SMART CITIES

Smart Cities Mission was launched by the Hon' Prime Minister on 25th June, 2015. The main objective of the Mission is to promote cities that provide core infrastructure, clean and sustainable environment and give a decent quality of life to their citizens through the application of ‘smart solutions’. The Mission aims to drive economic growth and improve quality of life through comprehensive work on social, economic, physical and institutional pillars of the city. The focus is on sustainable and inclusive development by creation of replicable models which act as lighthouses to other aspiring cities. 100 cities have been selected to be developed as Smart Cities through a two-stage competition.

The purpose of the Smart Cities Mission is to drive economic growth and improve the quality of life of people by enabling local area development and harnessing technology, especially technology that leads to Smart outcomes.

National Smart Cities Mission is an urban renewal and retrofitting program by the Government of India with the mission to develop smart cities across the country, making them citizen friendly and sustainable. The Union Ministry of Urban Development is responsible for implementing the mission in collaboration with the state governments of the respective cities. The mission initially included 100 cities, with the deadline for completion of the projects set between 2019 and 2023. The effective combined completion of all projects as of 2019 is at 11%.

The Mission is operated as a Centrally Sponsored Scheme. Central Government will give financial support to the extent of Rs. 48,000 crores over 5 years i.e. on an average Rs.100 crore per city per year. An equal amount on a matching basis is to be provided by the State/ULB. Additional resources are to be raised through convergence, from ULBs' own funds, grants under Finance Commission, innovative finance mechanisms such as Municipal Bonds, other government programs and borrowings. Emphasis has been given on the participation of private sector through Public Private Partnerships (PPP). Citizens' aspirations were captured in the Smart City Proposals (SCPs) prepared by the selected cities. Aggregated at the national level, these proposals contained more than 5,000 projects worth over Rs. 2,00,000 crores, of which 45 percent is to be funded through Mission grants, 21 percent through convergence, 21 percent through PPP and rest from other sources.

Smart Cities Mission envisions developing an area within the cities in the country as model areas based on an area development plan, which is expected to have a rub-off effect on other parts of the city, and nearby cities and towns. Cities will be selected based on the Smart Cities challenge, where cities will compete in a countrywide competition to obtain the benefits from this mission. As of January 2018, 99 cities have been selected to be upgraded as part of the Smart Cities Mission after they defeated other cities in the challenge.

It is a five-year program in which, except for West Bengal, all of the Indian states and Union territories are participating by nominating at least one city for the Smart Cities challenge. Financial aid will be given by the central and state governments between 2017–2022 to the cities, and the mission will start showing results from 2022 onwards.

Each city will create a Special Purpose Vehicle (SPV), headed by a full-time CEO, to implement the Smart Cities Mission. Centre and state government will provide ₹1,000 crore (US\$130 million) funding to the company, as equal contribution of ₹500 crore (US\$66 million) each. The company has to raise additional funds from the financial markets.

In the 2014 Union budget of India, Finance Minister Arun Jaitley allocated ₹7,016 crore (US\$930 million) for the 150 smart cities. However, only ₹924 crore (US\$120 million) of the allocated amount could be spent until February 2015.

Hence, the 2015 Union budget of India allocated only ₹143 crore (US\$19 million) for the project.

The first batch of 20 cities was selected. Known as 20 Lighthouse Cities in the first round of the All India City Challenge competition, they will be provided with central assistance of ₹200 crore (US\$27 million) each during this financial year followed by ₹100 crore (US\$13 million) per year during the next three years. The Urban Development Ministry had earlier released ₹2 crore (US\$270,000) each to mission cities for preparation of Smart City Plans.

The Ministry of Urban Development (MoUD) program used a competition-based method as a means for selecting cities for funding, based on an area-based development strategy. Cities competed at the state level with other cities within the state. Then the state-level winner competed at the national level Smart City Challenge. Cities obtaining the highest marks in a particular round were chosen to be part of the mission.

The state governments were asked to nominate potential cities based on state-level competition, with overall cities across India limited to 100. In August 2015 the Ministry of Urban Development released the list of 98 nominees sent in by state governments.

Objectives

1. The objective is to integrate city functions, utilize scarce resources more efficiently, and improve the quality of life of citizens.
2. To improve safety and security
3. To improve the efficiencies of municipal services.
4. The use of Information and Communications Technology (ICT) is at the core of enhancing the city's liveability, workability, and sustainability.
5. The Ministry of Urban Development has identified 24 key areas that cities must address in their smart cities plan.
6. Of these 24 key areas, 3 are directly related to water and 7 are indirectly related to water – Smart-metre management, leakage identification, preventive maintenance, and water quality modeling.
7. Smart Cities Mission is one of the mechanisms that will help operationalize the nationwide implementation of the Sustainable Development Goals (SDG) priorities like poverty alleviation, employment, and other basic services.

To mark the sixth anniversary of the Smart Cities Mission (SCM) and other urban transformation missions, a virtual event was organized by the Ministry of Housing and Urban Affairs (MoHUA) on June 25, 2021. The date also marked the 45 years of establishment of the National Institute of Urban Affairs, an autonomous body of MoHUA, tasked to bridge the gap between research and practice on issues related to urbanization.

Winners for Smart Cities India Awards 2020 were also announced on June 25, 2021. Indore and Surat together were named the smartest cities. All government exam

aspirants can visit the linked article and get the detailed list of state/UT-wise and theme-wise winners.

Out of the 100 municipalities in the Smart Cities Mission, the ICCCs of 45 cities are online or operational. As Covid-19 war rooms, the ICCCs implemented initiatives such as:

- CCTV surveillance of public places.
- GIS mapping of Covid-positive cases.
- GPS tracking of healthcare workers
- Predictive analytics (heat maps) for virus containment across different zones of the city.
- Virtual training to doctors and healthcare professionals.
- Real-time tracking of ambulances and disinfection services.
- Providing medical services through video-conferencing, telecounseling, and telemedicine.

Atal Mission for Rejuvenation and Urban Transformation (AMRUT)

Providing basic services (e.g. water supply, sewerage, urban transport) to households and build amenities in cities which will improve the quality of life for all, especially the poor and the disadvantaged is a national priority.

The purpose of Atal Mission for Rejuvenation and Urban Transformation (AMRUT) is to

- Ensure that every household has access to a tap with the assured supply of water and a sewerage connection.
- Increase the amenity value of cities by developing greenery and well maintained open spaces (e.g. parks) and
- Reduce pollution by switching to public transport or constructing facilities for non-motorized transport (e.g. walking and cycling). All these outcomes are valued by citizens, particularly women, and indicators and standards have been prescribed by the Ministry of Housing and Urban Affairs (MoHUA) in the form of Service Level Benchmarks (SLBs).

The Priority zone of the Mission is water supply followed by sewerage.

However, the pursuit of better outcomes will not stop with the provision of taps and sewerage connections to all (universal coverage). Other benchmarks will be targeted following a step-by-step process after achieving the benchmark of universal coverage. Such a gradual process of achieving benchmarks is called —incrementalism|. This does not mean that other SLBs are less important, but that in the incremental process SLBs are achieved gradually according to National Priorities. In the case of urban transport the benchmark will be to reduce pollution in cities while construction and maintenance of storm water drains are expected to reduce, and ultimately eliminate, flooding in cities, thereby making cities resilient.

Earlier, the MoHUA used to give project-by-project sanctions. In the AMRUT this has been replaced by approval of the State Annual Action Plan once a year by the

MoHUA and the States have to give project sanctions and approval at their end. In this way, the AMRUT makes States equal partners in planning and implementation of projects, thus actualizing the spirit of cooperative federalism. A sound institutional structure is a foundation to make Missions successful. Therefore, Capacity Building and a set of Reforms have been included in the Mission. Reforms will lead to improvement in service delivery, mobilization of resources and making municipal functioning more transparent and functionaries more accountable, while Capacity Building will empower municipal functionaries and lead to timely completion of projects.

Mission Components

The components of the AMRUT consist of capacity building, reform implementation, water supply, sewerage and septage management, storm water drainage, urban transport and development of green spaces and parks. During the process of planning, the Urban Local Bodies (ULBs) will strive to include some smart features in the physical infrastructure components. The details of the Mission components are given below.

Water Supply

Water supply systems including augmentation of existing water supply, water treatment plants and universal metering.

- Rehabilitation of old water supply systems, including treatment plants.
 - Rejuvenation of water bodies specifically for drinking water supply and recharging of ground water.
 - Special water supply arrangement for difficult areas, hill and coastal cities, including those having water quality problems (e.g. arsenic, fluoride)
- Sewage**
- Decentralised, networked underground sewerage systems, including augmentation of existing sewerage systems and sewage treatment plants.
 - Rehabilitation of old sewerage system and treatment plants.
 - Recycling of water for beneficial purposes and reuse of wastewater.

Strom water Drainage

Construction and improvement of drains and storm water drains in order to reduce and eliminate flooding.

Urban Transport

- Footpaths/ walkways, sidewalks, foot over-bridges and facilities for non-motorised transport (e.g. bicycles).
- Multi-level parking.

About Reforms

Besides creating infrastructure for basic amenities, Mission also focuses on Reforms and capacity building of the ULBs. The reforms aim at improving delivery of citizen services, bringing down the cost of delivery, improving financial health, augmenting resources and enhancing transparency. The Mission sets aside 10% of annual

budgetary allocation to be given away as incentive to States/UTs for accomplishing the reforms within specified timelines.

The Capacity Building is being focused at improving the capabilities of cities to deliver the citizen services and to improve the health of ULBs.

The key expected outcomes under Reform agenda are:

- Energy efficient LED street lights in cities.
- Energy audit of water pumps followed by replacement of inefficient pumps.
- Conducting credit ratings and issuance of Municipal Bonds.
- Reuse of treated waste water.
- Single Window Clearance System for Construction Permits.
- Capacity building.

The reform agenda is spread over a set of 11 reforms comprising 54 milestones to be achieved by the States/ UTs over a period of four years. These reforms broadly cover offering online services to citizens, establishing single window for all approvals, establishing municipal cadre, achieving at least 90% of billing and collection of taxes/user charges, developing at least one park for children every year, establishing maintenance system for parks and play grounds, credit rating, implementing model building bye-laws etc.

Implementation Status of Reforms Under AMRUT

- Credit Rating & Municipal Bond: Credit rating work for 485 cities have been awarded and completed in 468 cities. Out of 468 cities, 163 cities have received Investible Grade Rating (IGR), including 36 cities with rating of A- and above.
- Energy audit of water pumps: Field survey for energy audit has been completed in 413 cities and energy audit has been completed in 358 cities. 11,100 water pumps have been identified for replacement with energy efficiency pumps.
- Replacement of streetlights with LED lights: 62.8 lakh streetlights have been replaced with LED lights out of targeted 97.9 lakh light. This is estimated to save 137.5 crore units of energy per year and reduce 11 lakh tonnes of CO₂ emission per year.
- Online Building Permission System (OBPS): OBPS has been made operational in 1,705 cities across the country including 439 AMRUT cities.
- Capacity building: Surpassing the target of 45,000 functionaries, 52,327 functionaries and elected representatives across the country have been trained so far.
- Rs.3,390 crore had been raised through Municipal Bonds during 2018-19 for upgrading urban infrastructure by 8 Mission cities (Ahmedabad, Amaravati, Bhopal, Hyderabad, Indore, Pune, Surat and Vishakhapatnam). Cities had been awarded an incentive upto Rs.26 crore (at Rs.13 crore per Rs.100 crore) for issuing municipal bonds.

Shyama Prasad Mukherji Rurban Mission (SPMRM)

As per Census of India statistics, the rural population in India, stands at 833 million, constituting almost 68% of the total population. Further, the rural population has shown a growth of 12% and an increase in the absolute number of villages by 2279 units during the 2001-2011 period.

Large parts of rural areas in the country are not stand-alone settlements but part of a cluster of settlements, which are relatively proximate to each other. These clusters typically illustrate potential for growth, have economic drivers and derive locational and competitive advantages. These clusters once developed can then be classified as 'Rurban'. Hence taking cognizance of this, the Government of India has proposed the Shyama Prasad Mukherji Rurban Mission (SPMRM), aimed at developing such rural areas by provisioning of economic, social and physical infrastructure facilities.

Taking also into view, the advantages of clusters, both from an economic view point as well as to optimize benefits of infrastructure provision, the Mission aims at development of 300 Rurban clusters, in the next five years. These clusters would be strengthened with the required amenities, for which it is proposed that resources be mobilized through convergence of various schemes of the Government, over and above which a Critical Gap Funding (CGF) would be provided under this Mission, for focused development of these clusters.

Mission's Vision

The Shyama Prasad Mukherji Rurban Mission (SPMRM) follows the vision of "Development of a cluster of villages that preserve and nurture the essence of rural community life with focus on equity and inclusiveness without compromising with the facilities perceived to be essentially urban in nature, thus creating a cluster of "Rurban Villages".

Mission's Objective

The objective of the Shyama Prasad Mukherji Rurban Mission (SPMRM) is to stimulate local economic development, enhance basic services, and create well planned Rurban clusters.

Mission's Outcomes

The larger outcomes envisaged under this Mission are: i. Bridging the rural-urban divide-viz: economic, technological and those related to facilities and services. ii. Stimulating local economic development with emphasis on reduction of poverty and unemployment in rural areas. iii. Spreading development in the region. iv. Attracting investment in rural areas.

Que. —Development management advocates self-sustaining customer-friendly institutions at the district level. Comment.(2018)(10M)
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Model Answers

Que 1. "Neighbourhood management provides an appropriate global strategy of dealing with social exclusion in the urban development scenario." Comment. (2018) (10M)

Neighbourhood Management is a relatively new approach to improving Public Services. Neighbourhood management is the local organization & delivery of core urban services within a small built up area. The concept was introduced by Anne Power and Emmet Bergin.

Social exclusion in urban development is increasing due to:

- Modern society is increasingly mobile, urbanized and cosmopolitan. This makes neighborhoods more transient.
- Neighborhoods are getting complex, fragmented and polarized. This leads to creations of —poor|| and —rich|| neighborhoods. This is accompanied by ghettoization and slums. The —rich|| neighborhoods are often associated with high property values and greater access to governmental services.
- There is more fear of strangers, more insecurity & fewer levels of control due to the floating population.

These create a perception of social exclusion in urban society, as those in the poorer neighbourhoods receive lesser attention and it perpetuates the cycle of inequality and exclusion.

Neighbourhood management can be used to address these problems as it leverages the ||neighbourhood|| as the unit of service delivery. People connect with their neighbours in many, often unspoken ways – security, cleanliness, the environment, social behaviour, networks and conditions, nuisance control, shops, etc. These people can mobilize and ensure that their neighbourhood is not deprived of the basic services like cleanliness and sanitation and supplement the activities of urban Local Bodies. The neighbourhood management units could be Resident Welfare Associations, Local committees, etc.

Moreover, as neighbourhood units are closer to people and more readily accessible, they can be far more responsive to people's needs. This creates a greater sense of community and tackles exclusion. It is a global strategy in that it allows for accommodating the unique problems in all areas.

Power and Bergin recommend that neighbourhood management units provide certain core services such as:

- Security, nuisance control, and general supervision.
- Environmental maintenance and public-area damage repair.
- Street cleaning, refuse collection, and rubbish removal.
- Community liaison, contact, consultation, and support.

- Coordination of specific services coming into the neighbourhood – co-ordination of inputs to maximize benefits and minimise waste and overlap – this includes housing, repairs, health, education, policing, leisure, regeneration, social services.
- Links with local business activities.
- Links with wider and central services that are required for the successful functioning of the neighbourhood. For example, adult education, job centers, and libraries.
- The promotion of local initiatives, special projects and new ideas.
- Coordination with and support for local voluntary groups.

Power and Bergin have said the lessons from neighbourhood management include:

- They show the potential for the sound management of difficult neighborhoods.
- They illustrate the real costs of neighbourhood management and the potential for much greater ground level staff inputs under that structure. They illustrate the different elements of neighbourhood management.
- They draw in and work with other services. The housing experiments have not stopped at housing management but have spread into a large range of other services

Limitations of neighbourhood management include:

- It is hard to measure the direct impact of neighbourhood management on jobs, health, education, and crime without much more detailed research, since they act in a larger political and administrative environment.
- Mobilizing funds for neighbourhood management will be a challenge.
- Issues of coordination with higher tiers of administration.

Thus, neighbourhood Management is an example of neolocalism which promotes bottom-up development and co-operation with other local bodies. It is the embodiment of —think global act local.

Que. 2 “Bureaucracy has to make a balance the need for environmental sustainability and developmental imperatives.” Discuss. (2017) (20M)

Development is a multi-faceted concept indicating qualitative improvement in the well-being of individuals, society or a nation. It is an aspect of change that is desirable and administered or at least influenced by the Government of a nation.

The rise of Development Administration perspective in the 50s has mainstreamed development as the goal of governments. The Human Development Index (HDI) by UNDP is the most widely used indicator to decide developmental imperatives. It consists of:-

- Health (measured by lifespan),
- Education (years of schooling) and
- quality of life (measured by Gross national income)

Other developmental imperatives include –reduction of inequality, Enhancing social capital, promoting stability and peace. However, the term —development|| is largely used to refer to the —economic| aspects.

Developmental imperatives	impact on Environmental sustainability
<ul style="list-style-type: none"> • Industrialization • Modern agriculture • Construction of roads, buildings, dams. • Increasing usage of vehicles, air connectivity • Medical research and manufacturing • Nuclear research 	<ul style="list-style-type: none"> • Burning of fossil fuels, mining, pollution • Soil salinization, exhaustion of aquifers • Erosion, submergence, habitat loss • Ever increasing emission of Carbon and greenhouse gases • Water Pollution, zoonoses, etc.

Why development.

- Development and economic growth is the only way to ensure poverty eradication.
- Development is the only way for developing nations to seek parity in the world order with the hegemonic powers.

Thus, developmental initiatives are pursued by developing countries, in the form of promotion of Industrialization, Infrastructure creation for connectivity, Human resource development, use of chemical inputs to enhance productivity. This means that the developmental imperatives result in mining, burning of fossil fuels, and other activities that negatively impact the environment

Why do bureaucrats need to balance environmental sustainability with developmental imperatives?

- Since the rise of the Development Administration perspective, bureaucracy has emerged as the instrument of development, especially in developing nations such as India.
- Environmental degradation directly impacts productivity in a nation. Eg: Soil salinization in Northwest India due to excess irrigation is reducing agricultural productivity in the region
- Absence of environmental sustainability can undo the developmental efforts. Eg: Recent Uttarakhand Glacial burst.
- In absence of environmental sustainability, economic development can lead to increasing inequality and trigger conflict. For example, the emerging issue of climate refugees due to global warming and sea level rise.
- Environmental sustainability can be the catalyst for innovation and promote the knowledge economy. For example, Creation of smoke free Chulhas.
- Addressing environmental imperatives can help make development truly inclusive Eg: Including marginalized sections such as tribal in the

developmental process is better done through schemes like Joint Forest management, rather than large dams which lead to displacement and feed negative forces like Left wing extremism.

How to balance?

- —Development should be approached holistically instead of focusing excessively on economic aspects. This would mean that environmental concerns are mainstreamed into every stage of decision making, via process like Environmental Impact Assessment (EIA)
- Adoption of global best practices and standards by administration. For example, Adoption of BS- VI standards, BEE star ratings, promotion of RoHS standards, use of carbon trading, carbon taxes, etc.
- Promoting innovation and change. For example, schemes like FAME for promoting Electric vehicles.

The COVID crisis has exposed the risks that activities such as deforestation associated with development can massively impact lives and livelihoods throughout the world. While bureaucracy has successfully transformed itself from traditional administration to development administration, the meaning of development itself has to be further modified to include environmental concerns, so that development remains rooted, empathetic and fruitful.