



**SUMMARY OF 2ND  
ADMINISTRATIVE  
REFORMS COMMISSION  
(ARC) REPORT**

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# RIGHT TO INFORMATION: MASTER KEY TO GOOD GOVERNANCE

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“If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost”

## 1.1 Introduction

Right to information is one of the **keys to strengthen participatory democracy** and usher in **citizen centric governance**. Access to information promotes **empowerment of the poor** and the weaker sections of society to **demand and get information about public policies and actions, thereby leading to their welfare**.

## 1.2 RTI and Good Governance

Good governance has four elements- transparency, accountability, predictability and participation.

Transparency relates to availability of information to the general public and clarity about functioning of governmental institutions. Right to information **opens up government's records to public scrutiny**, thereby arming citizens with a vital tool to inform them about what the government does and how effectively it's apparatus are working, thus **making the government more accountable**.

In recognition of the need for transparency in public affairs, the Indian Parliament enacted the Right to Information Act in 2005. It is a path breaking legislation to empower people and promote transparency. While right to information is implicitly guaranteed by the Constitutional provisions (Article 19) the Act sets out the practical regime for citizens to secure access to information on all matters of governance;

Efficient and effective institutions are the key to rapid economic and social development, institutions which can translate promises into policies and actionable programmes with the least possible cost and with the maximum possible efficiency; institutions which can deliver on the promises made and convert outlays into outcomes. For institutions to be effective they must function in a transparent, responsible and accountable manner. The Right to Information Bill,

will bring into force another right which will empower the citizens in this regard and ensure that our institutions and the functionaries discharge their duties in the desired manner. It will bring into effect a critical right for enforcing other rights and fill a vital gap in a citizen's framework of rights.

### 1.3 Issues in Implementation

#### 1.3.1 Official Secrets Act (1923)

The Act recognizes these confidentiality requirements in matters of State and **Section 8 of the Act exempts all such matters from disclosure.**

'Official Secret' means any information the disclosure of which is likely to prejudicially affect the sovereignty and integrity of India, the security of State, friendly relations with foreign states, economic, commercial, scientific and technological matters relating to national security and includes: any secret code, password, sketch plan, model, article, note or document in relation to a prohibited place.

**Section 5 of the OSA**

- Section 5 of OSA stated that, any person having information about a prohibited place, or such information which may help an enemy state, or which has been entrusted to him in confidence, or which he has obtained owing to his official position, commits an offence if (s)he communicates it to an unauthorised person, uses it in a manner prejudicial to the interests of the state, retains it when (s)he has no right to do so, or fails to take reasonable care of such information. Any kind of information is covered by this section if it is classified as 'secret'.
- The word "secret" or the phrase "official secrets" has not been defined in the Act. Therefore, public servants enjoy the discretion to classify anything as "secret"

Thus, it is to be noted that the whole language under **section 5 of official secrets act** leads to controversies. It penalizes not only communication of information useful to the enemy or any information which is vital to National Security but also includes the act of communicating in any unauthorised manner any kind of secret information which a government servant has obtained by virtue of his office.

Thus OSA would not come in the way of disclosure of information if it is otherwise permissible under the RTI Act.

The **Shourie Committee** on "Right to Information and Transparency, 1997 had the following to say about OSA:

- **Section 5** of this Act provides for punishment for unauthorized disclosure of Official secrets but **omits to define secrets**".
- The Shourie Committee recommended a comprehensive **amendment of Section 5 (1)** to make the penal provisions of OSA **applicable only to violations affecting national security.**

**Recommendations of Administrative Reforms Commission with Reference to Official Secrets Act:**  
The Official Secrets Act, 1923 should be **repealed, and substituted by a chapter in the National Security Act,** containing provisions relating to official secrets.

### 1.3.2 Indian Evidence Act (1872)

Special procedural advantages and protections are enjoyed by the State. One such protection operates in the field of evidence and is in the nature of a privilege regarding the production of certain documents and disclosure of certain communications.

The term “privilege” as used in Evidence law means freedom from compulsion to give evidence or to discover material, or a right to prevent or bar information from other sources during or in connection with litigation, but on grounds extrinsic to the goals of litigation.

Section 123 of the Indian Evidence Act, 1872 prohibits the giving of evidence derived from unpublished official records relating to affairs of State except with the permission of the Head of the Department.

Section 124 of the Act stipulates: “No public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure”.

Recommendations of Administrative Reforms Commission with reference to Indian Evidence Act:

**Section 123 of the Indian Evidence Act, 1872 should be amended** to read as follows:

- 123(1) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from **official records which are exempt from public disclosure under the RTI Act, 2005.**
- 124(2) where he **withholds such permission**, he shall make an **affidavit** containing a statement to that effect and setting forth his **reasons** therefore.

**Section 124** of the Indian Evidence Act will become redundant on account of the above and will have to be **repealed**.

### 1.3.3 Oath of Secrecy

The existence of the provision of **oath of secrecy** and its administration along with the oath of office appears to be a **legacy of the colonial era** where **the public was subjugated to government**.

However, **national security** and larger public interest considerations of the **country’s integrity and sovereignty** may require a Minister or a public servant with **sufficient justification not to disclose information**. But a very public oath of secrecy at the time of assumption of office is both unnecessary and **repugnant to the principles of democratic accountability, representative government and popular sovereignty**.

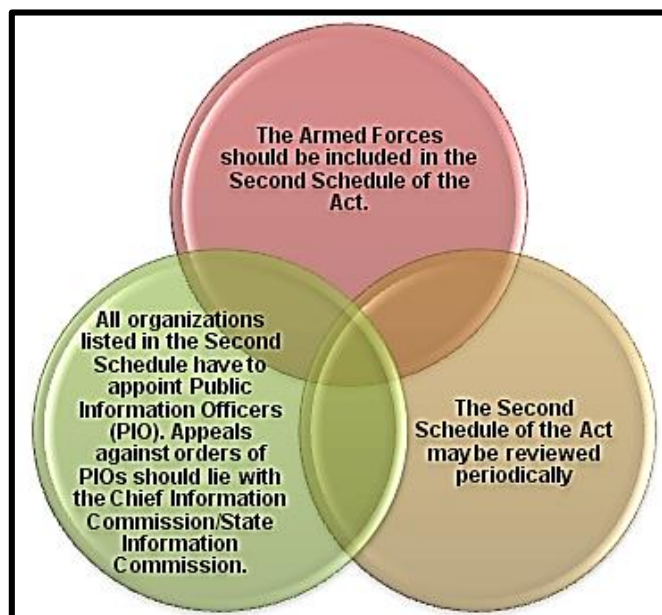
The Commission is therefore of the view that the **Oath of Secrecy may be dispensed with and substituted by a statutory arrangement and a written undertaking**. Further as recommended by the **National Commission to Review the working Of Constitution**, it would be appropriate if Ministers on assumption of office are administered an **oath of transparency** alongwith the oath of office.

### 1.3.4 Exempted Organisation under the Right to Information Act

The Second Schedule of the Act stipulates that the **Armed Forces** should be included in the list of **exempted** organization, because almost all activities of the Armed Forces would be covered **under the exemption 8(a)** which states that there shall be **no obligation to give to any citizen, information** which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State.



**Recommendations of Administrative Reforms Commission:**



**1.3.5 Central Civil Service (Conduct) Rules**

Central Civil Services (Conduct) Rules **prohibit unauthorized communication of information** (similar provisions exist for the state government employees under their respective Rules).

- There is a widespread feeling that the Central Civil Services (Conduct) Rules, 1964, and corresponding rules applicable to Railways, Foreign Services and All India Services, **inhibit government servants from sharing information with the public.**

**Recommendations of Administrative Reforms Commission:**

Civil Services Rules of all States may be **reworded** on the following lines:

“Communication of Official Information: Every Government servant shall, in performance of his duties **in good faith, communicate** to a member of public or any organisation full and accurate information, **which can be disclosed under the Right to Information Act, 2005.**”

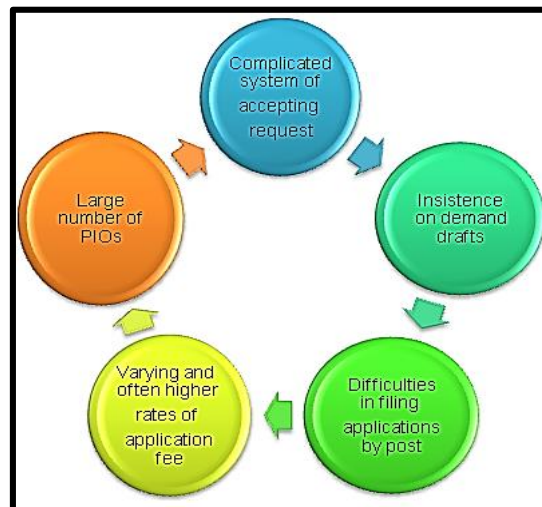
Exemptions - Nothing in this rule shall be construed as permitting communication of **classified information in an unauthorised manner** or for **improper gains to a Government servant or others.**”

**1.4 Recommendations of ARC to building of institutions, organization of information and creation of an enabling environment**

<p><b>Building Institutions</b></p>	<ul style="list-style-type: none"> <li>• <b>Section 12</b> of the Act may be <b>amended to constitute the Selection Committee of Chief Information Commissioner (CIC)</b> with the Prime Minister, Leader of the Opposition and the Chief Justice of India. Section 15 may be similarly amended to constitute the Selection Committee at the State level with the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court.</li> <li>• The GOI should ensure the <b>constitution of the State Information Commissioner in all States within 3 months.</b></li> <li>• The CIC should <b>establish 4 regional offices of CIC</b> with a Commissioner heading each. Similarly regional offices of SICs should be established in larger States.</li> <li>• <b>At least half of the members</b> of the Information Commissions should be drawn from <b>non-civil services backgrounds.</b></li> </ul>
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<b>Designating Information Officers and Appellate Authority</b>	<ul style="list-style-type: none"> <li>• All Ministries/ Departments/Agencies/Offices with more than one Public Information Officer (PIO) have to <b>designate a nodal Assistant Public Information Officer</b> with the authority to receive requests for information on behalf of all PIOs. Public Information Officers in Central Secretariats should be of <b>the level of at least Deputy Secretary /Director</b>. In State Secretariats, officers of similar rank should be notified as PIOs. In all subordinate agencies and departments, officers sufficiently senior in rank and yet accessible to the public may be designated as PIOs.</li> <li>• All public authorities may be advised by the Government of India that along with the Public Information Officers they should also <b>designate the appellate authority</b> and publish both, together.</li> </ul>
<b>Organising Information and Record-Keeping</b>	<ul style="list-style-type: none"> <li>• <b>Suo motu disclosures</b> should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year). Such a publication should be available for reference, free of charge.</li> <li>• <b>Public Records Offices should be established as an independent authority</b> in GOI and all States <b>within 6 months</b> by integrating and restructuring the multiple agencies currently involved in record keeping.</li> <li>• The Public Records Office would <b>function under the overall supervision and guidance of CIC/SIC</b>.</li> <li>• As a one time measure, GOI should <b> earmark 1% of the funds of all Flagship Programmes for a period of five years for updating records, improving infrastructure, creating manuals</b> and establishing the Public Records Offices. (An amount not exceeding 25% of this should be <b>utilized for awareness generation</b>.)</li> <li>• As a one time measure, GOI may create a <b>Land Records Modernisation Fund</b> for survey and updation of all land records.</li> </ul>
<b>Capacity Building and Awareness Generation</b>	<ul style="list-style-type: none"> <li>• Training programmes should not be confined to merely PIOs and APIOs. <b>All government functionaries should be imparted at least one day training on Right to Information within a year.</b></li> <li>• In all general or specialized training programmes, of more than 3 days duration, a half-day module on Right to Information should be compulsory.</li> <li>• <b>Awareness campaigns may be entrusted to credible non profit organizations</b> at the State level. They should design a <b>multi media campaign</b> best suited to the needs, in the <b>local language</b>. The funds earmarked could be utilized for this purpose.</li> </ul>
<b>Monitoring Mechanism</b>	<ul style="list-style-type: none"> <li>• <b>The CIC and the SICs may be entrusted with the task of monitoring effective implementation</b> of the Right to Information Act in all public authorities. As a large number of Public Authorities exist at regional, state, district and sub district level, a nodal officer should be identified wherever necessary by the appropriate monitoring authority (CIC/SIC) to monitor implementation of the Act.</li> <li>• Each public authority should be responsible for compliance of provisions of the Act in its own office as well as that of the subordinate public authorities.</li> <li>• A <b>National Coordination Committee (NCC)</b> may be set up under the <b>chairpersonship of the Chief Information Commissioner</b> with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties. The National Coordination Committee would: <ul style="list-style-type: none"> <li>○ Serve as a national <b>platform for effective implementation</b> of the Act,</li> <li>○ Document and <b>disseminate best practices</b> in India and elsewhere,</li> <li>○ Monitor the creation and functioning of the national portal for Right to Information,</li> <li>○ <b>Review the Rules and Executive orders</b> issued by the appropriate governments under the Act,</li> <li>○ Carry out <b>impact evaluation of the implementation of the Act</b>.</li> </ul> </li> </ul>

## 1.5 Issues in Implementation of RTI Act



## 1.6 Recommendations of Administrative Reforms Commission for Effective Implementation of RTI Act

<p><b>Facilitating Access</b></p>	<ul style="list-style-type: none"> <li>• In addition to the existing modes of payment, appropriate governments should <b>amend the Rules to include payment through postal orders.</b></li> <li>• States may be required to <b>frame Rules regarding application fee which are in harmony with the Central Rules.</b> It needs to be ensured that the fee itself does not become a disincentive.</li> <li>• Appropriate governments may <b>restructure the fees</b> (including additional fees) in multiples of Rs 5. {e.g. instead of prescribing a fee of Rs. 2 per additional page it may be desirable to have a fee of Rs. 5 for every 3 pages or part thereof}.</li> <li>• State Governments may <b>issue appropriate stamps in suitable denominations</b> as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments.</li> <li>• As all the <b>post offices</b> in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they <b>may also be authorized to collect the fees in cash and forward a receipt along with the application.</b></li> </ul>
<p><b>Inventory of Public Authority</b></p>	<ul style="list-style-type: none"> <li>• At the Government of India level the <b>Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act.</b> This nodal department <b>should have a complete list of all Union Ministers/ Departments which function as public authorities.</b></li> <li>• Each Union Ministry/Department should also have an <b>exhaustive list of all public authorities,</b> which come within its purview. The public authorities coming under each ministry/ department should be classified into             <ul style="list-style-type: none"> <li>○ Constitutional bodies,</li> <li>○ Line agencies,</li> <li>○ Statutory bodies,</li> <li>○ Public sector undertakings,</li> <li>○ Bodies created under executive orders,</li> <li>○ Bodies owned, controlled or substantially financed, and</li> <li>○ NGOs substantially financed by the government.</li> </ul> </li> </ul> <p>Within each category an up-to-date list of all public authorities has to be</p>

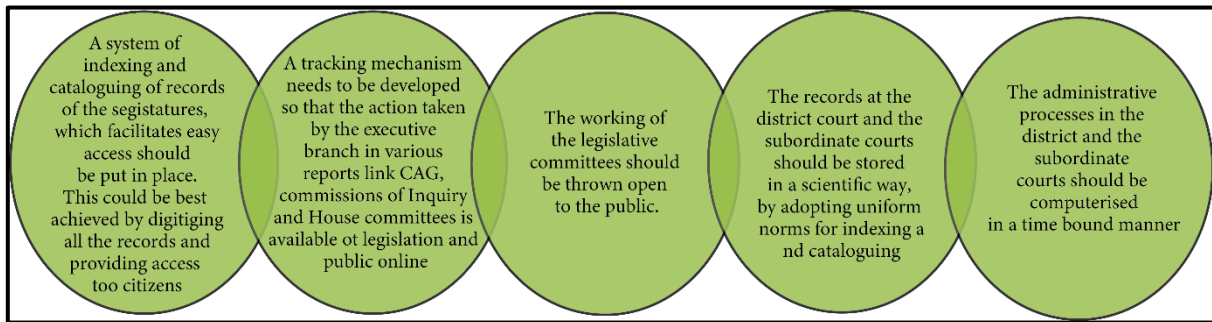
	<p>maintained.</p> <ul style="list-style-type: none"> <li>• Each public authority <b>should have the details of all public authorities subordinate to it</b> at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.</li> <li>• A similar system should also be adopted by the States.</li> </ul>
<b>Single Window Agency At District Level</b>	A Single Window Agency should be set up in each District. This could be achieved by creating a cell in a district-level office, and <b>designating an officer as the Assistant Public Information Officer for all public authorities served by the Single Window Agency</b> . This should be completed by all States <b>within 6 months</b> .
<b>Subordinate officers and Public Authority</b>	The lowest office in any organization which has decision making power or is a custodian of records should be recognized as a public authority.
<b>Application To Non-Government Bodies</b>	<ul style="list-style-type: none"> <li>• Organisations which <b>perform functions of a public nature</b> that are ordinarily performed by government or its agencies, and those which <b>enjoy natural monopoly</b> may be <b>brought within the purview of the Act</b>.</li> <li>• Norms should be laid down that any institution or <b>body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government</b> for the period and purpose of such funding.</li> </ul>
<b>Time Limit for Information Beyond 20 years</b>	<ul style="list-style-type: none"> <li>• The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the <b>period of availability will be limited to the period for which they should be preserved under the record keeping procedures</b>.</li> <li>• If any public authority intends to reduce the period upto which any category of record is to be kept, it shall do so after taking concurrence of the Public Records Office.</li> </ul>
<b>Mechanism FOR Redressal Of Public Grievance</b>	<ul style="list-style-type: none"> <li>• States may be advised to set up <b>independent public grievances redressal authorities</b> to deal with <b>complaints of delay, harassment or corruption</b>. These authorities should work in close coordination with the SICs/District Single Window Agencies, and help citizens use information as a <b>tool to fight against corruption and misgovernance, or for better services</b>.</li> </ul>

## 1.7 Right to Information Act to the Legislature

The **definition of public authority {Section2(b)}** includes any authority, or body, or institutions of self-government, established or **constituted by or under the Constitution, or any law made by Parliament or State Legislature, or by a notification or order of the appropriate government**. Section 2(e) therefore **includes the *presiding officers of the Legislature at the Union and State levels as well as the Chief Justices of the Supreme Court and High Courts***.

The Legislature and Judiciary are also covered by the Act. Administrative processes within the courts would have to be brought within the ambit of this law, at the same time, without compromising with the independence and the dignity of the courts.

**Administrative Reforms Commission has made the following Recommendations with respect to legislature and judiciary:**



## 1.8 Conclusion

The Right to Information law of 2005 **signals a radical shift in our governance culture** and permanently impacts all agencies of state. The effective implementation of this law **depends on three fundamental shifts**: from the prevailing **culture of secrecy to a new culture of openness**; from **personalized despotism to authority coupled with accountability**; and from **unilateral decision making to participative governance**. But this fine legislation is an important beginning. Its effective application depends largely on the institutions created, early traditions and practices, attendant changes in laws and procedures, and adequate participation of people and the public servants.

# UNLOCKING HUMAN CAPITAL: ENTITLEMENTS AND GOVERNANCE

02

2.1 Introduction	2.2 Review of Public Employment Programme
2.3 Implementation Challenges In National Rural Employment Guarantee Act	2.4 Recommendations of Administrative Reforms Commission With Reference to Successful Implementation of Public Employment Programmes (With Special Emphasis on NREGA)
2.5 Conclusion	

## 2.1 Introduction

"The measure of a country's greatness should be based on how well it cares for its vulnerable population"  
MAHATMA GANDHI

There is a **shift in Government's Approach towards development**. Instead of relying only on an increase in general affluence to enhance the living standards of citizens, the approach is to consider the **minimum levels of education, health, employment and Nutrition** to basic entitlement and recognize the key role of the State in providing them to every needy Citizen of the Country.

There is also **increased focus on equity based development** where major focus has been on provision of equality in **opportunity to backward regions**. There is also fundamental **change in how government programmes are being funded and executed**.

Increasingly key programmes are being **funded by the Union Government and executed by State Government**. This ensures that on one hand, **no entitlements programmes are made to suffer due to resources constraint** while on the other funds are available with greater regularity to implementing districts, blocks and Panchayati Raj Institutions so that **programmes outcomes can be seamlessly achieved with local participation, ownership, Initiatives and supervision**.

## 2.2 Review of Public Employment Programme

The Government of India has started various **Public Employment Programme** starting with **Rural Manpower Programme In the year 1960** to absorb underemployed and surplus labour in rural areas.

### 2.2.1 Shortcomings of the Public Employment Programmes:

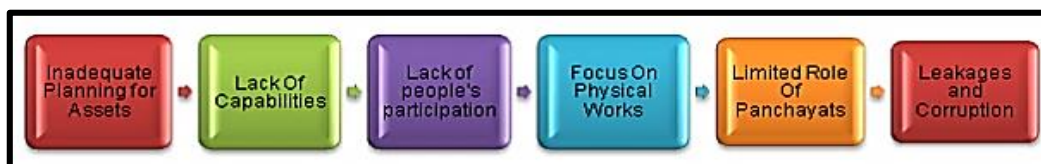
- **Inadequate utilisation of Funds**
- **Low coverage of targeted population**
- Funds were mostly **used in capital intensive activities rather than labour intensive**
- **Diversion of funds**, even to the non beneficiary households
- **Corruption** at Political and Administrative levels.
- Bogus reporting of targets

- Fudging of records.
- **Less durable assets** were created.
- **Participation of women was lower** in the programmes.

### 2.2.2 Evaluation of Employment Guarantee Schemes show the following issues;

- **Modest impact on poverty reduction** and unemployment reduction
- **Distress migration of workers continues**
- Quality of assets created and their maintenance is poor
- Failure to adopt a local development policy to promote overall area development.

### 2.2.3 Lessons Learnt From Implementation of Programme:



## 2.3 Implementation Challenges in National Rural Employment Guarantee Act

The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 was passed to augment employment generation and social security in India.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) has the following objectives:

- Provide **100 days of guaranteed wage employment** to rural **unskilled labour**
- Increase economic security
- **Decrease migration** of labour from rural to urban areas.

The challenges for successful implementation of NREGA stems from five factors:

Shift towards universalisation and guaranteed entitlement	<ul style="list-style-type: none"> <li>• A <b>well-coordinated approach</b> is required to ensure our <b>guaranteed access and reach of necessary benefits</b> under the program</li> <li>• In order to ensure guaranteed outcome a monitoring mechanism with strong institutional structure at local level should be devised so that resources can be used optimally for purpose of employment and asset creation</li> <li>• It is necessary to <b>integrate its implementation with other flagship development initiatives and achieve convergence</b></li> <li>• <b>Universal expansion of the scheme to cover all the important districts is needed.</b></li> </ul>
Union Funding And Execution By State Governments	<ul style="list-style-type: none"> <li>• There is a need to ensure <b>adequate flow of funds from Union level to the local level</b> according to the demand.</li> <li>• It is necessary to <b>delineate the accountability mechanism</b> in clear and unambiguous terms</li> <li>• it is necessary to ensure that funds are being used exclusively for furthering the goal of the program.</li> </ul>
Centrality of local governments	<ul style="list-style-type: none"> <li>• It is necessary to <b>empower the Panchayati Raj Institutions and build their capacity</b> to enable them to discharge their responsibility under the scheme.</li> </ul>
Administrative and institutional	<ul style="list-style-type: none"> <li>• The scale of the program and its complexity requires that the operations be <b>backed up by a robust Technology backbone.</b></li> </ul>

arrangements	<ul style="list-style-type: none"> <li>• Steps have to be taken to <b>ensure that funds reach the workers in a transparent way</b> and simultaneous monitoring is done to <b>prevent corruption and leakages</b></li> <li>• There is a need to maintain total transparency particularly with regard to <b>selection of beneficiaries, identification of works and preparation of estimates.</b></li> <li>• It is essential that the <b>community is associated with decision making</b> on the choice of works.</li> </ul>
Special challenges of backward areas	<ul style="list-style-type: none"> <li>• Due to the difficulty of <b>terrain and topography, adoption of uniform norms for implementation in these backward regions is difficult.</b></li> <li>• In many of these districts <b>Panchayati Raj institutions do not exist or are non functional.</b></li> <li>• The nature of local governance as well as size and area of Gram panchayats also varies in these backward areas.</li> </ul> <p>Citing above difficulties there is a need to recognise that conditions prevailing in these backward districts may <b>impede the smooth flow of funds</b> as well as implementation of the program and it is necessary to <b>strengthen administrative and local governance networks, build capacity of the community, devise customised programs</b> and and innovative approach to find out solutions for successful working of NREGA.</p>

## 2.4 Recommendations of Administrative Reforms Commission with reference to Successful Implementation of Public Employment Programmes (With Special Emphasis on NREGA)

### 2.4.1 Universalization and Entitlement:

Guaranteed Reach	Guaranteeing Outcome
<ul style="list-style-type: none"> <li>• <b>Awareness generation</b> program should be taken up by all state governments while the publicity and guidance <b>material should be available in local languages</b></li> <li>• Intensive <b>use of all India radio and doordarshan</b> should be made in local languages</li> <li>• In order to ensure proper coverage voter lists may be used for a certain number of eligible households, this however should not be the sole basis for registering households under NREGA. The number of households registered should be monitored and compared against other data like census, below poverty line survey etc.</li> <li>• <b>Independent monitors</b> should be deployed in areas where ever necessary where <b>participation of vulnerable sections</b> is not adequate to ensure that the weaker sections are participating and getting their entitlements.</li> </ul>	<ul style="list-style-type: none"> <li>• An <b>evaluation</b> should be carried out to assess the <b>socio-economic impacts of NREGA</b></li> <li>• This evaluation exercise should be based on following <b>parameters</b> <ul style="list-style-type: none"> <li>○ <b>Average annual income</b> of households</li> <li>○ Prevalent <b>market wages</b> for agricultural labour</li> <li>○ Average <b>number of days of family migrates</b> in search of labour</li> <li>○ Productivity of small and marginal land holdings</li> <li>○ <b>Quality and contribution of assets</b></li> </ul> </li> </ul>



<ul style="list-style-type: none"> <li>• Special norms should be worked out for various parameters of the scheme for difficult areas</li> <li>• Household should be defined to mean a nuclear family and may include any person wholly or substantially dependent on the head of the family.</li> <li>• Job cards should be issued <b>separately to each adult physically challenged person.</b></li> </ul>	
<b>Ensuring convergence</b>	<b>Expanding The Scheme</b>
<ul style="list-style-type: none"> <li>• Baseline performance indicators should be worked out for important services such as <b>health and education</b> and efforts should we need to improve them continuously</li> <li>• <b>Rural development programmes</b> which would be best managed at local level should be <b>transferred to Panchayati Raj institutions</b></li> <li>• There should be only one plan for an area so that an integrated view of development of the area could be taken</li> <li>• To the extent possible, <b>earthwork components of other asset creation programs should be taken under NREGA</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Extension of NREGA</b> remaining areas should be taken up in a phased manner. While expanding the coverage of NREGA the block should be taken up as the unit in state of the district with the most backward blocks to be included first.</li> <li>• In order to bring objectivity the expansion plan should be finalised within six months and announced well in advance.</li> </ul>

#### 2.4.2 Union Funding and State Execution:

<b>Accountability mechanism</b>	<b>Monitoring should be assigned to independent agencies and use of information technology</b> is warranted for best possible results.
<b>Fixing wage rates</b>	<ul style="list-style-type: none"> <li>• The provisions regarding prescription of wage rates under NREGA and the <b>minimum wages act</b> would require detailed examination</li> <li>• A <b>Task Force</b> comprising representatives of the Ministry of Rural Development, Ministry of Labour, Ministry of Law And Justice and a few state governments may be constituted to examine and make recommendations on this Issue.</li> </ul>
<b>Financial Management Systems</b>	<ul style="list-style-type: none"> <li>• Funds from Government of India should be <b>transferred directly to the districts</b></li> <li>• The <b>state governments contribution may be fixed at 10%</b> of the total cost of Rural Employment Guarantee scheme in a year and may be made annually.</li> <li>• Maximum level of points should be fixed for the panchayats and the government of India should release funds to the district every month so that the target levels are restored.</li> <li>• The system of releasing funds based on utilisation certificates should be replaced with a system of concurrent monitoring and <b>Audit through an independent agency.</b></li> <li>• The Audit should be <b>taken up every quarter</b> and if major irregularities</li> </ul>

	<p>are found the concerned panchayat should immediately make good the misutilised amounts from its own funds and not NREGA funds. If there are prima facie cases of corruption, criminal cases should be launched against the constant persons.</p> <ul style="list-style-type: none"> <li>To avoid leakages, payment <b>through banks and post offices</b> is a better option.</li> </ul>
<b>Preparing estimates for work</b>	<ul style="list-style-type: none"> <li>State government should involve a <b>more realistic</b> rural schedule of rates for NREGA in each district. These rates should be so evolved that workers both men and women <b>get prescribed minimum wage</b> which should be taken as the base and schedule of rates should be worked out. Adequate allowance should be provided as there would be a substantial proportion of women workers and this could be achieved by conducting a gender-specific study at district level.</li> <li>The district schedule of rates for NREGA should be prepared under the supervision of District technical resource support group</li> <li>State Governments should ensure that <b>inter district variation are within a permissible band</b></li> <li>A mechanism whereby the schedule of rates is harmonized across States needs to be put in place.</li> <li>As regards <b>elderly and physically challenged people</b> it is suggested that while prescribing norms for a realistic schedule of rates, the <b>productivity of such persons should be kept in mind</b> and they should be assigned works such as supervision, assistance in taking measurements and overseeing the amenities at the work site.</li> <li>The schedule of rates needs to be made transparent and the amount should be <b>clearly spelt out for the material as well as labour components.</b></li> </ul>
<b>Maintaining labour material ratio</b>	<ul style="list-style-type: none"> <li>The stipulation that the <b>material component should not exceed 40%</b> of the total cost should be strictly adhered to for each work. in exceptional cases if it is not possible to maintain this for each work it <b>should be maintained at the Gram/block panchayat level</b></li> </ul>
<b>Mechanism for Procurement</b>	<ul style="list-style-type: none"> <li>State government should evolve transparent procurement procedures under the scheme and ensure that they are followed by panchayats in a transparent manner.</li> </ul>

### 2.4.3 Administrative and Institutional Arrangements:

<p><b>Strengthening Local Government</b></p> <ul style="list-style-type: none"> <li>All schemes that can be managed well locally by panchayat will be transferred to them along with necessary administrative and financial arrangements in order to carry out their work.</li> <li>Officials of adequate seniority should be posted as CEOs of district panchayat and intermediate panchayats</li> <li>District rural development agency should be subsumed in district panchayat</li> <li>Public employment schemes implemented by education makes of permanent and contractual staff in order to bridge the</li> </ul>	<p><b>Selection and Maintenance of Works</b></p> <ul style="list-style-type: none"> <li>Selection of works at Gram panchayat, intermediate and block levels should be in <b>overall consonance with works at District level</b></li> <li>The Block/Intermediate Panchayat should ensure that works of one Gram Panchayat don't hinder the works of adjoining Gram Panchayats.</li> <li>The District Panchayats should ensure <b>overall Coordination</b> of works and inter-Gram Panchayat works should only be taken up after due consultations with all the involved Panchayats</li> </ul>
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<p>deficit in manpower</p> <ul style="list-style-type: none"> <li>• There should be provisions for <b>relaxation of qualification to hire local staff</b> for implementing the works while simultaneously running Capacity building programmes for them.</li> <li>• Services of non government staff with a proven track record can also be taken up to supplement staff deficit.</li> <li>• In case of staff working in difficult areas the following incentives should be provided; <ul style="list-style-type: none"> <li>○ Liberal life insurance cover</li> <li>○ Hardship allowance</li> <li>○ Accomodation facility for family if required</li> </ul> </li> </ul> <p>However all these incentives should be performance based.</p> <ul style="list-style-type: none"> <li>• The limit of Administrative expenses should be raised from the existing levels.</li> <li>• <b>Training of staff</b> should not be a one time process but a continuous intervention</li> <li>• A cascading approach should be taken towards training, a pool of resource persons should be created at State, District and Block levels.</li> <li>• Distance learning Technology should be used for training in inaccessible and remote areas</li> <li>• There should be evaluation of training activities by independent agencies.</li> <li>• Also, services of NGO and Self Help Groups should be taken to impart training</li> <li>• In areas where panchayats are non-functional, the district collector Check spelling made responsible for implementation of employment guarantee schemes.</li> <li>• The areas which are not covered under Part-IX of the Constitution (dealing with Panchayat), traditional or non traditional local bodies, recognised under State laws should be used for Implementation of the programmes.</li> </ul>	<ul style="list-style-type: none"> <li>• Similarly, works of inter-block nature should only be taken up after due consultations with all stakeholders.</li> </ul>
<p><b>Block Resource Centre</b></p> <ul style="list-style-type: none"> <li>• To <b>augment the technical resources of panchayat</b> at village and intermediate levels, a block resource Centre will be set up which will <b>include a panel of experts and professionals</b> available at the block level.</li> <li>• This centre would perform functions at the</li> </ul>	<p><b>Entrepreneurship institutes for rural poor</b></p> <ul style="list-style-type: none"> <li>• Entrepreneurship training Institute should be set up in every block to train and <b>impart skills to the rural poor</b> so that they get the opportunity to be self employed</li> </ul>

<p>block level similar to those of the District technical support group at district level</p>	
<p><b>Monitoring System</b></p> <ul style="list-style-type: none"> <li>• The monitoring mechanism as prescribed under the guidelines should be enriched by incorporating those features which capture information about the crucial parameters of the scheme.</li> <li>• For the purpose of record keeping Employment generation shall be deemed to have taken place only when the workers have received their wages. This would ensure that functionaries <b>make prompt payment</b> to the beneficiaries and the financial and physical progress complement each other.</li> <li>• <b>Independent monitoring and alerting Agencies</b> should be engaged to carry out concurrent monitoring and audit. these agencies and these agencies should guide the panchayat staff and maintenance of records in preparation of reports.</li> <li>• <b>1% of total the permissible administrative expenditure should be earmarked for Monitoring and Evaluation.</b></li> </ul>	<p><b>Curbing Corruption and Leakages</b></p> <ul style="list-style-type: none"> <li>• Templates of estimates of the general works should be prepared showing the inputs of labour and material required which should act as an aid for the preparation of estimates.</li> <li>• The <b>master role should incorporate the physical dimensions of work</b> that has been carried out in the work cycle. To the extent possible it should be <b>backed with a photograph of the work executed</b> at different stages.</li> <li>• The <b>grievance redressal mechanism</b> as provided under NREGA should proactively reach out to the people to redress their grievances.</li> </ul>
<p><b>Transparency and Right To Information</b></p> <ul style="list-style-type: none"> <li>• A <b>continuing process of training and awareness generation</b> about the Employment guarantee scheme and Right to Information is essential. The impact of such programs should be assessed through an <b>independent evaluation</b> and officials should be required to qualify in a test after their training.</li> <li>• NGOs with credibility and special reach should be identified and entrusted with the task of creating awareness and capacity building.</li> <li>• <b>All documents should be prepared in the local language.</b> State government should evolve norms about the mode of publication of suo motu disclosures by the Panchayats.</li> </ul>	<p><b>Use of Technology</b></p> <ul style="list-style-type: none"> <li>• The blocks must be the nodal level of government at which <b>all information is electronic</b></li> <li>• Any information collected in non-electronic form at block level or lower level of government <b>must be digitised at block level</b></li> <li>• A <b>unique identification should be issued not to each household but to each individual.</b> The members of each household to be tracked together to ensure that each household receives the appropriate benefits under the scheme, but the identities of each individual should be kept separate.</li> <li>• There should be <b>Gram Panchayat level computerisation.</b></li> <li>• A <b>Geographic information system</b> for visualisation of data on map spaces must be developed.</li> <li>• <b>Direct transfer of money</b> should be made possible.</li> <li>• A comprehensive list of quantitative measures for the detection of inconsistencies between operations and rules should be established within the IT systems.</li> <li>• Violation of the rules using any of the</li> </ul>

	<p>quantified measures should trigger alerts in the IT system</p> <ul style="list-style-type: none"> <li>• <b>Information that is required to be disclosed suo Motu</b> by various implementing arms of the government should be clearly identified for each level of Government and where possible the IT systems should be able to integrate the data necessary for such reporting and generate suo motu to reports automatically</li> <li>• A list of questions that the IT Systems should Be Able To Answer to Assure compliance with RTI Act must be created</li> <li>• A few pilot projects in different regions may be taken up in a cluster of villages <b>using smart cards</b>. Search smart cards store information about the person's identity and should have the capacity of recording transactions under the schemes and even authorise payments.</li> <li>• In the long run a viable business model needs to be developed so that private sector can participate.</li> </ul>
<p><b>Implementation of the schemes in fifth and sixth schedule areas</b></p> <ul style="list-style-type: none"> <li>• Careful steps should be taken to <b>devolve political powers</b> to the intermediate and local level traditional political organisations provided their traditional practices carried out in a modern world do not deny legitimate democratic rights to any section in their contemporary society.</li> <li>• To begin with, the subjects given under <b>6th schedule and those mentioned in 11th schedule</b> would be interested in the Autonomous District Council in the scheduled areas.</li> <li>• Traditional forms of governance should be associated with self-governance</li> <li>• <b>Implementation of centrally funded projects from various departments of union government should be entrusted to the Autonomous District Council</b> and to revived Village Council with strict audit by the Comptroller and Auditor General of India</li> </ul>	<p><b>Implementation In Areas Affected By Natural Calamity</b></p> <ul style="list-style-type: none"> <li>• <b>Relief works in areas hit by natural Calamities should be taken up</b> only if demand for work exists and the households have exhausted their entitlements under NREGA.</li> </ul>

<p><b>Relaxation of Certain Restrictive Provisions</b></p> <ul style="list-style-type: none"> <li>• The minimum number of workers required for commencing a work may be reduced from the present number of 50 to 20</li> <li>• <b>The list of works in schedule 1 needs to be enlarged</b></li> <li>• <b>Land development activities may be permitted in the lands of small and marginal farmers</b></li> </ul>	<p><b>Records</b></p> <ul style="list-style-type: none"> <li>• <b>Each Gram Panchayat should have a job card ledger</b> in the panchayat which should be a shadow of job cards. This would have the dual advantage of preventing any tempering in the job cards and also have the entire information available in the panchayat.</li> <li>• Records should be kept in a manner that enables accounting of each work voucher wise, so that it is possible to track every voucher to a work and also get voucher wise utilisation of funds for each work</li> </ul>
<p><b>Coordination Mechanism</b></p> <ul style="list-style-type: none"> <li>• A common <b>inter-ministerial empowered steering committee should be created</b>, with the Cabinet Secretary as the Chairman and Secretaries of the concerned Ministries/departments as members</li> <li>• This empowered steering committee may be given powers to; <ul style="list-style-type: none"> <li>○ <b>Oversee the work</b> of sectoral ministerial committee is in order to remove differences bottlenecks and lack of synergy and issue directions to bring about an integrated approach</li> <li>○ To <b>take timely and appropriate decisions</b> for effective and accountable implementation of the concerned programs</li> <li>○ Bring about <b>better coordination in implementation</b></li> <li>○ Ensure the centrality of local governments in implementation at the local levels and also as a part of local planning process mandated by the commission</li> </ul> </li> <li>• Similar empowered committee should be set up at State and District level</li> </ul>	<p><b>Building a National Identity</b></p> <ul style="list-style-type: none"> <li>• The <b>works taken up under</b> the National Rural Employment Guarantee Act(NREGA), should be broadly <b>consolidated together into a Pan India level scheme called 'Rashtriya Sukshema Abhiyan'</b>.</li> </ul>

## 2.5 Conclusion

The National Rural Employment guarantee Act **represents a paradigm shift and makes employment Right**, something that people can expect, demand and enforce. The Administrative Reforms Commission is of the view that if successfully implemented the act, it can be the harbinger of transformative changes in rural India and would energize the rural economy by providing **assured employment** and generating a large pool of **durable assets** to promote sustainable growth. It would also **strengthen the process of decentralization and enable participatory planning** at the grassroot level.

# CRISIS MANAGEMENT: FROM DESPAIR TO HOPE

03

3.1 Introduction	3.2 History of Crisis Management
3.3 Types of Crisis	3.4 Crisis Management
3.5 India's key Hazards, Vulnerabilities and Crisis Response Mechanism	3.6 Disaster Response Mechanism in India
3.7 Recommendations of Administrative Reforms Commission with Reference to Disaster Management Act	3.8 Recommendations of Administrative Reforms Commission Towards an Effective Institutional Arrangement
3.9 Recovery, Relief and Rehabilitation	3.10 Recommendations of Administrative Reforms Commission with Reference to Post Disaster Recovery
3.11 Gender Issues and Vulnerability of Weaker Sections	3.12 Drought Management
3.13 Management of Epidemic Outbreak	3.14 Conclusion

## 3.1 Introduction

A 'crisis' may be defined as "an emergency situation arising out of natural or human activity which poses a threat to human life and property or leads to large scale disruption of normal life".

This emergency situation may arise suddenly or it may be an outcome of a simmering problem or issue, which was not 'nipped in the bud.' A crisis may degenerate into a disaster if it is not properly managed resulting in avoidable loss of human life and property on a large scale. Preparedness and quick response can save lives, protect property and lessen disruptions caused by crises.

This calls for a total and effective response, which must subsume the coordinated response of the entire governmental system as also civil society. The response should not only incorporate traditional coping mechanisms, which have evolved over the centuries but also involve meticulous planning and coordination.

## 3.2 History of Crisis Management

Natural disasters and crises have been an integral part of human history right from the dawn of civilization. The rise and fall of the Indus Valley and Babylonian civilizations are a testimony to this.

With the emergence of the modern welfare state and the 20th century trends of globalization, urbanization, large-scale migrations of human population and climate changes, the nature of crises facing nations has increased both in magnitude and complexity.

For **example**, in the field of public health, while science has secured a major victory over **epidemics**, new strains of viruses and drug resistant microorganisms have emerged raising the spectre of **global pandemics** of new and more deadly diseases.

Further, **phenomena like modernization, information explosion, transnational migrations, and the economic interdependence** among nations have all contributed to **extending the impact of crisis situations over larger areas.**

### 3.3 Types of Crisis



#### Hazard Vs Disaster

A disaster takes place when a community is affected by a hazard. In other words, the impact of the disaster is determined by the extent of a community's vulnerability to the hazard. This **vulnerability** is not natural. It is the human dimension of disasters, the result of the whole range of **economic, social, cultural, institutional, political** lives and the **environment** that they live in."

### 3.4 Crisis Management

In the **traditional disaster management approach, the focus was on emergency relief and immediate rehabilitation.** But the modern 'Welfare State' entails wider responsibilities meaning in addition to the traditional responsibilities of relief and immediate rehabilitation, the Governments in **conjunction with the local bodies, the civil society, voluntary organizations** and corporate bodies, **address the factors leading to the crisis, in a manner that ideally prevents their occurrence, or at any rate, significantly reduces their ill effects.**

A crisis which does not emerge suddenly; it has a **life cycle**, which may take days, months or even decades to develop, therefore, needs to be examined in terms of its management cycle that would **enable us to anticipate the crisis, prevent and mitigate** it to the extent possible and deal with the crisis situation as it emerges.

*This 'life cycle' of crisis management may be divided broadly in three phases - pre-crisis, during crisis and post crisis.*



### 3.4.1 PHASE- I: Pre Crisis (Preparedness and Risk Management)

This is the period when the **potential hazard risk and vulnerabilities can be assessed and steps taken for preventing and mitigating** the crisis and preparing for actual occurrence.

<b>Long Term Measures</b>	<ul style="list-style-type: none"> <li>• Construction of <i>embankments to prevent flooding</i></li> <li>• Creation or augmentation of irrigation facilities and adoption of watershed management as drought proofing measures</li> <li>• Increasing <b>plantations for reducing the occurrence of landslides</b></li> <li>• Construction of earthquake resistant structures and</li> <li>• Sound environment management.</li> </ul>
<b>Short Term Measures</b>	<p>These measures seek to reduce or modify the scale and intensity of the threat, for example,</p> <ul style="list-style-type: none"> <li>• Better <b>enforcement of building codes and zoning regulations</b></li> <li>• Proper maintenance of <b>drainage systems</b></li> <li>• Better <b>awareness</b> and public education to reduce the risks of hazards etc.</li> </ul>

### 3.4.2 PHASE - II: During Crisis (Emergency Response)

Primary activities include **evacuation, search and rescue**, followed by provision of basic needs such as **food, clothing, shelter, medicines** and other necessities essential to bring the life of the affected community back to a **degree of normalcy**.

### 3.4.3 PHASE-III: Post Crisis

<b>Recovery</b>	This is the stage when efforts are made to achieve early recovery and reduce vulnerability and future risks. It comprises activities that <b>encompass two overlapping phases of rehabilitation and reconstruction</b> .
<b>Rehabilitation</b>	Includes provision of <b>temporary public utilities and housing as interim</b> measures to assist long term recovery.
<b>Reconstruction</b>	Includes <b>construction of damaged infrastructure</b> and habitats and enabling sustainable livelihoods.

### 3.4.4 Recommendations of Administrative Reforms Commission for Crisis Management

<b>Creating appropriate legal and organizational framework.</b>	Making government organizations, local bodies, communities/groups and individuals at all levels <b>aware of the risk of potential natural and man-made hazards as well as their vulnerabilities</b> .	Meticulous <b>long and short term planning</b> for crisis management, and effective implementation of plans and enforcement measures.
<b>Building resilience of the communities to face crises and ensuring their full participation.</b>	Building and maintaining capabilities (human and institutional), infrastructure and logistics.	Developing and disseminating knowledge for effective crisis management. <b>Integration of traditional knowledge</b> in crisis management efforts.

## The Administrative Reforms Commission has Recommended A Shift Towards Disaster Risk Reduction Strategy:

In the **past** there was a lack of coherent disaster reduction strategies and the **absence** of a 'Culture of Prevention', focus on Disaster Risk Reduction Strategies would change that.

Disaster risk reduction has been defined as the 'systematic development and application of policies, strategies and practices to minimise vulnerabilities, hazards and the unfolding of disaster impacts throughout a society, in the broad context of sustainable development'. It comprises the following:

<p><b>Legal and institutional framework</b> - Creating appropriate legal and organizational framework is the first step towards Disaster Risk Reduction.</p>	<p><b>Vulnerability Analysis and Risk Awareness</b> - Appraisal of likelihood and intensity of hazards and analysis of vulnerabilities thereto of the community with making government organizations, local bodies, communities/ groups and individuals at all levels aware of the risk of potential natural and man-made hazards.</p>	<p><b>Planning</b> - Building of <b>institutional capabilities</b> and meticulous <b>long and short term planning</b> with effective implementation of plans and enforcement measures.</p>
<p><b>Implementation of Plan and Community Resilience-</b> Building resilience of the communities to face crises and ensuring their full participation through inputs like <b>education, training and urban planning, infrastructure building and logistics.</b> Crucial to all these efforts, however, is the existence of a 'safety culture' in societies.</p>	<p><b>Knowledge Creation and Dissemination</b> - The <b>traditional knowledge available</b> with the community has to be used along with knowledge acquired through research and past experiences.</p> <p>Research in the field of disaster management has contributed to the predictions with a fair degree of accuracy (earthquakes are an exception), and this has led to establishment of efficient <b>Early Warning Systems.</b> The information is growing at a rapid rate, which calls for its processing and sharing. The <b>challenge is to ensure that the community and the decision makers are empowered with this knowledge.</b></p>	

### 3.5 India's key Hazards, Vulnerabilities and Crisis Response Mechanism

India is very vulnerable to **natural hazards** because of its unique **geo-climatic conditions.**

Almost 85% of the country is vulnerable to single or multiple disasters and about 57% of its area lies in high seismic zones. Approximately, 40 million hectares of the country's land area is prone to flood, about 8% of the total land mass is vulnerable to cyclones and 68% of the area is susceptible to drought. (Source: *Disaster Management in India- A status report, 2004, Ministry of Home Affairs, Government of India.*)

To this, it must be added that some areas are also vulnerable to **industrial, chemical and biological disasters.**

According to a recent study by the **World Bank, 2.25% of the GDP** and 12.15% of the revenue of the country were **lost due to natural disasters.**

**Although the broad principles of crisis management are applicable to different types of disasters, each disaster category has its peculiar features, which need to be factored in crisis management efforts.**

A brief description of some major crises/disasters, which India faces is given in the following paragraphs:

### 3.5.1 Earthquake

- **The Himalayas** - the youngest among the mountain ranges - are still **evolving** and adjusting to tectonic movements; **existence of two major fault lines** located on its west and east, have resulted in very severe earthquakes in several parts of the Himalayan and surrounding regions. This makes the entire region covering fourteen states highly prone to earthquakes. The hilly regions are also prone to **earthquake-induced landslides**.
- The other seismically active regions of the country include the Gulf of Khambhat and Rann of Kutch in Western Gujarat, parts of peninsular India, the islands of Lakshadweep and Andaman and Nicobar Islands.

#### Mitigation Strategy For Earthquake (Administrative Reforms Commission)

Earthquakes can **neither be prevented or predicted**, in terms of their magnitude, or place and time of occurrence. Therefore, the most effective **measures of risk reduction** are pre-disaster mitigation, preparedness and preventive measures **for reducing the vulnerability** of the built environment combined with expeditious and **effective rescue and relief actions** immediately after the occurrence of the earthquake.

### 3.5.2 Cyclones

More than 7516 km of coastline in the east and the west face the hazards of tropical **cyclones**, and associated **storm surges** and heavy rainfall, before and after the monsoon. **Post-monsoon cyclones** are usually more intense both in numbers and intensity. It has been estimated that over 58 percent of the cyclonic storms that develop in the Bay of Bengal approach or cross the **east coast in October and November**. Only 25 percent of the storms that develop over the Arabian Sea hit the west coast. In the **pre-monsoon season**, corresponding figures are 25 per cent over the Arabian Sea and 30 per cent over the Bay of Bengal.

#### Prevention and Mitigation Strategy (Administrative Reforms Commission)

**An effective cyclone disaster prevention and mitigation plan requires:**

- Efficient cyclone **forecast and warning services**;
- Rapid **dissemination of warnings** to the government agencies, particularly marine interests like ports, fisheries and shipping and to the general public and
- **Construction of cyclone shelters** in vulnerable areas, a ready **machinery for evacuation** of people to safer areas and **community preparedness** at all levels to meet the emergencies.

### 3.5.3 Floods

Floods occur regularly in India affecting about **10% of the area**. The term flood is generally used **when the water-flows in rivers, streams and other water bodies cannot be contained within natural or artificial banks**.

**The severity of flooding at any location is a function of several factors such as;**

- Intensity and extent of rainfall and antecedent conditions of catchment area,
- Physical characteristics of the river, topography etc.
- In many cases, the natural process of flooding is aggravated by man-made hindrances to free out-flow/absorption of floodwater both in agricultural areas and particularly in urban areas with unplanned or **unauthorized construction activities**;
- Sudden large **releases from upstream reservoirs**, which often is more than the carrying capacity of the basin, results in massive destruction of river embankments and downstream flooding.

- Increasing pace of urbanization, population growth and development have all led to pressures on the floodplains magnifying the damage caused by floods.
- Other factors like- unauthorized construction activities in floodplains and river beds, poor urban planning and implementation, **lack of investment in storm water drainage** and sewerage for several decades as well as inadequate planning and response mechanisms.

#### **Flood Control and Management (Administrative Reforms Commission)**

- (i) There should be a **master plan** for flood control and management for each flood prone basin.
- (ii) Adequate **flood-cushion should be provided in water storage projects**, wherever feasible, to facilitate better flood management. In highly flood prone areas, flood control should be given overriding consideration in reservoir regulation policy even at the cost of sacrificing some irrigation or power benefits.
- (iii) While **physical flood protection works like embankments** and dykes will continue to be necessary, increased emphasis should be laid on **non-structural measures such as flood forecasting and warning, flood plain zoning and flood proofing** for the minimisation of losses and to reduce the recurring expenditure on flood relief.
- (iv) There should be strict regulation of settlements and economic activity in the floodplain zones along with flood proofing, to minimise the loss of life and property on account of floods.
- (v) The flood forecasting activities should be modernised, value added and extended to other uncovered areas. Inflow forecasting to reservoirs should be instituted for their effective regulation.

#### **3.5.4 Landslides**

Landslides are **mass movements of rocks, debris or earth, down mountain slopes** or riverbanks. Such movements may occur gradually, but sudden sliding can also occur without warning. They often take place in **conjunction with earthquakes, floods and volcanic eruptions**.

#### **Mitigation Strategy for Landslides (Administrative Reforms Commission)**

- **Need for Hill Development Authority** at national, state and other levels.
- **Debris disposal policy** should be made.
- Research being done in the field of landslides may be shared with implementing agencies.
- **Geo-technical investigations** and clearance may be made **mandatory** as a policy **before construction of the roads and undertaking major developmental activities**.
- **Controlled blasting** and silent explosive options should be used in Himalayan region.
- **Vulnerability mapping** of all areas may be taken up with priority.
- Awareness and skill transfer to the grassroots level with incorporation of traditional skills and involvement of community is needed.
- **Compulsory insurance** may be provided to communities in the vulnerable areas with premium paid from CRF.
- Training and **sensitization of media** and also proper liaison of media with district administration is necessary.
- **Pre-disaster drills** keeping in view the periodicity and severity of disaster may be carried out.
- NDMA may periodically assess level of preparedness at different levels.
- Resource inventory and stocking of resources should be continuously done.
- **Village Disaster Management Teams (VDMTs)** may be trained and equipped.
- Security should be tightened in affected areas.
- A protocol officer should be nominated for all VVIP visits.
- Civil Defence forces should be reactivated and reoriented for disaster management.
- Essential search and rescue equipments like stretchers, ropes, first aid, etc. and emergency medical facilities should be made available with community
- Disaster mitigation funds may be utilized for capacity building of the community and the district.

- Liaison officers should be appointed for coordination with NGOs.
- Documentation of the past experiences of disasters should be done.

### 3.5.5 Avalanches

The **sliding down of snow cover** on mountain slopes causes avalanches. Avalanches may occur due to a combination of **factors** such as the **slope of the mountain, depth of snow cover, wind velocity and atmospheric temperature, vibrations caused by gunfire** and strength of resisting forces like vegetation cover of trees and shrubs. **When the balance between the gravitational force of snow cover and the resisting force of the slope and the anchoring effect of shrubs are lost, avalanches are caused.**

#### Mitigation Measures For Avalanche (Administrative Reforms Commission)

- **Structural measures**
  - Planting (Avalanche Prevention Forest)
  - Stepped Terraces
  - Avalanche Control Piles
  - Avalanche Control Fence
  - Suspended Fences
  - Snow Cornice Control Structures
  - Protection structures such as stopping, deflecting and retarding structures
- **Non-structural measures**
  - Removing snow deposits on slopes by blasting,
  - Early warning and prediction of avalanches,
  - Evacuating people from vulnerable areas.

### 3.5.6 Industrial Disasters

These are man made disasters and may be **caused by chemical, mechanical, civil, electrical or other process failures** in an industrial plant due to accident or negligence, which may cause widespread damage within and/or outside the plant.

The worst example globally was the Methyl Iso-cyanate gas leak in **1984 from the Union Carbide Factory in Bhopal** which has so far claimed more than 20, 000 lives and injured several lakh persons besides stunting the growth of a generation born from the affected population.

In the **pre-Bhopal Gas Tragedy era**, industrial safety was governed by legislation like the Factories Act, 1948 and the Explosives Act, 1884. These **laws proved to be inadequate** to provide safety to workers as well as to the people living in the surrounding areas. **After the Bhopal Gas Tragedy**, a new chapter was inserted in the Factories Act, 1948 dealing with hazardous processes and the **Environment Protection Act, 1986 was enacted.**

**Some of the rules were promulgated under the Act are:**

- The Environment (Protection) Rules, 1986.
- Hazardous Waste (Management and Handling) Rules, 1989.
- The Manufacture, Storage and Import of Hazardous Substances Rules, 1989/ 2000 (MSIHS).
- The Public Liability Insurance Act and Rules and Amendment, 1992.
- The Chemical Accidents (Emergency Planning, Preparedness, and Response) Rules, 1996.
- The Environment (Siting for Industrial Projects) Rules, 1999.
- The Municipal Solid Wastes (Management and Handling) Rules, 2000.
- The Ozone Depleting Substances (Regulation and Control) Rules, 2000.

### 3.5.7 Epidemics

In India, the major sources of epidemics can be broadly **categorized as** follows:

- **Water-borne diseases** like cholera (and forms of gastroenteritis), typhoid, Hepatitis A, Hepatitis B etc., major epidemics of such diseases have been recorded in the past and continue to occur.
- **Vector-borne (often mosquito-borne) epidemics** like dengue fever, chikungunya fever, Japanese encephalitis, malaria, kala-azar etc., which usually occur in certain regions of the country.
- **Air-borne diseases** like influenza and measles that can also be transmitted through fomites (used clothes etc.).
- **STDs** - Person to person transmission of diseases e.g. AIDS and other venereal diseases.

#### Recent Outbreaks

- There are certain types of emerging infectious diseases such as the recent outbreak of **avian flu in poultry** in certain parts of the country and which has the **potential of being transmitted to human beings**.
- Epidemics due to the Dengue virus have occurred in many metropolitan cities of India and outbreaks of various other types of viral diseases is also a recurring phenomena.
- The recent outbreak of **Coronavirus Pandemic in India** has led to heavy toll on lives and health systems.

### 3.5.8 Nuclear Hazards

With increased emphasis on power generation through nuclear technology, the threat of nuclear hazards has also increased. The **Department of Atomic Energy (DAE)** has been identified as the **nodal agency** in the country in respect of man-made radiological emergencies in the public domain.

#### Mitigation Strategy For Nuclear Hazards (Administrative Reforms Commission)

In addition to the other types of emergency response plans in place within the facility to handle local emergencies, response **plans have also been drawn up for handling such emergencies in the public domain**, which are called "off site Emergencies".

These plans - drawn up separately in detail for each site - which are under the jurisdiction of the local district administration, **cover an area of about 16 km radius** around the plant or the off-site Emergency Planning Zone.

### 3.5.9 Desert Locust

Under **favourable environmental conditions**, a few solitary individuals can **dramatically multiply**, form large swarms able to **migrate great distances** and threaten agriculture over a large part of Africa, the Middle East and Southwest Asia.

#### Mitigation Strategy for Desert Locust

- Initial Desert Locust control efforts were largely curative but the trend in the twentieth century had been **toward preventing** such plagues from occurring.
- **International cooperation** lies at the core of an effective strategy for locust control.
- This strategy has **proved to be quite effective** because countries have come to accept that international cooperation is critical in the fight against the Desert Locust.
- The **challenge** in coming years will be to **evolve Desert Locust management strategies** in a manner that **ensures food security** while minimizing any detrimental effects on the environment.

### 3.5.10 Slow Onset Disasters

Disasters can also be classified as **'slow onset' disasters and 'rapid onset' disasters**. Climate change (global warming), desertification, soil degradation, and droughts, would fall under the category of slow onset disasters while earthquakes, cyclones, floods, tsunamis would fall under the category of rapid onset disasters.

**Slow onset disasters are also termed as 'Creeping Emergencies'.**

#### 3.5.10.1 Climate Change

Climate change is defined as **'a statistically significant variation in either the mean state of the climate or in its variability, persisting for an extended period** (typically decades or even longer). Climate change may be due to natural internal processes or external forces, or to persistent anthropogenic changes in the composition of the atmosphere or in land use.' Global warming caused **due to the "Greenhouse effect"** is one of the major reasons for climate change. Global warming leads to **melting of glaciers, rise in sea level** and threatens low lying coastal areas (Like the Sundarbans and entire nations such as Bangladesh and Maldives). Recent unexpected and unseasonal rainfall and drought is attributed to global warming. Combating global warming requires urgent and concerted **efforts by the international community**.

#### 3.5.10.2 Droughts

Droughts refer to a serious **shortfall in availability of water**, mainly, but not exclusively, due to deficiency of rains, **affecting agriculture, drinking water supply and industry**. The causative factors are both natural and man made. The impact of droughts on societies varies depending on coping capabilities and the general health of the national economies concerned.

##### **Droughts in India: Basic Facts**

- India has an **average annual rainfall of around 1150 mm**; no other country has such a high annual average, however, there is **considerable annual variation**.
- More than **80% of rainfall is received in less than 100 days** during the South-west monsoon and the **geographic spread is uneven**.
- **21% area** receives less than 700 mm rains annually making such areas the **hot spots of drought**.
- Inadequacy of rains coupled with adverse land-man ratio compels the farmers to practice **rain-fed agriculture** in large parts of the country.
- Irrigation, using groundwater aggravates the situation in the long run as **ground-water withdrawal exceeds replenishment**; in the peninsular region availability of surface water itself becomes scarce in years of rainfall insufficiency.
- **Per capita water availability** in the country is steadily **declining**.
- The **traditional water harvesting systems** have been largely **abandoned**.

The above factors demonstrate the **complexity of Indian droughts** and the constraints which **rule out 'perfect solutions'**. Further, the **causes for droughts are increasingly attributable to the mismatch between supply and demand**, particularly the demand for non-agricultural purposes. In other words, it is not as if a simple pre-existing problem is awaiting better remedies, the problem itself is becoming more complex.

#### 3.5.10.3 Soil Degradation and Desertification

Any kind of land degradation can be termed as desertification. This can take place **due to soil erosion, increasing alkalinity in soil and water-logging**. While desertification poses serious livelihood challenges by reducing agricultural productivity which has implications for our food security system and the process of desertification is **accelerated due to continuing cultivation**. Land degradation is estimated to **affect one third of the total area** of the country.

### 3.5.10.4 Sea Erosion

The **landward displacement of the shoreline** caused by the **forces of waves and currents** is termed as erosion. The **removal of sand** from the sand-sharing system results in permanent changes in beach shape and structure.

About **23 per cent of India's mainland coastline** of 5423 km is getting affected by erosion. **Prevention measures** against sea erosion include **sea walls, gabions, boulders, revetments, steel piles, rock groynes and offshore rock bars**. The Department of Ocean Development has undertaken several 'Shoreline Management Plan Projects'.

## 3.6 Disaster Response Mechanism in India

Parliament has enacted the **Disaster Management Act, 2005** by invoking **entry 23** namely '**Social security and social insurance, employment and unemployment**' in the **Concurrent List**.

The term disaster includes natural calamities, health related disasters (epidemics), industrial disasters and disasters caused by hostile elements such as terrorists. Disaster management **encompasses** all activities including **preparedness, early warning systems, rescue, relief and rehabilitation**.

### 3.6.1 Institutional Framework and Legal Framework

**Till independence**, the entire crisis management exercise was **confined to fighting natural calamities**, particularly severe droughts causing famines. **After Independence**, **drought relief works** were undertaken in areas affected by severe droughts in the form of the Drought Prone Areas Programme (DPAP). In the year 2005, Disaster Management Act was enacted at the national level. .

The basic **responsibility** in India to undertake **rescue, relief and rehabilitation measures** in the event of natural disasters lies with the **State Governments**. The whole Crisis Management structure and Administration had been oriented from the very beginning towards post disaster relief and rehabilitation.

### 3.6.2 Crisis Management Structure at the State Level

<b>Relief Commissioners</b>	<ul style="list-style-type: none"> <li>At the State level the Relief Commissioners are in <b>charge of the relief and rehabilitation measures</b>. He works <b>under the Secretary of the Revenue Department</b>.</li> <li>The <b>Revenue Secretary</b>, in some States, is also the <b>ex-officio Relief Commissioner</b>. This facilitates a direct chain of command to the level of District Collectors and Tehsildars, who are the main field functionaries in the districts and sub-districts, the basic units of administration.</li> <li>But the focus on crisis prevention and mitigation or even of preparedness is missing in such a supervisory framework</li> </ul>
<b>Crisis Management Committee</b>	<ul style="list-style-type: none"> <li>Every state has a Crisis Management Committee that is involved in day to day review of the situation during the times of crisis.</li> <li>The Committee coordinates the activities of all departments and provides a decision support system to the district administration.</li> <li>It is <b>headed by the Chief Secretary</b> of the concerned State.</li> </ul>
<b>District Collector/ Magistrates</b>	<p>The District Magistrates/Collectors has an overall responsibility of coordinating Crisis Management activities in the District. In this regard he has the following responsibilities:</p> <ul style="list-style-type: none"> <li>Authority to mobilize the response machinery and financial powers to draw money under the provisions of the General Financial Rules/Treasury Codes.</li> <li>Under the overall leadership of the Collector, all departments of the State</li> </ul>



	<p>Government including the police, fire services, public works, irrigation etc. work in a coordinated manner.</p> <ul style="list-style-type: none"> <li>• Authority to request for assistance from the Armed Forces if circumstances so demand. NGOs have also been effective in providing relief, rescue and rehabilitation in recent times.</li> </ul>
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### 3.6.3 Crisis Management Structure at the Union Level

<b>National Crisis Management Committee (NCMC)</b>	<ul style="list-style-type: none"> <li>• It is headed by the <b>Cabinet Secretary</b>.</li> <li>• The NCMC reviews and monitors crisis situations on a regular basis and gives directions to the Crisis Management Group as deemed necessary.</li> <li>• The Committee can <b>give directions</b> to any ministry, department or organization for specific action needed for meeting the crisis situation.</li> </ul>
<b>Ministries at The Union Level</b>	<ul style="list-style-type: none"> <li>• The <b>nodal</b> responsibility for management of disasters rests with the respective Ministries which are as follows; <ul style="list-style-type: none"> <li>○ Ministry Of Home Affairs: Natural and Man made disasters</li> <li>○ <b>Droughts: Ministry Of Agriculture</b></li> <li>○ Air accident: Ministry of Civil Aviation</li> <li>○ Railway accident: Ministry Of Railways</li> <li>○ <b>Chemical disasters: Ministry Of Environment Forest and Climate Change</b></li> <li>○ Biological disasters: Ministry Of Health</li> <li>○ Nuclear accident: Department Of Atomic Energy</li> </ul> </li> </ul>
<b>Armed Forces</b>	<p>The Armed Forces play a major role in <b>assisting</b> the civil administration particularly in emergency support functions such as communications, <b>search and rescue operations</b>, health and medical facilities, transportation, power, food and civil supplies, public works and engineering, in the immediate aftermath of major disasters.</p>

### 3.6.4 Analysis of Legal and Institutional Framework for Disaster Management

The Disaster Management Act, 2005 **defines disaster** as a **natural or man made event** that causes **substantial loss to life, property and environment**.

The Disaster Management Act envisages a **unified structure** of disaster management in the country; the integration of this institutional structure with the existing constitutional, legal and administrative framework of the country may, however, pose several problems.

The National Disaster Management Authority (NDMA) has the **responsibility** for not only **laying down policies, plans and guidelines**, but also has **executive functions for ensuring timely and effective response to disasters**.

The National Executive Committee (NEC) set up under the National Disaster Management Authority (NDMA) would be chaired by the Secretary to the Government of India in charge of the Ministry or Department of the Union Government having administrative control of disaster management.

Under the Act, the NDMA and the NEC will not only approve the national plans and the plans of the respective Union ministries/departments; they will also lay down guidelines for the State authorities, coordinate the enforcement and implementation of these policies and plans for disaster management and ensure timely response.

*What, in fact, is however needed is further empowerment and delegation to the front-end functionaries when it comes to implementation of disaster management efforts.*

**International practices also do not normally involve setting up centralized authorities** with command and control functions to deal with disasters. **For example**, in the **USA**, the Federal Emergency Management Agency (FEMA) is an agency for the purpose of overseeing federal government assistance in domestic disaster preparation, training of first responders and coordination of the government’s disaster response efforts.

Similarly, in **Japan**, although legislation provides an overall structure for planning and response, **local governments have the primary responsibility of disaster management.**

**Moreover, in any crisis situation, the field functionaries, the State Governments and the line departments and ministries of the Union Government being aware of the field situation would be in the best position to provide timely and effective response, if they are fully authorized to do so.**

### 3.7 Recommendations of Administrative Reforms Commission with Reference to Disaster Management Act

The Disaster Management Act, 2005 (Central Act) needs to be amended to bring in the following features:

<p>Disaster/Crisis Management should continue to be the <b>primary responsibility of the State Governments and the Union Government should play a supportive role.</b></p>	<p>The Act should <b>provide categorization of disasters</b> (say, local, district, state or national level). This categorization along with intensity of each type of disaster will <b>help in determining the level of authority primarily responsible</b> for dealing with the disaster as well as the scale of response and relief detailed guidelines may be stipulated by the NDMA on this subject.</p>
<p><b>The functions of the National Disaster Management Authority should be:</b></p> <ul style="list-style-type: none"> <li>• To recommend policies, to lay down guidelines for preparation of different disaster management plans and standard operating procedures;</li> <li>• To promote and organize vulnerability studies, research and evaluation;</li> <li>• To advise on parameters of categorization and on declaration of national and state level disasters;</li> <li>• To develop expertise and knowledge in the field of crisis/disaster management and disseminate to the field;</li> <li>• To develop and organize training and capacity building programmes;</li> <li>• To coordinate the early warning systems;</li> <li>• To deploy specialized manpower and machinery in support of local/State Governments, where required;</li> <li>• To advise on constitution and use of the Disaster Management Funds and;</li> <li>• To give recommendations on all matters relating to crisis/disaster management to the government.</li> </ul>	<p>The <b>task of implementation</b> of mitigation/prevention and response measures may be <b>left to the State Governments and the district and local authorities</b> with the line ministries/departments of Government of India, playing a supportive role.</p>

The law should cast a <b>duty on every public functionary, to promptly inform the concerned authority about any crisis.</b>	The law should <b>create a uniform structure at the apex level to handle all crises.</b> Such a structure <b>may be headed by the Prime Minister at the national level</b> and the Chief Minister at the state level. At the administrative level the structure is appropriately headed by the Cabinet Secretary and the Chief Secretary respectively.
The law should make provisions for stringent <b>punishment for misutilization of funds</b> meant for crisis/disaster management.	The <b>role of the local governments should be brought to the forefront</b> for crisis/disaster management.
The National Executive Committee (NEC), as stipulated under the Disaster Management Act, need not be constituted, and the National Crisis Management Committee (NCMC) should continue to be the apex coordination body.  At the State level, the existing coordination mechanism under the Chief Secretary should continue.	

### 3.8 Recommendations of Administrative Reforms Commission towards an Effective Institutional Arrangement

<b>New Institutional Arrangement</b>	<ul style="list-style-type: none"> <li>There is <b>no need for a separate ministry/department</b> of disaster management at the national or the state level.</li> <li>The National Executive Committee (NEC) as stipulated under the Disaster Management Act, 2005 need <b>not be constituted</b>, and the National Crisis Management Committee (NCMC) can continue to be the <b>apex coordination body</b>.</li> <li>At the State level, the existing coordination mechanism under the Chief Secretary may continue.</li> <li>Notwithstanding the establishment of NDRF, the <b>role of the Armed Forces, particularly the Army, in coming to the aid of victims of disasters should be retained</b> and the special capabilities acquired by the Armed Forces in search and rescue and on the spot medical attention need to be maintained.</li> </ul>
<b>Role of Local Government</b>	<ul style="list-style-type: none"> <li>State Governments may examine the need to incorporate provisions in the state disaster management law and also the <b>state laws governing local bodies to provide for a well-defined role to the municipal bodies and Panchayati Raj Institutions.</b></li> </ul>
<b>Crisis Management setup for Metropolitan cities</b>	<ul style="list-style-type: none"> <li>In larger cities the <b>Mayor</b>, assisted by the Commissioner of the Municipal Corporation and the Police Commissioner should be directly <b>responsible for Crisis Management.</b></li> </ul>
<b>Bringing Water at the Centre stage</b>	<ul style="list-style-type: none"> <li>Water supply, urban and rural, soil conservation and watershed development, environment, water quality etc. are dealt with by other ministries/ departments, the policies and programmes of the one impinge on the other. Since water has diverse uses, the entire subject cannot be brought under one ministry</li> </ul>

<p><b>Creation of Legal and Institutional Framework for Managing Floods in Inter-State Rivers</b></p>	<ul style="list-style-type: none"> <li>Using powers under <b>Entry 56 in the Union List</b>, a Law may be enacted to set up mechanisms for <b>collection of data, managing flow in rivers and release of water from reservoirs</b>, so as to prevent disasters, with inter-state ramifications.</li> </ul>
<p><b>Empowering the Relief Commissioners/ Disaster Management Departments to Effectively Discharge Disaster Related Responsibilities</b></p>	<p><b>The State Disaster Management organisations need to be strengthened for dealing with crises.</b></p> <ul style="list-style-type: none"> <li>A framework should be in readiness to be <b>put in place immediately during crisis</b> or on fulfillment of some predefined scenarios, the <b>‘trigger mechanism’ needs to be well defined</b> to ensure that the ‘framework’ is put in active operation instantaneously.</li> <li>The ‘framework’ may <b>consist of officers</b> (designated by name) drawn from <b>Revenue, Police, Agriculture, Animal Husbandry, Public Health Engineering, Water Resources, Women &amp; Child Development, Welfare, Public Works, Highways, Irrigation, Health, and Treasury and Accounts Departments.</b></li> <li>The designated officers will work as a cohesive integrated team under one roof on a whole-time basis during crisis situations, under the leadership of the nodal officer and be responsible entirely for the functioning of their department in so far as it relates to drought/disaster management.</li> <li>The role and responsibility of each department needs to be specifically identified and defined on the lines the Ministry of Agriculture has specified the responsibilities of various Union Government agencies during severe droughts.</li> <li>The designated departmental officer should be delegated powers and responsibilities defined in advance and will deal with other departmental functionaries directly.</li> </ul>
<p><b>Institutional Support of Science and Technology Institutions for Disaster Management</b></p>	<ul style="list-style-type: none"> <li>The National Disaster Management Authority, assisted by National Institute of Disaster Management (<b>NIDM</b>), <b>may facilitate a common platform between the Science and Technology organizations and the users of the relevant technologies.</b></li> </ul>
<p><b>Strengthening National Institute of Disaster Management</b></p>	<ul style="list-style-type: none"> <li>NIDM may continue as an autonomous body and function as the apex professional institution in disaster management. In addition to research and studies, the institution needs to <b>engage itself in documenting and disseminating global and national best practices</b> and in developing planning, training and evaluation methodologies.</li> </ul>
<p><b>Professionalization of Disaster Management</b></p>	<ul style="list-style-type: none"> <li>Disaster Management’ as a body of knowledge should be <b>introduced as a subject in Management and Public Administration.</b></li> <li>The possibility of bilateral agreements with foreign governments and international institutions dealing with different aspects of disaster management, for exchange of experiences and learning from their documentation and research efforts may be explored</li> </ul>
<p><b>Risk Reduction</b></p>	<ul style="list-style-type: none"> <li><b>Hazard and vulnerability analyses</b> should be made an essential component of all mitigation plans.</li> <li>Priority should be given to seismic micro zonation of vulnerable major cities, hazard prone areas, and urban agglomerations in a scale of 1: 1000 in Zones V and IV, with topmost priority being given to cities with populations of more than one million.</li> <li><b>Geographical Information System tools</b> should be used to integrate spatial data as well as non-spatial data on a common platform.</li> <li>Scientific, technological and research organizations such as NRSA, ISRO,</li> </ul>

	<p>NIC, GSI and NIDM should be <b>brought on a common platform</b> by NDMA for developing a sound information base.</p> <ul style="list-style-type: none"> <li>• A <b>detailed vulnerability analysis</b> that would prioritize the areas in order of vulnerability; it should also highlight the vulnerability of different sections of society and infrastructure.</li> </ul>
Generating Awareness About Risk	<ul style="list-style-type: none"> <li>• <b>Awareness generation programmes</b> should be undertaken using tools of social marketing.</li> <li>• A responsible media, which is also well informed about all aspects of disaster, is a very powerful tool for sensitizing people.</li> <li>• <b>Details of past accidents and disasters and the lessons learnt</b>, should be documented and kept in the public domain.</li> </ul>
Preparation of Disaster Management Plan	<ul style="list-style-type: none"> <li>• Plans should be prepared, based on hazard and vulnerability analysis. The off site emergency plans, in case of industrial hazards, should be integrated into the District Crisis/Disaster Management Plan.</li> <li>• <b>The District Disaster Management Plan needs to have two components:</b> <ul style="list-style-type: none"> <li>○ Long Term Mitigation Plan.</li> <li>○ Emergency Response Plan.</li> </ul> </li> <li>• <b>The Long Term Mitigation Plan, in turn, should have the following components:</b> <ul style="list-style-type: none"> <li>○ Long Term Development Plan.</li> <li>○ Long Term Enforcement Plan.</li> </ul> </li> <li>• Annual plans should be culled out of the Long Term Development/Enforcement Plans. State Governments must evolve a mechanism for speedily scrutinizing district level long term plans to harmonize these with similar plans for other districts, particularly those located contiguously</li> <li>• The quality of on-site and off-site emergency plans in hazardous industrial units need to be enhanced in terms of completeness and practicability of implementation considering the ground level situation.</li> <li>• The plan should be prepared in <b>consultation with all role players</b>. Each role player should understand and accept his/her roles. This would require awareness campaigns, especially for the community.</li> <li>• For ensuring quality of on-site and off-site emergency plans (for hazardous units), the <b>professional expertise available, both in industry, and in enforcement agencies such as the Factory Inspectorates should be improved.</b></li> <li>• All crisis/disaster management plans should be tested periodically through mock drills.</li> </ul>
Hazard Reduction Measures	<ul style="list-style-type: none"> <li>• <b>Structural prevention measures</b> should be a part of long term disaster management plans for an area.</li> <li>• Appropriate <b>zoning regulations</b> need to be extended to all areas.</li> <li>• <b>Strengthening of the Town and Country Planning Departments</b> of State Governments. Local bodies can be given financial incentives for preparation of zoning regulations. The hazard zonation maps prepared should be one of the inputs for preparation of zoning regulations.</li> <li>• The <b>importance of disaster resistant constructions and simplified safety guidelines should be widely disseminated</b> so as to promote compliance. In so far as the rural areas are concerned, other methods of dissemination including setting up of Building Technology Demonstration Centres and undertaking demonstrative disaster constructions in severe hazard prone areas should be taken up. Demonstration camps should also be used to make the people aware of the concerns and the solutions.</li> <li>• The <b>existing system of enforcement of building regulations needs to be revised</b>. It should be professionalised by licensing architects and structural engineers for assessment of structures and for certification of safe</li> </ul>

	<p>buildings. The units of local bodies dealing with enforcement of building byelaws and zoning regulations also need to be strengthened.</p> <ul style="list-style-type: none"> <li>• The <b>standards prescribed by the Bureau of Indian Standards (BIS) for disaster resistant buildings should be available</b> in the public domain, free of cost. This should be posted on websites of the concerned government agencies to promote compliance.</li> <li>• Among the existing buildings, <b>government buildings used by the public should be evaluated and retrofitted first</b>, giving preference to buildings housing essential services. It would be advisable to fix a schedule for all such buildings in hazard prone areas. Private buildings used by the public should also be tackled on priority. A mix of regulatory and financial incentives could be used for this purpose by the local bodies.</li> </ul>
<b>Building Community Resilience</b>	<ul style="list-style-type: none"> <li>• Location specific <b>training programmes for the community</b> should be executed through the panchayats.</li> <li>• Crisis management awareness needs to be mainstreamed in schools, colleges, universities and in professional and vocational education.</li> <li>• Disaster awareness should be included in <b>training programmes for elected leaders, civil servants, police personnel, and personnel in critical sectors such as revenue, agriculture, irrigation, health and public works.</b></li> <li>• Orientation and sensitization programmes highlighting issues and concerns in disaster management should be taken up for legislators, policy makers, and elected leaders of urban local bodies and Panchayati raj institutions.</li> </ul>
<b>Research and Use of Knowledge</b>	<ul style="list-style-type: none"> <li>• National Institute of Disaster Management (NIDM) should develop methodologies for effective dissemination of knowledge.</li> <li>• Disaster management plans should attempt to integrate traditional knowledge available with the communities.</li> <li>• NIDM should <b>coordinate with research institutions and universities on the one hand and field functionaries on the other</b> and identify areas where research is required.</li> </ul>
<b>Emergency Response Plans</b>	<ul style="list-style-type: none"> <li>• Emergency Response Plans should be up to date and should <b>lay down the 'trigger points' in unambiguous terms.</b></li> <li>• The district emergency response plan should be prepared in consultation with all the role players. Standard Operating Procedure (SOPs) <b>should be developed for each disaster</b> at the district and community level, keeping in mind the disaster vulnerability of the area.</li> <li>• Unity of command should be the underlying principle for effective rescue operations. For example in a district all agencies of Union and State Government have to work under the leadership of the Collector. Such unity of command principle should pervade at all field levels.</li> <li>• The plan should be <b>validated annually through mock drills</b> and it should be backed by capability building efforts.</li> <li>• Handling of crisis should be made a parameter for evaluating the performance of officers.</li> </ul>
<b>Role of Specialized Agencies</b>	<p><b>Civil Defence</b></p> <ul style="list-style-type: none"> <li>• The <b>Civil Defence Act should be amended as proposed so as to cover all types of disasters.</b></li> <li>• Civil Defence should be constituted in all districts which are vulnerable not only to hostile attacks but also to natural calamities.</li> <li>• The goal of community participation should be pursued primarily through the instrumentality of Civil Defence especially in urban areas.</li> <li>• The objective should be to <b>include 1% of the population within the fold of Civil Defence within five years.</b></li> <li>• Efforts should be made to enlist paramedics as Civil Defence volunteers.</li> </ul>

	<ul style="list-style-type: none"> <li>• Budgetary allocations to Central Financial Assistance for Civil Defence should be increased.</li> <li>• Civil Defence set-ups should be permitted to accept donations.</li> <li>• The Civil Defence set-up at the state level may be brought under the control of the crisis/Disaster Management set-up.</li> </ul> <p><b>Police/Home Guard/Fire Service</b></p> <ul style="list-style-type: none"> <li>• Policemen, Firemen and the Home Guards should be adequately <b>trained in handling crises/ disasters</b>. Such training should be specific to the types of crises envisaged in an area. More importantly, they should be fully <b>involved in the preparation of the local Crisis/Disaster Management Plan</b>.</li> <li>• A section of Home Guards should also be given Para-medical training.</li> <li>• Fire Services should more appropriately be renamed as Fire and Rescue Services with an enhanced role to respond to various types of crises.</li> <li>• Only persons with expertise in crisis/disaster management should be inducted into the top management of the Fire (and Rescue) Services.</li> <li>• Fire and Rescue Services should be brought under the control of the State Crisis/Disaster Management set up under the Disaster Management Law.</li> <li>• The National Disaster Management Authority (NDMA) may be requested to suggest model provisions regarding these services for inclusion in the Disaster Management Act.</li> </ul>
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### 3.9 Recovery, Relief and Rehabilitation

The International Strategy for Disaster Reduction (ISDR) **defines recovery** as the “decisions and actions taken after a disaster with a view to restoring or improving the pre-disaster living conditions of the stricken community, while encouraging and facilitating necessary adjustments to reduce disaster risk”.

While **emergency response is vital as it is aimed at saving human lives and providing relief**, the **ultimate objective of any crisis management is restoration of devastated livelihoods**.

**Recovery efforts** following rescue and relief in any disaster, can be **classified into short term and long term**. The short term activities for recovery are **debris clearance, providing semi-permanent shelter and ensuring sanitation** and restoring lifelines, while the long term activities involve **building a safer and more sustainable livelihood**.

The **first step after stabilizing** the situation by providing sufficient relief is to **assess the damage**. This exercise is best carried out **through multi-disciplinary teams** which go into all aspects of damage (social, economical, psychological) in **participation with the local community**.

Based on the assessment of the damage and the needs, a **recovery strategy has to be formulated**. The strategy should **include all interventions - economic, social, political and psychological**. The resources should be identified and the roles and responsibilities of all concerned should be defined.

**The guiding Principles for Post Disaster Recovery are as follows;**

1. Mainstreaming disaster risk reduction in the recovery/development process.
2. Improving/maintaining coordination.
3. Promoting participatory approaches and decentralized planning and programming for recovery.
4. Enhancing safety standards and integrating risk reduction in reconstruction and development.
5. Improving the living conditions of the affected communities and sectors
6. Building local and national capacities for increased resilience, risk management and sustainable development.
7. Taking advantage of ongoing initiatives.
8. Gender sensibility.
9. Demonstrative effects.
10. Monitoring, evaluating and learning.

### 3.10 Recommendations of Administrative Reforms Commission with Reference to Post Disaster Recovery

Relief and Rehabilitation	Revisiting Financial Procedure
<ul style="list-style-type: none"> <li>• <b>Damage assessment should be carried out by multidisciplinary teams</b> in a transparent and participatory manner in accordance with guidelines laid down by National Disaster Management Authority (NDMA).</li> <li>• The efforts of NGOs and other groups have to be coordinated with government activities at the district and state levels.</li> <li>• <b>A recovery strategy should be involved in consultation with the affected people</b> and concerned agencies and organisations. The recovery strategy should include all aspects of rehabilitation - social, economic and psychological.</li> <li>• Minimum standards of relief should be developed to address the requirements of food, health, water, sanitation and shelter.</li> <li>• Focus should be placed on the <b>special needs of the vulnerable population</b> that is, children, women, the elderly and the physically challenged.</li> <li>• Implementation of the rehabilitation efforts should be <b>carried out by the village panchayat/local bodies</b>. The first priority should be to get the beneficiary oriented works executed through the beneficiaries themselves.</li> <li>• Concurrent monitoring and a quick financial audit should be carried out to prevent misuse of funds.</li> <li>• <b>Risk reduction aspects should be incorporated</b> into the recovery plans. Land use plans which ensure safety of the inhabitants should be brought into effect during reconstruction.</li> <li>• <b>All new civil constructions should mandatorily be made disaster resistant</b> as per prescribed standards.</li> <li>• A <b>mechanism for redressal of grievances</b> should be established at the local and district levels.</li> <li>• For all major disasters, the National Institute of Disaster Management (NIDM) should conduct a detailed evaluation exercise through independent professional agencies.</li> </ul>	<ul style="list-style-type: none"> <li>• Both the funds (<b>National Disaster Mitigation Fund</b> and the <b>National Disaster Response Fund</b>) have been operationalised from April 1, 2007.</li> <li>• National Disaster Management Authority (<b>NDMA</b>) <b>may recommend to the Government of India the quantum and criteria of assistance and conditions of release from the two new funds as well as manner of replenishment of these funds from different sources.</b></li> <li>• A system of compiling accounts for each calamity separately with reference to each head of relief expenditure should be initiated.</li> <li>• The <b>Comptroller and Auditor General of India</b> may consider laying down a standardized format in this regard.</li> <li>• Accounts as above may be available on the website of the state level nodal agency at such intervals as may be laid down.</li> <li>• The basis for calculation of assistance from the funds should be available on appropriate websites.</li> </ul>



### 3.11 Gender Issues and Vulnerability of Weaker Sections

Women and children are the most adversely affected in disasters, particularly natural disasters, and consequently suffer the most. The basic reason for this is the gender disparities which exist in our society because of which women have little say in decision making, particularly outside the household, they are comparatively less literate, have lesser mobility and are dependent on men folk in most matters.

It is, therefore, necessary that all disaster management policies/plans including disaster preparedness and mitigation relief and rescue operations specially address the vulnerability of both women and children during disasters.

#### Recommendations of Administrative Reforms Commission:

- The vulnerability analysis should bring out the specific vulnerabilities of women and these should be addressed in any mitigation effort. Disaster mitigation plans should be prepared, in consultation with womens' groups. Similar steps should be taken for other vulnerable groups.
- Rescue and relief operations should focus on the most vulnerable groups: women, children, the elderly and the physically challenged.
- In the recovery phase, efforts should focus on making women economically independent by offering them opportunities of earning incomes, providing training in new skills, forming self-help groups, providing microfinance, marketing facilities etc.
- The title of new assets created should be in the names of both husband and wife.
- Camp managing committees should have an adequate number of women representatives.
- Trauma counselling and psychological care should be provided to widows and women and other persons in distress. These activities should form part of the disaster management plan.
- Arrangements have to be made for orphaned children on a long term basis. NGOs should be encouraged to play a major role in their rehabilitation.

### 3.12 Drought Management

The distinct features of drought are, the onset is slow giving adequate time for warning, it affects livelihoods of people over a large area, the duration of the disaster is much longer and so the relief efforts have to be sustained over this stretched time period, it remains basically a rural phenomenon except that very severe drought may also impact on urban water supply by drying up sources and drastically reducing water table in regions with aquifers, and there is a possibility that drought management efforts could reduce vulnerability by improving moisture conservation and vegetal cover etc.

#### 3.12.1 Recommendations of Administrative Reforms Commission with reference to drought Management

Drought Prone Area Development	Revisiting Long Term Intervention	Livelihood Management in Extremely Drought Prone Areas
<ul style="list-style-type: none"> <li>• Drought-prone areas should be made less vulnerable to drought associated problems through soil moisture conservation measures, water harvesting practices, minimisation of evaporation losses, development of the ground</li> </ul>	<p>A National Institute of Drought Management may be set up for networking on multi-disciplinary, cross-sectoral research on various aspects of</p>	<p>A strategy for making people pursue livelihoods compatible with their ecosystems needs to be evolved.</p> <p><b>Some concrete steps in this</b></p>

<p><b>water potential</b> including recharging and the transfer of surface water from surplus areas where feasible and appropriate.</p> <ul style="list-style-type: none"> <li>• Pastures, forestry or other modes of development which are relatively less water demanding should be encouraged.</li> <li>• In planning water resource development projects, the needs of drought prone areas should be given priority.</li> <li>• <b>Relief works undertaken for providing employment</b> to drought stricken populations should preferably be for <b>drought proofing</b>.</li> </ul>	<p>drought, acting as a resource centre on droughts and carrying out impact evaluation studies of the drought management efforts.</p>	<p><b>direction could be:</b></p> <ul style="list-style-type: none"> <li>• A multidisciplinary team needs to be immediately constituted by the Ministry of Environment and Forests to specifically <b>identify villages where soil and climatic conditions make 'conventional agriculture' unsustainable.</b></li> <li>• <b>Alternate means of livelihood</b> have to be evolved in consultation with the communities, in such areas.</li> </ul>
<p><b>Rationalization of Drought Declarations and Diagnosis</b></p>	<p><b>Making Rivers Perennial</b></p>	<p><b>Rainfed Areas Authority</b></p>
<p>The method and mechanism of declaration of droughts needs to be <b>modified under the guidance of NDMA.</b></p> <p>While it is for the State Governments to work out the modalities keeping in view the peculiarities of their agro-climatic conditions, the Commission recommends that the modified mechanism may incorporate the following broad guiding principles:</p> <ul style="list-style-type: none"> <li>• Where a certain percentage (say twenty per cent) of area normally cultivated remains unsown till the end of July or December for Kharif and Rabi respectively, the affected Tehsil/Taluka/Mandal could be declared drought affected by the government.</li> <li>• To begin with, 'eye estimates' could be used. Such estimates may be verified with reference to remote sensing data as access to such facilities improves progressively. The ultimate objective should be to use remote sensing as the primary tool of early detection of droughts with 'eye estimates' remaining only as 'secondary verifying methods'.</li> </ul> <p><b>Deployment of Remote sensing</b> as a primary tool for diagnosing drought, monitoring the course and forecasting prognosis.</p>	<p>Technical agencies under the Ministries of Water Resources, Environment and Forests and Science and Technology must immediately carry out river specific feasibility <b>studies to determine the ecological and hydrological implications of making seasonal rivers perennial.</b></p>	<p>A <b>National Rainfed Areas Authority may be constituted</b> immediately. The Authority can deal, inter alia, with all the issues of drought management.</p>

### 3.13 Management of Epidemic Outbreak

Epidemics may assume crisis proportions **when an outbreak is geographically widespread** and the causative **strain is of a particularly virulent variety**. However, given an **adequate regimen of surveillance and safeguards, epidemics can be prevented from assuming crisis proportions**.

The Constitution of India has provisions to control epidemics in all the three legislative lists of the Seventh Schedule:

- List-I; entry 28 “quarantine” and entry 81 “inter-State quarantine”;
- List-II; entry 6 “Public health and sanitation”;
- List-III; entry 29 “prevention of the extension from one State to another of infectious or contagious diseases”.

#### 3.13.1 Recommendations of Administrative Reforms Commission to Tackle Epidemics Outbreak

<p>To more effectively prevent outbreak/spread of epidemics, it is imperative that a <b>comprehensive revised ‘model’ legislation on public health is finalized at an early date</b></p>	<p><b>Ministry of Health and Family Welfare has to ensure that requisite plans envisaged under the Disaster Management Act, 2005, are drawn up in respect of epidemics also</b> and that the role of the district administration finds explicit mention in the <b>Public Health Emergency Bill</b>.</p>	
<p>While surveillance and management of epidemics are the responsibilities of public health professionals, it is clear that a particularly severe outbreak could overwhelm the capacities of the ‘line organisations’.</p>	<p>The Ministry of Health and Family Welfare and the State Governments must ensure that <b>‘standard operating procedures’</b> are devised to assign roles and responsibilities of agencies and personnel outside the line organizations wherever a situation so warrants.</p>	<p><b>State level handbooks and manuals</b> concerning disaster management should have a chapter on <b>“epidemics related emergencies”</b>.  A model chapter may be circulated by the Ministry of Health and Family Welfare for guidance of states. It may be useful to <b>document the past handling of epidemics like the Plague (Surat) and Japanese encephalitis (Eastern UP) to facilitate standardization of response mechanisms</b>.</p>

### 3.14 Conclusion

To reduce vulnerability, a strategy that emphasises systematic preparedness, early warning, quick response and sustainable recovery is better than one of mere response. To that end, the Commission has recommended a **comprehensive preparedness, early warning, quick response and recovery strategy**, with two goals: to protect people and structures from disasters and to increase the effectiveness of crisis response and recovery.

Managing a crisis is **primarily the responsibility of the government**. But the **community, local bodies and voluntary organizations also play a vital role**. It is for the **administration to coordinate the efforts of all stakeholders** such that the synergy generated reinforces and multiplies the resources available and results in a comprehensive and timely response.

4.1 Introduction	4.2 Factors that Aggravated Corruption and abuse of Office
4.3 Anti-Corruption Initiatives in India	4.4 Ethical Framework
4.5 Legal Framework for Fighting Corruption	4.6 Institutional Machinery for Dealing with Corruption
4.7 Social Infrastructure	4.8 Systemic Reforms
4.9 Protecting the Honest Civil Servants	4.10 Conclusion

"You must be the change you wish to see in the world."

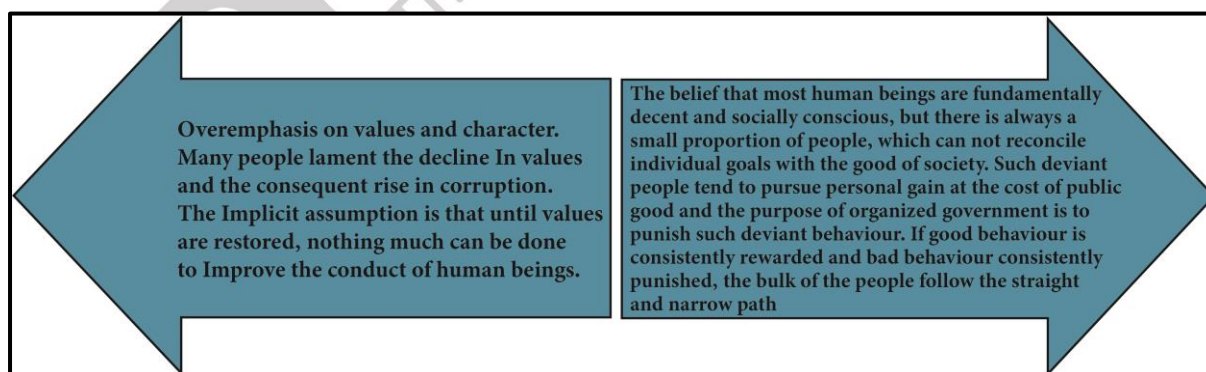
-MAHATMA GANDHI

## 4.1 Introduction

Ethics is a **set of standards that society places on itself and which helps guide behaviour, choices and actions**. But standards do not, by themselves, ensure ethical behaviour; that **requires a robust culture of integrity**. In order to promote integrity, competent **disciplinary bodies to investigate allegations** of violations and impose sanctions quickly, need to be put in place.

Corruption is an important **manifestation of the failure of ethics**. Corruption has become a matter of habit, ranging from grand corruption involving persons in high places to retail corruption touching the everyday life of common people.

There are two approaches in dealing with corruption and abuse of office:



**In the real world, both values and institutions matter.** Values are needed to serve as **guiding stars**, and they exist in abundance in our society. But **values need to be sustained by institutions** to be durable and to serve as an example to others. Values **without institutional support will soon be weakened** and dissipated. Institutions provide the container, which gives shape and content to values.

## 4.2 Factors that Aggravated corruption and abuse of office

- **Colonial legacy** of unchallenged authority and propensity to **exercise power arbitrarily**. In a society which worships power, it is easy for public officials to deviate from ethical conduct.
- There is an enormous **asymmetry of power in our society**. Nearly **90% of our people are in the unorganized sector**. Quite a number of them lead a precarious existence, depending on subsistence wages with no job security. And nearly **70% of the organized workers with job security and regular monthly wage are employed by the state** directly or through public sector undertakings. Almost all these employees are 'educated' in a largely illiterate and semi-literate society and economically **even the lowliest of public servants are better off than most people** in the country. What is more, their employment in government comes with all the trappings of power. Such asymmetry of power **reduces societal pressure to conform to ethical behaviour** and makes it easy to indulge in corruption.
- Third, the Indian state in the early decades after Independence chose a **set of policies** whose unintended consequence was to **put the citizen at the mercy of the State**. Over regulation, severe restrictions on economic activity, **excessive state control**, near-monopoly of the government in many sectors and an economy of scarcity all **created conditions conducive to unbridled corruption**.

Every democracy requires the **empowerment of citizens** in order to **hold those in authority to account**. **Right to Information, effective citizens' charters**, opportunity and incentives to promote proactive approach of citizens, stake-holders' involvement in delivery of public services, public consultation in decision making and **social auditing** are some of the **instruments of accountability** that dramatically **curbed corruption and promoted integrity and quality of decision making**.

The **most important determinant of the integrity** of a society or the prevalence of corruption is the **quality of politics**. If politics attracts and rewards men and women of integrity, competence and passion for public good, then the society is safe and integrity is maintained. But **if honesty is incompatible with survival in politics**, and if public life attracts undesirable and corrupt elements seeking private gain, **then abuse of authority and corruption become the norm**. In such a political culture and climate, desirable initiatives will not yield adequate dividends. **Competition and decentralization certainly reduce corruption** in certain sectors. But if the demand for corruption is fuelled by inexhaustible appetite for **illegitimate funds in politics**, then other avenues of corruption will be forcibly opened up.

All forms of corruption are reprehensible and we need to **promote a culture of zero tolerance of corruption**.

The citizen is a **victim of extortion** and is compelled to pay a bribe in order to get a service to which he is entitled. Experience has taught most citizens that there is a **vicious cycle of corruption** operating and they often end up **losing much more by resisting corruption**.

**Delays, harassment, lost opportunity, loss of precious time and wages, uncertainty and, at times, potential danger of loss of life or limb** could result from resistance to corruption and non-compliance with demands. In such cases, the citizen is an unwilling **victim of coercive corruption**.

In cases of **collusive corruption**, both parties **benefit at immense cost to society**. Awarding of contracts for public works and procurement of goods and services, recruitment of employees, evasion of taxes, substandard projects, collusive violation of regulations, adulteration of foods and drugs, obstruction of justice and concealing or doctoring evidence in investigation are all **examples** of such dangerous forms of corruption.

As the **economy is freed from state controls**, **extortionary corruption declines** and **collusive corruption tends to increase**.

### 4.3 Anti-corruption initiatives in India

- The Supreme Court has ruled that **candidates contesting elections should file details regarding their wealth**, educational qualifications and criminal antecedents along with their nomination papers.
- The Right to Information Act, the introduction of information communication, technologies, e-governance initiatives and automation of corruption prone processes in administration have succeeded in reducing corruption.

#### Much more remains to be done:

- Benami properties of corrupt public servants need to be forfeited, as also the assets illegally acquired from corrupt practices.
- Whistleblower legislation has to be put in place to protect informants against retribution.
- Strengthen the **institutional framework for investigating corrupt** practices and awarding exemplary punishment to the corrupt thereby raising the risk associated with corrupt behaviour.

Therefore, enforcement of rule of law and deterrent punishment against corruption are critical to build an ethically sound society.

There is a **need for ethics in business, every profession, voluntary organization and civil society** structure as these entities are now vitally **involved in the process of governance**. Finally, there should be ethics in citizen behaviour because such behaviour impinges directly on ethics in government and administration.

### 4.4 Ethical Framework

#### 4.4.1 Ethics and Politics

Any discussion on an ethical framework for governance in a democracy must necessarily **begin with ethical values in politics** as the **standards set in politics profoundly influence those in other aspects of governance**.

**Excesses in elections** (in campaign-funding, use of illegitimate money, quantum of expenditure, imperfect electoral rolls, impersonation, booth-capturing, violence, inducements and intimidation), **floor-crossing after elections** to get into power and abuse of power in public office has eroded the ethical conduct in politics.

Despite the measures taken by the Election Commission and the Supreme Court, improvements are marginal in the case of important problems of **criminalization, the use of money in elections, subtle forms of inducements and patronage in the form of chairmanships and memberships of public units and the anomaly of legislators functioning as disguised executives**.

##### 4.4.1.1 Issues and Areas of Reforms in Politics

- **Reform of Political Funding-** Donations by Companies, Private individuals, capitalists among others pave way for **Crony Capitalism**. **Tightening of Anti Defection Law-**The anti-defection legislation that was enacted to combat this malaise, fixed a certain number above which **defection in a group was permitted**. Legalising such selective defection however, provided opportunities for transgressing political ethics and opportunism.
- **Disqualification-** Given the **delays in our criminal justice system**, disqualification after conviction for crimes may be an insufficient safeguard. There are candidates who face **grave criminal charges like murder, abduction, rape and dacoity**, unrelated to political agitations. In such cases, there is a **need for a fair reconciliation between the candidate's right to contest and the community's right to good representation**.
- **False declaration-** there have been several false declarations made by candidate contesting elections.

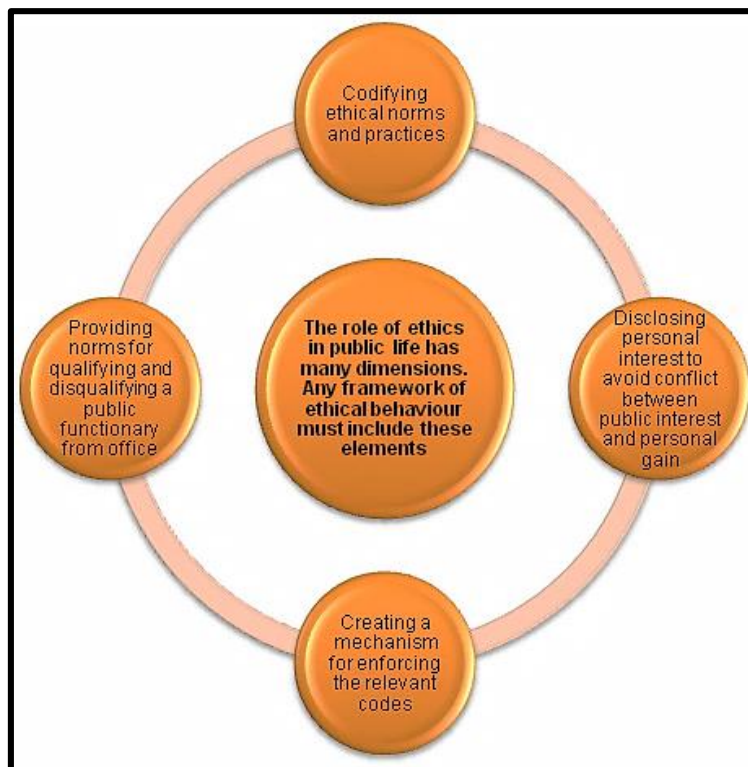
- **Publication of Accounts by Political Parties- Non disclosure of audited accounts** by Political Parties not only leads to opacity in working of the parties but is also an anathema to the **citizen's democratic and Fundamental Rights to know.**
- **Coalition and Ethics-** The ethics of coalition government is, however, seriously strained when the **coalition partners change partnerships mid-stream** and new coalitions are formed, primarily **driven by opportunism** and craving for power in utter disregard of the common minimum programme agreed to for the realization of the goal of socio-economic development. **Issues In Appointment of Chief Election Commissioner/ Commissioners-** There is a need to **devise a mechanism of appointment** of Chief and other Election Commissioners which is **fair, transparent and independent** from any political interference.
- **Disposal of Election petitions-** There are a huge number of **election petitions pending** in High Courts that take several years to be disposed off.
- **Grounds of Disqualification from membership apart from those mentioned in Constitution-** In view of recent development leading to expulsions of some Members of Parliament, it may be desirable to **comprehensively spell out other circumstances** under which the Members of Parliament can be disqualified.

#### 4.4.1.2 Recommendations of Administrative Reforms Commission towards Political Reforms

<p>In order to eradicate the major source of political corruption, there is a compelling case for <b>State funding of elections.</b> As recommended by the <b>Indrajit Gupta Committee</b> on State Funding of Elections, the funding should be partial state funding mainly in kind for certain essential items.</p>	<p>The issue of <b>disqualification</b> of members <b>on grounds of defection</b> should be <b>decided by the President/Governor</b> on the advice of the Election Commission.</p>	<p><b>Section 8 of the Representation of the People Act, 1951</b> needs to be <b>amended</b> to disqualify all persons <b>facing charges related to grave and heinous offences</b> and corruption.</p>
<p>A false declarations before the Returning Officer, Electoral Officer, Chief Electoral Officer or the Election Commission should be <b>made an electoral offence under Section 31 of the Representation of the People Act.</b></p>	<p>Political parties have a responsibility to maintain <b>proper accounts of their income and expenditure</b> and get them audited annually.</p>	<p>The <b>Constitution should be amended</b> to ensure that if one or more <b>parties in a coalition</b> with a common programme mandated by the electorate either explicitly before the elections or implicitly while forming the government, <b>realign midstream</b> with one or more parties outside the coalition, then <b>Members of that party or parties shall have to seek a fresh mandate from the electorate.</b></p>
<p>A <b>collegium</b> headed by the Prime Minister with the Speaker of the Lok Sabha, the Leader of Opposition in the Lok Sabha, the Law Minister and Deputy Chairman of the Rajya Sabha as members should make recommendations for the <b>consideration of the President for appointment of the Chief Election Commissioner and the Election Commissioners.</b></p>	<p><b>Special Election Tribunals</b> should be constituted at the regional level under <b>Article 323B</b> of the Constitution to ensure <b>speedy disposal</b> of election petitions and disputes within a stipulated <b>period of six months.</b></p>	<p>Appropriate legislation may be enacted under Article 102(e) of the Constitution spelling out the conditions for disqualification of membership of Parliament in <b>an exhaustive manner.</b> Similarly, the States may also legislate under Article 198 (e).</p>

#### 4.4.2 Ethics in Public Life

In democracy, every holder of **public office is accountable ultimately to the people**. Such accountability is **enforced through a system of laws and rules**, which the elected representatives of the people enact in their legislatures. **Ethics provides the basis for the creation of such laws and rules.**



##### 4.4.2.1 Recommendations of Administrative Reforms Commission for Ethics in Public Life

<p><b>Ethical Framework For Ministers</b></p>	<ul style="list-style-type: none"> <li>• In addition to the existing Code of Conduct for Ministers, there <b>should be a Code of Ethics</b> to provide guidance on how <b>Ministers</b> should uphold the highest standards of constitutional and ethical conduct in the performance of their duties.</li> <li>• Dedicated <b>units should be set up in the offices of the Prime Minister</b> and the Chief Ministers to <b>monitor the observance of the Code of Ethics and the Code of Conduct</b>.</li> <li>• The Code of Ethics should inter alia <b>include broad principles of the Minister-civil servant relationship</b>.</li> </ul>
<p><b>Ethical Framework For Legislators</b></p>	<ul style="list-style-type: none"> <li>• An <b>Office of 'Ethics Commissioner'</b> may be constituted by <b>each House of Parliament</b>. This Office, functioning <b>under the Speaker/Chairman</b>, would <b>assist the Committee on Ethics</b> in the discharge of its functions, and advise Members, when required, and maintain necessary records.</li> <li>• <b>In respect of States, the Commission recommends the following:</b> <ul style="list-style-type: none"> <li>○ All State legislatures may adopt a Code of Ethics and a Code of Conduct for their Members.</li> <li>○ Ethics Committees may be constituted with well-defined procedures for sanctions in case of transgressions, to ensure the ethical conduct of legislators.</li> <li>○ 'Registers of Members' Interests' may be maintained with the declaration of interests by Members of the State legislatures.</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ An Office of 'Ethics Commissioner' may be constituted by each House of the State legislatures. This Office would function under the Speaker/Chairman, on the same basis as suggested for Parliament.</li> </ul>
<b>Office of Profit</b>	<p><b>Office of profit should be defined based on the following principles:</b></p> <ul style="list-style-type: none"> <li>• All offices in <b>purely advisory bodies</b> where the experience, insights and expertise of a legislator would be inputs in governmental policy, shall <b>not be treated as offices of profit</b>, irrespective of the remuneration and perks associated with such an office.</li> <li>• All offices <b>involving executive decision</b> making and control of public funds, including positions on the governing boards of public undertakings and statutory and non-statutory authorities directly deciding policy or managing institutions or authorizing or approving expenditure shall be <b>treated as offices of profit</b>, and no legislator shall hold such offices.</li> <li>• If a serving Minister, by virtue of office, is a member or head of certain organizations like the Planning Commission, where close coordination and integration between the Council of Ministers and the organization or authority or committee is vital for the day-to-day functioning of government, it shall not be treated as an office of profit.</li> <li>• The use of <b>discretionary funds at the disposal of legislators</b>, the power to determine specific projects and schemes, or select the beneficiaries or authorize expenditure shall constitute discharge of executive functions and will <b>invite disqualification under Articles 102 and 191</b>, irrespective of whether or not a new office is notified and held.</li> <li>• Schemes such as Member Of Parliament Local Area Development Scheme (MPLADS) and Member of Legislative Assembly Local Area Development Scheme (MLALADS) should be <b>abolished</b>.</li> </ul>
<b>Ethical Framework For Civil Servants</b>	<ul style="list-style-type: none"> <li>• <b>Public Service Values</b> should be defined and made applicable to all tiers of Government and parastatal organizations. Any transgression of these values should be treated as misconduct, inviting punishment.</li> <li>• <b>Conflict of interest</b> should be comprehensively <b>covered in the Code of Ethics and in the Code of Conduct</b> for officers. Also, serving officials should not be nominated on the Boards of Public undertakings. This will, however, not apply to non-profit public institutions and advisory bodies.</li> </ul>
<b>Ethical Framework For Professionals</b>	<ul style="list-style-type: none"> <li>• There should be a Code of Ethics and a comprehensive and enforceable Code of Conduct for all major professions.</li> </ul>
<b>Ethical Framework For Judiciary</b>	<ul style="list-style-type: none"> <li>• A <b>National Judicial Council should be constituted</b>, in line with universally accepted principles where the appointment of members of the judiciary should be by a collegium having representation of the executive, legislature and judiciary. The Council should have the following composition: <ul style="list-style-type: none"> <li>○ The Vice-President as Chairperson of the Council.</li> <li>○ The Prime Minister.</li> <li>○ The Speaker of the Lok Sabha.</li> <li>○ The Chief Justice of India.</li> <li>○ The Law Minister.</li> <li>○ The Leader of the Opposition in the Lok Sabha.</li> <li>○ The Leader of the Opposition in the Rajya Sabha.</li> </ul> </li> <li>• In matters relating to the appointment and oversight of High Court Judges, the Council will also include the following members: <ul style="list-style-type: none"> <li>○ The Chief Minister of the concerned State.</li> <li>○ The Chief Justice of the concerned High Court.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• The National Judicial Council should be authorized to <b>lay down the Code of Conduct for judges</b>, including the subordinate judiciary.</li> <li>• It should also be entrusted the task of oversight of the judges, and should be <b>empowered to enquire into alleged misconduct</b> and impose minor penalties. It can also <b>recommend removal</b> of a judge if so warranted.</li> <li>• Based on the recommendations of the National Judicial Commission (NJC), the President should have the powers to remove a Supreme Court or High Court Judge.</li> <li>• <b>Article 124</b> of the Constitution may be <b>amended</b> to provide for the National Judicial Council. A similar change will have to be made in Article 217. Also, since the Council is to have the authority to oversee and discipline judges, further changes will need to be made to Article 217 (Clause 4).</li> <li>• A Judge of the Supreme Court should be designated as the <b>Judicial Values Commissioner</b>. He/she should be assigned the task of enforcing the code of conduct. Similar arrangement should also be made in the High Court.</li> </ul>
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## 4.5 Legal Framework for Fighting Corruption

### 4.5.1 Prevention of Corruption Act, 1988

It consolidates the provisions of the **Prevention of Corruption Act 1947**, the **Criminal Law Amendment Act, 1952** and some provisions of IPC.

The salient features of the Act are as follows:

- The term 'Public Servant' is defined in the Act. The definition is broader than what existed in the IPC.
- A new concept Public Duty' is introduced in the Act.
- **Offences relating to corruption** in the IPC have been brought in **Chapter 3** of the Act, and they have been deleted from the Indian Penal Code.
- All cases under the Act are to be **tried only by Special Judges**.
- Proceedings of the court have to be **held on a day-to-day basis**.
- Penalties prescribed for various offences are enhanced.
- CRPC is amended (for the purposes of this Act only) to provide for expeditious trial
- It has been stipulated that no court shall stay the proceedings under the Act on the grounds of any error or irregularity in the sanction granted, unless in the opinion of the court it has led to failure of justice.
- Other existing provisions regarding presumptions, immunity to bribe giver, investigation by an officer of the rank of DySP, access to bank records etc., have been retained.

#### 4.5.1.1 Issues in the Prevention of Corruption Act (1988)

<p><b>Definition of Corruption</b> Although the protection of corruption act lists offences of bribery and several with a wide range penal provisions provided for them, the Act <b>doesn't provide for the definition of Corruption.</b></p>	<p><b>Collusive Corruption</b> The act covered Coercive Corruption appropriately but the definition of Collusive Corruption was not holistic</p> <p>Besides, even though the general conviction rate in cases of corruption is low, it is observed that the.</p> <p>The reason for this is, the <b>bribe</b></p>	<p><b>Sanction For Prosecution</b> Section 19 of the Prevention of Corruption Act provides that previous sanction of the competent authority is necessary before a court takes cognizance of the offences. The objective of this provision is to <b>prevent harassment to honest public servants</b> through malicious or vexatious complaints.</p>
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	<p><b>giver</b> is also the victim and because of the <b>immunity provided</b> to him under Prevention of Corruption Act, he often comes forward to depose against the bribe-taker</p>	<p>Although the intention of this provision is clear, it has been argued that this clause has sometimes been <b>used</b> by a sanctioning authority <b>to shield dishonest officials</b>.</p>
<p><b>Liability of Corrupt Public Servant To Pay Damages</b> While corrupt acts of a public servant are liable for punishment under the Prevention of Corruption Act, there is <b>no civil liability</b> for the wrong doer <b>nor is there a provision for compensation</b> to the person/ organization which has been wronged or has suffered damage because of the misconduct of the public servant.</p>	<p><b>Speeding Up</b> A major cause of delay in the trial of cases is the tendency of the accused to obtain <b>frequent adjournment</b> on one plea or the other. There is also a tendency on the part of the accused to challenge almost every interim order passed even on miscellaneous applications by the trial court, in the High Court and later, in the Supreme Court and obtaining stay of the trial.</p>	

#### 4.5.1.2 Recommendations of Administrative Reforms Commission towards Reform of Prevention of Corruption Act and Strengthening the legal Framework

<p><b>Definition of Corruption:</b> The following should be classified as offences under the Prevention of Corruption Act:</p> <ul style="list-style-type: none"> <li>• Gross perversion of the Constitution and democratic institutions amounting to wilful violation of oath of office.</li> <li>• Abuse of authority unduly favouring or harming someone.</li> <li>• Obstruction of justice.</li> <li>• Squandering public money.</li> </ul>	<p><b>Collusive Bribery:</b></p> <ul style="list-style-type: none"> <li>• <b>Section 7</b> of the Prevention of Corruption Act needs to be amended to provide for a <b>special offence of 'collusive bribery'</b>.</li> <li>• The punishment for all such cases of collusive bribery should be <b>double that of other cases of bribery</b>.</li> </ul>
<p><b>Sanction For Prosecution:</b></p> <ul style="list-style-type: none"> <li>• Prior sanction should <b>not be necessary</b> for prosecuting a public servant who has been trapped <b>red-handed or in cases of possessing assets disproportionate</b> to the known sources of income.</li> <li>• The Presiding Officer of a House of Legislature should be designated as the sanctioning authority for MPs and MLAs respectively.</li> <li>• The <b>requirement of prior sanction</b> for prosecution now applicable to serving public servants should also <b>apply to retired public servants</b> for acts performed while in service.</li> <li>• In all cases where the Government of India is empowered to <b>grant sanction for prosecution</b>, this power should be delegated <b>to an Empowered Committee comprising the Central Vigilance</b></li> </ul>	<p><b>Liability of Corrupt Public Servant to Pay Damages:</b></p> <ul style="list-style-type: none"> <li>• In addition to the penalty in criminal cases, the law should provide that public servants who cause loss to the state or citizens by their corrupt acts should be made liable to make good the loss caused and, in addition, be liable for damages.</li> </ul>

<p><b>Commissioner</b> and the Departmental Secretary to Government.</p> <ul style="list-style-type: none"> <li>In case, sanction is required against a Secretary to Government, then the Empowered Committee would comprise the Cabinet Secretary and the Central Vigilance Commissioner. Similar arrangements may also be made at the State level. In all cases the order granting sanction for prosecution or otherwise shall be <b>issued within two months</b>. In case of refusal, the reasons for refusal should be placed before the respective legislature annually.</li> </ul>	
<p><b>Speedy Trials:</b></p> <ul style="list-style-type: none"> <li>A legal provision needs to be introduced fixing a <b>time limit for various stages of trial</b>. Steps have to be taken to ensure that judges declared as Special Judges under the provisions of the Prevention of Corruption Act give primary attention to disposal of cases under the Act.</li> <li>It has to be ensured that the proceedings of courts trying cases under the Prevention of Corruption Act are <b>held on a day-to-day</b> basis, and no deviation is permitted.</li> <li>The Supreme Court and the High Courts may lay down guidelines to preclude unwarranted adjournments and avoidable delays.</li> </ul>	<p><b>Corruption Involving The Private Sector:</b></p> <ul style="list-style-type: none"> <li>Non-Governmental agencies, which <b>receive substantial funding</b>, should be covered under the Prevention of Corruption Act. Norms should be laid down that any institution or body that has received more than <b>50% of its annual operating costs, or a sum equal to or greater than Rs 1 crore</b> during any of the preceding 3 years should be deemed to have obtained 'substantial funding' for that period and purpose of such funding.</li> </ul>
<p><b>Confiscation of Properties Illegally Acquired by Corrupt Means:</b></p> <ul style="list-style-type: none"> <li>The Corrupt Public Servants (Forfeiture of Property) Bill as suggested by the Law Commission should be enacted without further delay.</li> </ul>	<p><b>Protection To Whistleblowers:</b></p> <ul style="list-style-type: none"> <li>Legislation should be enacted immediately to provide protection to whistleblowers on the following lines proposed by the Law Commission: <ul style="list-style-type: none"> <li>Whistleblowers exposing false claims, fraud or corruption should be <b>protected by ensuring confidentiality</b> and anonymity, protection from victimization in career, and other administrative measures to prevent bodily harm and harassment.</li> <li>The legislation should cover corporate whistleblowers unearthing fraud or serious damage to public interest by willful acts of omission or commission.</li> <li>Acts of harassment or victimization of or retaliation against, a whistleblower should be criminal offences with substantial penalty and sentence.</li> </ul> </li> </ul>

<p><b>Constitutional Protection To Civil Servants:</b></p> <ul style="list-style-type: none"> <li>• <b>Article 310 and 311 of the Constitution should be repealed.</b></li> <li>• Necessary protection to public servants against arbitrary action should be provided through such legislation under Article 309.</li> </ul>	<p>Regulations Governing Disciplinary Proceedings:</p> <ul style="list-style-type: none"> <li>• The procedure needs to be made <b>simple</b> so that the proceedings could be <b>completed within a short time</b> frame.</li> <li>• Emphasis should be on documentary evidence, and only in case documentary evidence is not sufficient, recourse should be made to oral evidence.</li> <li>• An <b>appellate mechanism</b> should be provided within the department itself.</li> <li>• <b>Imposition of major penalties</b> should be recommended <b>by a committee</b> in order to ensure objectivity.</li> </ul>
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#### 4.5.1.3 Prevention of Corruption (Amendment), Act (2018)

The Prevention of Corruption Act, 1988 was amended so as to bring it in line with the **United Nations Convention against Corruption (UNCAC)** and it was also in line with **Recommendations of the Administrative Reforms Commission**.



## 4.6 Institutional Machinery for Dealing with Corruption

### 4.6.1 At the Union Level

#### 1. Administrative Vigilance Division

- The Administrative Vigilance Division of the Department of Personnel and Training is the nodal agency for dealing with Vigilance and Anti-corruption.
- Its tasks, inter alia, are to oversee and provide necessary directions to the Government's programme of maintenance of discipline and eradication of corruption from the public services.

#### 2. Central Vigilance Commission:

- The CVC advises **the Union Government** on all matters pertaining to the maintenance of integrity in administration.
- It exercises **superintendence over the working of the Central Bureau of Investigation**, and also over the vigilance administration of various Ministries and other organizations of the Union Government.

- **Vigilance Units in Government of India:** All Ministries/Departments in the Union Government have a **Chief Vigilance Officer (CVO)** who heads the Vigilance Division of the organization concerned, assisting and advising the Secretary or Head of Office in all matters pertaining to vigilance.
- He also provides a **link between his organisation and the Central Vigilance Commission** on the one hand and his organisation **and the Central Bureau of Investigation** on the other.

#### 4.6.2 At the State Level

At the level of state governments, **similar vigilance and anti-corruption organisations exist**, although the **nature and staffing of these organisations vary between and across state** governments. While some states have Vigilance Commissions and anti-corruption bureaus, others have **Lokayuktas**. Andhra Pradesh has an Anti-Corruption Bureau, a Vigilance Commission and a Lokayukta. Tamil Nadu and West Bengal have State Vigilance Commissions to oversee the vigilance functions. The Vigilance Commissioner in Tamil Nadu is a serving Secretary to Government and functions as a Secretary though he brings out an Annual Report in his capacity as Vigilance Commissioner. Maharashtra has a combination of an Ombudsman and a Vigilance Commissioner, a multi-member body called the Lokayukta with a retired Judge of the higher judiciary as the Chairman and a retired civil servant as Vice Chairman.

#### 4.6.3 Evaluation of Anti-corruption Machinery

In order to analyse the functioning of the anti-corruption laws and the agencies involved in their enforcement, the Commission studied the details of cases investigated, tried and convicted in the past three decades.

- The **conviction rate in cases by CBI is low** compared to the cases registered, which nevertheless is **double that of the State Anti Corruption organisations**.
- It would take about six years to clear the existing backlogs in the states.
- There has been a rapid increase in the number of cases registered, pending for investigation and investigated by the State Anti-Corruption organisations after 1988.
- The number of cases disposed of in trials each year is much less than the number of cases filed, indicating that the **backlog of cases in trial courts is increasing**.

#### 4.6.4 Recommendations of Administrative Reforms Commission towards Effective Institutional Mechanism for Anti-Corruption

Recommendations of Administrative Reforms Commission with reference to **establishment of Lokpal and Lokayukta has been implemented** through the enactment of Lokpal and Lokayukta Act. The salient provisions are as follows:

**The Lokpal and Lokayukta Act, 2013** provided for the establishment of Lokpal for the Union and Lokayukta for States.

##### Structure of the Lokpal:

- Lokpal is a multi-member body, made up of **one chairperson and maximum of 8 members**.
- The person who is to be appointed as the **Chairperson** of the Lokpal should be either the **former Chief Justice of India or a former Judge of the Supreme Court, or an eminent person** with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.
- Out of the maximum eight members, **half will be judicial members**.
- Minimum **fifty per cent of the Members will be from SC / ST / OBC / Minorities and women**.
- The judicial member of the Lokpal should be either a former Judge of the Supreme Court or a former Chief Justice of a High Court.
- The non-judicial member should be an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of a minimum of 25 years in the matters relating

to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.

- The members are appointed by the president on the recommendation of a selection committee. The **selection committee is composed** of the Prime Minister who is the Chairperson; Speaker of Lok Sabha, Leader of Opposition in Lok Sabha, Chief Justice of India or a Judge nominated by him/her, and one eminent jurist.

#### Jurisdiction and Powers of Lokpal:

- It **includes the Prime Minister**, all other ministers, all top officials.
- They have the powers to give directions to all the agencies in India, like the CBI, the CVC, etc. They can suspend or transfer any officer who is coming in the way of an enquiry.
- The Lokpal will work as an **investigative agency, as well as a prosecuting agency**. They shall have special courts. As a matter of fact, for removing the Chairperson or the other members of the Lokpal, the process that has to be followed is similar to the impeachment process of a judge.
- The Inquiry Wing of the Lokpal has been vested with the **powers of a civil court**.
- Lokpal has **powers of confiscation of assets**, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances.
- Lokpal has the **power to recommend transfer or suspension of public servants** connected with allegations of corruption.
- Lokpal has the power to give directions to prevent the destruction of records during the preliminary inquiry.

<p><b>Ombudsman At The Local Level</b></p>	<ul style="list-style-type: none"> <li>• A local bodies Ombudsman should be constituted for a group of districts to investigate cases against the functionaries of the local bodies. The <b>State Panchayat Raj Acts and the Urban Local Bodies Act should be amended</b> to include this provision.</li> <li>• The local bodies Ombudsman should be empowered to <b>investigate cases of corruption or maladministration</b> by the functionaries of the local self governments, and submit reports to the competent authorities for taking action.</li> </ul>
<p><b>Strengthening Investigation and Prosecution</b></p>	<ul style="list-style-type: none"> <li>• The State Vigilance Commission's/<b>Lokayuktas may be empowered to supervise the prosecution</b> of corruption related cases.</li> <li>• The investigative agencies should acquire multi-disciplinary skills and should be thoroughly conversant with the working of various offices/departments. They should draw officials from different wings of government.</li> <li>• <b>Modern techniques of investigation</b> should also be deployed like electronic surveillance, video and audio recording of surprise inspections, traps, searches and seizures.</li> <li>• A <b>reasonable time limit for investigation</b> of different types of cases should be fixed for the investigative agencies.</li> <li>• There should be a sustained step-up in the number of cases detected and investigated. The priorities need to be reoriented by focussing on 'big cases of corruption.</li> <li>• The prosecution of corruption cases should be conducted by a panel of lawyers prepared by the Attorney General or the Advocate General in consultation with Rashtriya Lokayukta or Lokayukta as the case may be.</li> <li>• The anti-corruption agencies should conduct systematic surveys of departments with particular reference to highly corruption prone ones in order to gather intelligence and to target officers of questionable integrity.</li> <li>• The <b>economic offences unit of states need to be strengthened</b> to effectively investigate cases and there should be better coordination amongst existing agencies.</li> </ul>

## 4.7 Social Infrastructure

The citizens' voice can be effectively used to expose, denounce and restrain corruption. This calls for the **engagement of civil society and the media in educating citizens** about the evils of corruption, raising their awareness levels and securing their participation by giving them a 'voice'.

Some successful civil society engagements are:

Public Interest Litigation by Common Cause Delhi and Consumer Education and Research Centre, Ahmedabad, the Association for Democratic Reforms of Ahmedabad	<b>Campaign for Electoral Reforms and Citizens' Charters by Lok Satta, Hyderabad</b>	Capacity Building for Advocacy by National Centre for Advocacy Studies, Pune	<b>Public discussion on municipal and State budgets</b> by Disha and PROOF of Bangalore and participatory municipal budgeting by Janaagraha, Bangalore and participatory municipal budgeting by <b>Janaagraha, Bangalore</b>	National Campaign for People's Right to Information/ Parivartan, New Delhi on Right to Information
<b>Report Card Survey of Public Affairs Centre, Bangalore</b>	<b>Jan Sunwai by Mazdoor Kisan Shakti Sangathan, Rajasthan and Parivartan, Delhi</b>	Campaign for Effective Municipal Decentralization by CIVIC, Bangalore	Voter Awareness Campaign by Catalyst Trust, Chennai, Public Affairs Centre, Bangalore and Lok Satta, Hyderabad	

Civil society groups have **put pressure on erring governments to reform** corrupt practices. They have helped **generate demand for reducing corruption and introducing systemic reforms**.

Though such initiatives come from society, the **government can create an environment** whereby the **citizens' groups can effectively participate in its efforts to root out corruption**.

Some measures to facilitate this could be:

- Inviting civil societies to oversee government programmes;
- Establishing and disseminating service standards;
- **Establishing credible complaints mechanisms;**
- Assessing public confidence in anti-corruption institutions, judiciary and law enforcement and in designing programmes to improve trust levels;
- **Enforcing access to information;**
- Using **public hearings to audit** government activities where audiences gather to hear details of public work schemes and residents provide their own perception;
- Initiating government or private sector sponsored public education and awareness campaigns through radio, newspapers and the television;
- Holding integrity workshops and public hearings at the national and local levels at regular intervals to discuss problems and suggest changes involving all participants;
- Surveying and **assessing public service delivery periodically;**
- Surveying corruption perceptions in general or specific sectors of government functioning;
- Incorporating corruption as a subject in the education curriculum; and
- Setting up websites on corruption-containing information, facilitating dialogue and feedback from citizens, associating former public servants in lobbying against corruption.



#### 4.7.1 Citizen's Charter

The Charter is an **undertaking** a public service organization gives to the citizens, **to provide a high level of service while meeting the standards** contained in the declaration. The promises made in the charters have become **pious declarations with no mechanism to enforce them.**

#### 4.7.2 False Claims Act

The **existing provisions in the Indian Penal Code** are **not adequate to enable interested citizens** and civil society groups **to approach courts for recovery of the proceeds of corruption** and provide for a share in the proceeds. **In the United States, the False Claims Act makes it possible** for interested citizens to approach any court in any judicial district for recovery of the proceeds of corruption.

#### 4.7.3 Role of Media

A free media can **inform and educate the public** on corruption, expose corruption in government, private sector and civil society organizations and **help monitor codes of conduct** while policing itself against corruption.

#### 4.7.4 Social Audit

Social **audit through client or beneficiary groups** or civil society groups is yet another way of eliciting information on and **prevention of wrong doing in procurement of products** and services for government, in the distribution of welfare payments, in the **checking of attendance of teachers** and students in schools and hostels, staff in the hospitals and a host of other similar citizen service-oriented activities of government.

#### 4.7.5 Recommendations of Administrative Reforms Commission towards strong Social Infrastructure

<b>Citizen's Charter</b> <ul style="list-style-type: none"><li>• Citizens' Charters should be made effective by <b>stipulating</b> the service levels and also the <b>remedy if these service levels are not met.</b></li><li>• Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.</li><li>• <b>Reward schemes</b> should be introduced to incentivise citizens' initiatives.</li><li>• School <b>awareness programmes</b> should be introduced, highlighting the importance of ethics and how corruption can be combated.</li></ul>	<b>False Claims Act</b> <ul style="list-style-type: none"><li>• Legislation <b>on the lines of the US False Claims Act</b> should be enacted, providing for citizens and civil society groups <b>to seek legal relief against fraudulent claims</b> against the government.</li></ul>
<b>Role of Media</b> <ul style="list-style-type: none"><li>• It is necessary to evolve <b>norms and practices requiring proper screening of all allegations by the media</b>, and taking action to put them in the public domain.</li><li>• The <b>electronic media should evolve a Code of Conduct</b> and a self-regulating mechanism in order to adhere to a Code of Conduct as a safeguard against malafide action.</li><li>• Government agencies can help the media in the fight against corruption by disclosing details about corruption cases regularly.</li></ul>	<b>Social Audit</b> <ul style="list-style-type: none"><li>• Operational <b>guidelines of all developmental schemes</b> and citizen centric programmes should <b>provide for a social audit mechanism.</b></li></ul>

## 4.8 Systemic Reforms

A holistic approach for combating corruption would require an **optimum mix of punitive and preventive measures**. Punitive measures act as a deterrent whereas preventive measures reduce opportunities for corruption by making systems transparent, increasing accountability, reducing discretion, rationalising procedures etc.

Better **preventive measures act as 'Systemic Reforms'** as they seek to improve systems and processes.

### Recommendations of Administrative Reforms Commission towards Systemic Reforms

<p><b>Promoting Competition</b></p> <ul style="list-style-type: none"> <li>• Each Ministry/Department may undertake an immediate exercise to <b>identify areas where the existing 'monopoly of functions' can be tempered with competition..</b></li> <li>• Some <b>Centrally Sponsored schemes could be restructured</b> so as to provide incentives to states that take steps to promote competition in service delivery.</li> <li>• All new national policies on subjects having a large public interface (and amendments to existing policies on such subjects) should invariably address the issue of engendering competition.</li> </ul>	<p><b>Simplifying Transaction</b></p> <ul style="list-style-type: none"> <li>• There is a need to bring simplification of methods to the center-stage of administrative reforms. The broad principles of such reforms must be: <b>adoption of 'single window' approach, minimizing hierarchical tiers, stipulating time limits for disposal</b> etc.</li> <li>• The existing <b>Departmental Manuals and Codes should be thoroughly reviewed and simplified</b> with a responsibility on the Head of the Department to periodically update such documents and make available soft-copies on-line and hard copies for sale. These manuals must be written in very precise terms, and <b>phrases like 'left to the discretion of', 'as far as possible', 'suitable decision may be taken' etc should be avoided.</b></li> <li>• A system of <b>rewards and incentives for simplification</b> and streamlining of procedures may be introduced in each government organization.</li> <li>• The <b>principle of 'positive silence'</b> should generally be used, though this principle cannot be used in all cases. Wherever permissions/licenses etc are to be issued, there should be a time limit for processing of the same after which permission, if not already given, should be deemed to have been granted. However, the rules should provide that for each such case the official responsible for the delay must be proceeded against.</li> </ul>
<p><b>Using Information Technology</b></p> <ul style="list-style-type: none"> <li>• Each Ministry/Department/ Organisation of government should draw up a plan for use of IT to improve governance. In any government process, use of Information Technology should be made only after the existing procedures have been thoroughly re-engineered.</li> <li>• The Ministry of Information and Technology needs to identify certain governmental processes and then take up a project of their</li> </ul>	<p><b>Integrity Pacts</b></p> <ul style="list-style-type: none"> <li>• The Commission recommends encouragement of the mechanism of 'integrity pacts'.</li> <li>• <b>The integrity pact is an agreement between prospective vendors / bidders, and the government, committing the persons / officials of both sides not to resort to any corrupt practice in any aspect of the contract at any stage.</b></li> </ul>

<p>computerization on a nationwide scale.</p> <ul style="list-style-type: none"> <li>• For computerization to be successful, computer knowledge of departmental officers needs to be upgraded. Similarly, the NIC needs to be trained in department specific activities, so that they could appreciate each other's viewpoint and also ensure that technology providers understand the anatomy of each department.</li> </ul>	
<p><b>Reducing Discretion</b></p> <ul style="list-style-type: none"> <li>• All government offices having public interface should undertake a <b>review of their activities and list out those which involve use of discretion</b>. In all such activities, attempts should be made to eliminate discretion. Where it is not possible to do so, well-defined regulations should attempt to 'bound' the discretion. Ministries and Departments should be asked to coordinate this task in their organizations/offices and complete it within one year.</li> <li>• Decision-making on important matters should be assigned to a committee rather than individuals. Care has to be exercised, however, that this practice is not resorted to when prompt decisions are required.</li> <li>• State Governments should take steps on similar lines, especially in local bodies and authorities, which have maximum 'public contact'</li> </ul>	<p><b>Supervision</b></p> <ul style="list-style-type: none"> <li>• The supervisory role of officers needs to be re-emphasised. It bears re-iteration that <b>supervisory officers are primarily responsible for curbing corruption</b> among their subordinates, and they should <b>take all preventive measures</b> for this purpose.</li> <li>• Each supervisory officer should carefully analyze the activities in his/her organization/office, identify the activities which are vulnerable to corruption and then build up suitable preventive and vigilance measures. All major instances of loss caused to the government or to the public, by officials by their acts of omission or commission should be enquired into and responsibility fixed on the erring officer within a time-frame.</li> <li>• In the <b>Annual Performance Report</b> of each officer, there should be a column where the officer should <b>indicate the measures he took to control corruption</b> in his office and among subordinates. The reporting officer should then give his specific comments on this.</li> <li>• Supervisory officers should ensure that all offices under them pursue a policy of <b>suo motu disclosure of information</b> within the ambit of the Right to Information Act.</li> </ul>
<p><b>Monitoring Complaints</b></p> <ul style="list-style-type: none"> <li>• All offices having large public interfaces should have an <b>online complaint tracking system</b>.</li> <li>• There should be an external, <b>periodic mechanism of 'audit' of complaints</b> in offices having large public interfaces.</li> <li>• Apart from enquiring into each complaint and fixing responsibility for the lapses, if any, the complaint should also be used to analyse the systemic deficiencies so that remedial measures are taken.</li> </ul>	<p><b>Ensuring Accessibility and Responsiveness</b></p> <ul style="list-style-type: none"> <li>• <b>Service providers should converge</b> their activities so that all services are <b>delivered at a common point</b>.</li> <li>• Tasks, which are prone to corruption, should be split up into different activities that can be entrusted to different persons.</li> <li>• Public interaction should be limited to designated officers. A 'single window front office' for provision of information and services to the citizens with a <b>file tracking system should be set up in all government departments</b>.</li> </ul>

<p><b>Reforming Civil Services</b></p> <ul style="list-style-type: none"> <li>• The administrative system should be transformed so that at every level of the civil service, there is a <b>clear assignment of duties</b> and responsibilities with structured and interlocking accountability in which the government servant <b>can be held accountable</b> for the manner in which he/she performs his/her duty.</li> <li>• There also has to be an <b>in-built system of rewards and punishments</b>, with criteria being laid down which can eliminate arbitrariness and subjectivity in granting rewards or awarding punishments.</li> </ul>	<p><b>Risk Management for Preventive Vigilance</b></p> <ul style="list-style-type: none"> <li>• Risk profiling of officers should be <b>done by a committee of 'eminent persons'</b> after the officer has completed ten years of service, and then once in every five years. <b>The committee should use the following inputs in coming to a conclusion:</b> <ul style="list-style-type: none"> <li>○ The performance evaluation of the reported officer.</li> <li>○ A self-assessment given by the reported officer focusing on the efforts he/she has made to prevent corruption in his/her career.</li> <li>○ Reports from the vigilance organization.</li> <li>○ A <b>peer evaluation to be conducted</b> confidentially by the committee through an evaluation form.</li> </ul> </li> </ul>
<p><b>Audit</b></p> <ul style="list-style-type: none"> <li>• It should be prescribed that as soon as any major irregularity is detected or suspected by the audit team, it should be immediately taken note of by the government. A suitable mechanism for this may be put in place. It shall be the responsibility of the head of the office to enquire into any such irregularity and initiate action.</li> <li>• Audit teams should be imparted <b>training in forensic audit</b>.</li> <li>• Each office should make an annual public statement regarding pending audit queries.</li> </ul>	<p><b>Proactive Vigilance</b></p> <ul style="list-style-type: none"> <li>• Taking proactive vigilance measures should primarily be the <b>responsibility of the head of the office</b>.</li> </ul> <p><b>Following are some measures which can be taken by the departments/organization:</b></p> <ul style="list-style-type: none"> <li>• Timely submission and scrutiny of assets and liabilities statements of public servants should be ensured.</li> <li>• These should be <b>put in the public domain</b>.</li> <li>• Annual lists of <b>public servants of doubtful integrity</b> should be prepared in all departments in consultation with the anti-corruption agencies.</li> </ul>
<p><b>Intelligence Gathering</b></p> <ul style="list-style-type: none"> <li>• <b>Supervisory officers should assess the integrity of his/her subordinates</b> based on his/her handling of cases, complaints and feedback from different sources. This could then become an important input for risk profiling of officers.</li> </ul>	<p><b>Vigilance Networks</b></p> <ul style="list-style-type: none"> <li>• A <b>national database containing the details of all corruption cases</b> at all levels should be created. This database should be in the public domain. Identified authorities should be made responsible for updating the database regularly.</li> </ul>

## 4.9 Protecting the Honest Civil Servants

The major **objective** of vigilance activity is **not to reduce but to enhance the level of managerial efficiency and effectiveness** in the organization. **Risk taking** should form part of government functioning. **Every loss caused** to the organization, either in pecuniary or non-pecuniary terms, need **not necessarily become the subject matter of a vigilance inquiry**.

Even more than in government, managerial decision-making in public sector undertakings and day-to-day commercial decisions in public sector banks offers considerable **scope for genuine mistakes being committed** which could possibly raise questions about the bonafides of the decision maker.

There is a **perception among officers** and managers that **anti-corruption agencies do not fully appreciate administrative and business risks** and that they tend to misinterpret the motives where the decision has gone awry or where a loss is caused in a commercial transaction. **Such a perception is not without foundation.**

It is **essential** therefore for the investigating agencies to establish that their actions are designed in such a way as **to protect honest officers.** This **depends on the ethical standards and professional competence** of the personnel manning anti-corruption agencies.

**Recommendations of Administrative Reforms Commission with reference to Protection of Civil Servants:**

<p>In matters relating to allegations of corruption, <b>open enquiries should not be taken up straight away</b> on the basis of complaints/source information. Every allegation of corruption received through complaints or from sources cultivated by the investigating agency against a public servant must be <b>examined in depth at the initial stage itself</b> before initiating any enquiry.</p> <p>Only when an allegation meets the requirements of these criteria, should it be recommended for verification, and the verification must be taken up after obtaining <b>approval of the competent authority.</b></p>	<p>When verification/secret enquiries are approved, it should be ensured that <b>secrecy of such verifications is maintained</b> and the verifications are done in such a manner that neither the suspect officer nor anybody else comes to know about it. Such secrecy is essential <b>not only to protect the reputation of innocent and honest officials but also to ensure the effectiveness of an open criminal investigation.</b></p>
<p><b>Personnel handling this task should not only be competent and honest but also impartial and imbued with a sense of justice.</b></p>	<p>Whenever an Inquiry Officer requires to <b>consult an expert to understand technical /complex issues,</b> he can do so, but the essential requirement of proper application of mind has to take place at every stage to ensure that no injustice is caused to the honest and the innocent.</p>
<p>Capacity building in the anti-corruption agencies should be assured through training and by associating the required experts during enquiries/ investigations.</p>	<p>The supervisory officers in the investigating agencies should ensure that only those public servants are <b>prosecuted against whom the evidence is strong</b></p>
<p>There should be profiling of officers. The capabilities, professional competence, integrity and reputation of every government servant must be charted out and brought on record. Before proceeding against any government servant, reference should be made to the profile of the government servant concerned.</p>	<p>A <b>special investigation unit</b> should be attached to the proposed <b>Lokpal (Rashtriya Lokayukta)/State Lokayuktas/Vigilance Commission,</b> to investigate allegations of corruption against investigative agencies.</p>

**4.10 Conclusion**

Indians have **always valued a world beyond the material and have embraced spiritualism** as a way of life. Instances abound in our **epics of good behaviour,** of the triumph of good over evil, of the **wisdom of sages.** There is **no reason why Ram Rajya cannot be attempted.**

In modern India, poverty, insufficiency and class conflicts are slowly giving way to a confident, inclusive, empowered India. On the **Transparency International’s Corruption Index,** India’s position has improved significantly, and hopefully will continue to do so.

# PUBLIC ORDER: JUSTICE FOR EACH, PEACE FOR ALL

05

5.1 Introduction	5.2 Major Causes of Public Disorder
5.3 Reasons to Preserve Public Order	5.4 Responsibility to Maintain Public Order
5.5 Major Public Order Problems	5.6 Causative Factors of Major Public Order Problems
5.7 Issues with the Current Institutions and Administrative System	5.8 Existing Police System
5.9 Reforms in the Criminal Justice System	5.10 Maintaining Public Order
5.11 Constitutional issues and Special Laws	5.12 Conclusion

## 5.1 Introduction

*Public Order* signifies that state of tranquility which prevails among the members of Political Society as a result of the internal regulations enforced by the government which they have established.'

There is an inextricable link between the maintenance of public order and conflict resolution in view of the fact that the non resolution of conflicts manifests itself in public disorder. Further, if conflicts are managed properly, the likelihood of breaches of public order is minimised.

Public order is a product of efficient general administration, effective policing and a robust criminal justice system. Conflict management entails the effective and harmonious reconciliation of conflicting interests between various groups and also maintaining a delicate balance between various institutions of the State and among several tiers of government- National, State and Local.

## 5.2 Major Causes of Public Disorder

- In a pluralistic democracy like ours, **political polarisation** sometimes throws up issues leading to conflicts which escalate into public disorder.
- Even **demonstrations held on legitimate grounds** can sometimes degenerate into public disorder.
- Given our historical inequities on the basis of **caste and other social factors**, these can easily lead to conflicts that may degenerate into public disorder.
- Similarly, **divisive impulses based on ethnicity, religion, region, language and the sharing of natural resources** can exacerbate tensions.
- **Failure in the delivery of services** by the State often leads to frustration manifesting itself in public disorder.
- This tendency is **aggravated by increasing criminalisation of politics** and persistent interference in the due process of law.

- With increasing globalisation and the communications revolution, indigenous and **transnational criminal organisations** have acquired enormous resources and power with the capacity to cause serious breakdown of public order and even undermine the security of India.
- **Terrorist groups** which are activated by real or imagined ideological motives.
- They could be **home grown armed groups like Naxalites** holding sway in some pockets, or **foreign sponsored secessionist groups** indulging in reckless violence and mayhem with the sole objective of spreading terror
- The greatest danger to public order emanates from the **conjunction of foreign sponsored secessionist terrorists with organised crime networks.**

### 5.3 Reasons to Preserve Public Order

First, **peace and order are necessary preconditions for freedom of expression of individuals** and for the resolution of conflicting interests in a democratic society.

Second, violence and disorder necessarily **undermine economic growth and development**, perpetuating a vicious cycle of poverty, frustration and violence.

Third, rapid **urbanization** tends to promote impersonal lives and create alienation, thus **reducing peer pressure and social control.**

Fourth, the State's **constitutional commitment to equitable growth and justice** itself may unleash social tensions, as powerful oligarchies attempt to perpetuate the status quo.

Fifth, rapid economic **growth may sometimes aggravate disparities** between individuals, groups and regions leading to escalation of tension and breaches of peace.

Sixth, **weak enforcement and failure of the criminal justice system** create a culture of lawlessness posing a major threat to public order.

Finally, **organised crime, militancy and terrorism** have devastating consequences on the morale of the public.

### 5.4 Responsibility to Maintain Public Order

- **State agencies:** administration, police and the criminal justice system
- **Non State players:** political parties, media and citizens groups

**Among State agencies, police**, by the very nature of their role, are the most visible arm of the government. As police are the **agency to enforce** the will of the State, the **capacity of the police agencies to respond** to a potential or real challenge to public order (rapidly, efficiently and justly) is of **paramount importance**. It is equally important to ensure that this **power is exercised in a democratic society within the bounds of the Constitution and the law.**

The State should not precipitate a crisis by treating every infraction as a public order crisis. **Superstitions and cultural attitudes, for example, take time**, patience and education to change. India is an over legislated country. The temptation to short circuit the process of modernisation by law and use of force should be resisted **except when** local opinion and prevailing societal norms are **grossly violative of the core principles of the Constitution and democratic governance**. For instance, **law must be applied with vigour in eliminating all forms of caste discrimination or protecting the vulnerable sections** like women and children from exploitation. **But when it comes to ending a practice such as, say, animal sacrifice, persuasion and education and not use of force** against strong public sentiment, are called for. The problem in such cases is **where to draw the line.**

The answer lies in two broad approaches.

- First, the State should **resist the temptation to over legislate** except in crucial areas which constitute the essence of constitutional values or prevent significant public loss or promote vital public good. **Persuasion, public education and social movements are the desirable routes to social change** in such cases.
- Second, **if such laws do exist, effective enforcement** on a case to case basis through prosecution of offenders is the better route and not the thoughtless precipitation of a public confrontation.

## 5.5 Major Public Order Problems

<p><b>Communalism</b></p>	<p>Communalism implies <b>blind allegiance to one’s own communal group religious, linguistic or ethnic rather than to the larger society or to the nation</b>. In its <b>extreme form</b>, communalism manifests itself in <b>hatred</b> towards groups perceived as hostile, ultimately leading to <b>violent attacks</b> on other communities. Given the <b>diversity</b> of our society and our complex <b>historical baggage</b>, we are often beset with communal tensions. At times, either <b>bigoted and fundamentalist leadership</b>, or <b>unscrupulous political operators</b> with an eye on short term electoral advantage, have deliberately engineered communal passions, hatred and even violence <b>to achieve sectarian polarisation</b>.</p>
<p><b>Terrorism</b></p>	<p>Terrorism has been defined as the <b>illegal use of force</b> or violence against people to create a wave of terror with the intention of <b>achieving certain political or sectarian objectives</b>. The border State of Jammu and Kashmir and some parts of the North East have witnessed prolonged terrorist activities. The existence of <b>sleeper cells, the spread of modern communications, an integrated economy and the increasing use of terror technology and tactics</b>, have made it easy for the merchants of terror to spread their tentacles all over the country. As a result, terrorism is <b>not merely a public order problem</b> but has emerged as a grave <b>threat to national security</b> as well.</p> <p>An analysis of some of the recent terrorist attacks indicates that <b>terrorist organisations have used the existing organised crime networks</b>. Terrorist groups and these crime syndicates have international links with similar organisations and are <b>supported by foreign agencies</b> inimical to our interests. Their activities are being <b>financed through international money laundering and drug trafficking</b> thus creating an intricate web of crime, terror and trafficking in arms and drugs.</p>
<p><b>North East Militancy</b></p>	<p>The North East region has more than <b>200 ethnically diverse</b> groups with distinct languages, dialects and sociocultural identities. Militancy in the region <b>started with the Naga movement way back in the early 1950s</b> and rose to serious levels in Manipur in the 1960s. <b>Large scale immigration</b> into Tripura <b>gave birth to militancy</b> there in the 1960s. Militancy in Assam, on the ‘foreigners issue’, has multiplied and spread to many new areas.</p> <p><b>The militant movements in the region have different objectives:</b></p> <ul style="list-style-type: none"> <li>• A few movements seek <b>outright secession</b> from the Indian Union, some aspire for <b>separate Statehood</b> while others demand <b>greater autonomy within the existing State</b>.</li> <li>• <b>Extortion and abduction</b> are frequently resorted to by some of the militant groups.</li> <li>• Apart from causing huge loss of human lives, militancy has <b>hampered economic development</b> of the region.</li> <li>• The situation is compounded by the <b>involvement</b> of some <b>foreign intelligence agencies</b>, which are <b>providing material support</b> to the insurgents.</li> <li>• Besides, the long <b>porous international borders</b> have <b>facilitated the movement of these groups and the smuggling of arms</b>.</li> <li>• <b>Corruption, economic deprivation and unemployment</b> are driving segments of youth into the fold of militant organisations.</li> </ul>



	<ul style="list-style-type: none"> <li>Ad hoc <b>solutions</b> resulting in widely varying degrees of '<b>autonomy</b>' to different bodies, sometimes within a single state have <b>led to competitive demands</b> and when they are not met, to alienation and violence.</li> </ul> <p>The <b>ethnicity, diversity, geography and history of the region</b> demand a comprehensive nation building approach for resolving the complex issues.</p>
Naxalism	<p>Naxalites <b>operate in the vacuum created by the inadequacy and ineffectiveness of the administrative machinery</b>. The <b>problems of poverty and alienation, the demand of territorial rights, displacement from traditional forest habitats and unequal sharing of benefits of exploitation of resources</b> have aggravated the problem. Naxalites <b>exploit local grievances</b> and take advantage of the sufferings of the deprived sections, gaining local support and <b>recruiting cadres</b>. They have also successfully <b>mobilised the support of some civil society groups</b> to further their cause overtly. It is reported that they have been able to <b>establish trans-border linkages</b> with like minded extremist groups for <b>obtaining explosives and arms</b> as also for organising training for their own cadres. These extremists often <b>do not allow major development</b> of the area including infrastructure development for <b>fear of losing their hold over the people</b>. They have also been making <b>use of terror tactics</b> to suppress any opposition and to demoralise the civil administration.</p> <p>Thus <b>what started as an ideological movement</b> with romantic sacrificialism as the main ingredient, has now <b>become increasingly militarised and criminalised</b>. Use of sophisticated weaponry, training in use of weapons and explosive devices, including for women and children, resort to abductions, mass killings, extortion rackets, links with secessionist and terrorist groups, assassination of public figures and arms trafficking are now the hallmark of Naxalite violence</p>

## 5.6 Causative Factors of Major Public Order Problems

The five broad causes are:

- Social:** In India, historical social structures and **hierarchy** has been a root cause for social unrest. **Caste** has been a fundamental **divisive factor** in our society.
- Communal: Religious orthodoxy** and blind adherence to extreme viewpoints and fringe elements often create unrest.
- Economic Underdevelopment:** The desire to improve one's position in **competition** with others, itself creates stress and in India, with 250 million people below the poverty line, the strain is significant.
- Administrative: Slackness in delivery of services, lethargy in enforcement of laws, corruption, self seeking behaviour of some officials, inadequacy of the administration in enforcing the legitimate constitutional, statutory and traditional rights of citizens** is at times a major reason for frustration in citizens.

**Political:** In a vibrant democratic system, divergent political viewpoints can lead to tension. Then there's the **problem of political expediency** where a section of the political leadership tries to **use the administration for furthering its own political agenda**. The increasing propensity to use public office for private gain, **unwarranted interference in crime investigation** and day to day functioning of police, short term populism at the cost of durable solutions, complexities of a federal polity all these make it difficult to address some of the growing threats to public order.

## 5.7 Issues with the Current Institutions and Administrative System

### Strengths of the existing legal framework:

- (a) A clearly laid down **democratic, constitutional** and legal framework,
- (b) An **independent judiciary** and an elaborate criminal justice system and **judicial review** of executive action,
- (c) **Representative institutions** to debate issues of public importance,
- (d) Vigilant **media** and
- (e) Emerging **civil society** responsiveness.

### The strong points of the administrative framework of the country have been

- (a) Firmly established administrative traditions,
- (b) A well organised police machinery,
- (c) Systems of accountability and
- (d) The existence of a professional bureaucracy which brings about administrative cohesion and uniformity.

### Weaknesses of our legal and administrative:



## 5.8 Existing Police System

**Public order and Police** figure as Entry 1 and 2 respectively, in **List II (State List)** in the **Seventh Schedule** of our Constitution, thereby making **State Governments primarily responsible** for maintaining public order.

In the field, the district administration (the District Magistrate and the Superintendent of Police) and in bigger cities in some states the Commissioner of Police assumes the responsibility for public order.

**Article 355** of the constitution enjoins upon the **union to protect every state against external aggression and internal disturbance** and thereby to ensure that the government of every state is carried on in accordance with the provisions of the constitution. The **Police Act, 1861 is still the basic instrument governing the functioning of the Indian police**. Under this Act, the Director General and Inspector General of Police is the head of a state police. States are divided into districts and a Superintendent of Police heads the district police. Besides, other laws like the **Indian Penal code (IPC) of 1862, the Indian Evidence Act (IEA) of 1872 and the code of criminal Procedure (crPc) of 1973** also govern the functioning of the police.

### 5.8.1 Issues Related to Police

The police are generally **perceived to be tardy, inefficient, high handed and often unresponsive or insensitive.**

Traditional **snobbery and the system of patronage** has continued, **corruption** levels and **political interference** have gone up. There is a propensity to resort to **physical violence and coercion** even during investigations **rather than taking recourse to scientific and sophisticated methods** to gather evidence. The emphasis, therefore, is on oral evidence or confession, rather than on forensic evidence.

Indian policing **focuses on maintaining law and order rather than trying to understand and resolve underlying problems** in the society. **Factors responsible for the failure of the criminal justice system:**

<b>General Administration</b>	<ul style="list-style-type: none"> <li>• <b>Poor enforcement of laws</b> and general failure of administration.</li> <li>• Large <b>gap between aspirations of the people and opportunities</b> with resultant deprivation and alienation.</li> <li>• Lack of coordination between various government agencies.</li> </ul>
<b>Police</b>	<ul style="list-style-type: none"> <li>• Unwarranted <b>political interference.</b></li> <li>• Lack of empowerment of the cutting edge functionaries; lack of motivation at the lower levels due to <b>poor career prospects</b>, and hierarchical shackles.</li> <li>• Lack of modern technology/methods of investigation.</li> <li>• Obsolete intelligence gathering techniques and infrastructures.</li> <li>• <b>Divorce of authority from accountability.</b></li> </ul>
<b>Organisational Behavior</b>	<ul style="list-style-type: none"> <li>• Inadequate training.</li> <li>• Entrenched attitudes of arrogance, insensitivity and patronage.</li> </ul>
<b>Stress Due to Overburdening</b>	<ul style="list-style-type: none"> <li>• <b>Multiplication of functions</b>, with crime prevention and investigation taking a back seat.</li> <li>• <b>Shortage of personnel and long working hours;</b> and</li> <li>• Too large a population to handle.</li> </ul>
<b>Ethical Functioning</b>	<ul style="list-style-type: none"> <li>• Corruption, collusion and extortion at different levels;</li> <li>• <b>Insensitivity to human rights.</b></li> <li>• Absence of transparent recruitment and personnel policies.</li> </ul>
<b>Prosecution</b>	<ul style="list-style-type: none"> <li>• <b>Best talent not attracted as public prosecutors.</b></li> <li>• Lack of coordination between the investigation and the prosecution agencies.</li> <li>• Mistrust of police in admitting evidence.</li> </ul>
<b>Judicial Process/Criminal Administration</b>	<ul style="list-style-type: none"> <li>• Large <b>pendency</b> of cases.</li> <li>• <b>Low conviction rates.</b></li> </ul>

## 5.8.2 Recommendations of Administrative Reforms Commission for Police Reforms

### (a) Police Accountability Mechanism

<p><b>State Government and Police</b></p>	<ul style="list-style-type: none"> <li>• The following provision should be incorporated in the respective Police Acts:             <ul style="list-style-type: none"> <li>○ The power of superintendence of the police service shall vest in and be exercised by the State Government in accordance with the provisions of law.</li> <li>○ The State Government shall promote the professional efficiency of the police and ensure that its performance is at all times in accordance with the law.</li> <li>○ This shall be achieved through laying down policies and guidelines, setting standards for quality policing, facilitating their implementation and ensuring that the police perform its task in a professional manner with functional autonomy.</li> <li>○ No government functionary shall issue any instructions to any police. Functionary which are illegal or malafide.</li> <li>○ Obstruction of justice should also be defined as an offence under the law.</li> </ul> </li> </ul>
<p><b>Separation of Investigation From Other Functions</b></p>	<ul style="list-style-type: none"> <li>• A <b>Crime Investigation Agency</b> should be constituted in each state.</li> <li>• This agency should be headed by a Chief of Investigation <b>under the administrative control of a Board of Investigation, to be headed by a retired/sitting judge of the High Court.</b> The Board should have an eminent lawyer, an eminent citizen, a retired police officer, a retired civil servant, the Home Secretary (ex-officio), the Director General of Police (ex-Officio), Chief of the Crime Investigation Agency (ex-officio) and the Chief of Prosecution (ex-officio) as Members.</li> <li>• The <b>Chairman and Members of the Board of Investigation should be appointed by a high-powered collegium,</b> headed by the Chief Minister and comprising the Speaker of the Assembly, Chief Justice of the High Court, the Home Minister and the Leader of Opposition in the Legislative Assembly.</li> <li>• The <b>Chief of Investigation should be appointed</b> by the State Government on the <b>recommendation of the Board of Investigation.</b></li> <li>• The Chief of the Crime Investigation Agency should have full autonomy in matters of investigation. He shall have a <b>minimum tenure of three years.</b> He can be removed within his tenure for reasons of incompetence or misconduct, but only after the approval of the Board of Investigation.</li> <li>• All crimes having a prescribed punishment of more than a defined limit (say three or more years of imprisonment) shall be entrusted to the Crime Investigation Agency. Registration of FIRs and first response should be with the 'Law and Order' Police at the police station level.</li> <li>• The existing staff could be given an option of absorption in any of the Agencies- Crime Investigation, Law and Order and local police. But once absorbed, they should continue with the same Agency and develop expertise accordingly. This would also apply to senior officers.</li> <li>• Appropriate mechanisms should be developed to ensure <b>coordination between the Investigation, Forensic and the Law and Order Agencies,</b> at the Local, District and the State levels.</li> </ul>

<p><b>Accountability and Law and Order Functions</b></p>	<p>A <b>State Police Performance and Accountability Commission</b> should be constituted, with the following as Members:</p> <ul style="list-style-type: none"> <li>• Home Minister (Chairman)</li> <li>• Leader of Opposition in the State Assembly</li> <li>• Chief Secretary</li> <li>• Secretary in charge of the Home Department</li> <li>• Director General of Police as its Member Secretary (For matters pertaining to Director General of Police, including his appointment, the Home Secretary shall be the Member Secretary)</li> <li>• Five non-partisan eminent citizens</li> </ul> <p><b>Functions:</b></p> <ul style="list-style-type: none"> <li>• <b>Frame broad policy guidelines</b> for promoting efficient, effective, responsive and accountable policing, in accordance with law.</li> <li>• <b>Prepare panels for the office of Director General of Police</b> against prescribed criteria.</li> <li>• <b>Identify performance indicators</b> to evaluate the functioning of the police service.</li> <li>• Review and evaluate organizational performance of the police service.</li> </ul>
<p><b>Police Establishment Committee</b></p>	<ul style="list-style-type: none"> <li>• A State Police Establishment Committee should be constituted. It should be <b>headed by the Chief Secretary</b>. The Director General of Police should be the Member Secretary and the State Home Secretary and a nominee of the State Police and Accountability Commission should be the Members. This Committee should deal with <b>cases relating to officers of the rank of Inspector General of Police and above</b>.</li> <li>• A separate State Police Establishment Committee should be set up with the Chief of Law and Order Police as its Chairperson and two senior police officers and a member of the State Police Performance and Accountability Commission as Members (All Members of this Committee should be nominated by the State Police Performance and Accountability Commission) to deal with cases relating to all gazetted officers up to the rank of Deputy Inspector General of Police.</li> <li>• These Committees should <b>deal with all matters of postings and transfers, promotions and also grievances relating to establishment matters</b>. The recommendations of these Committees shall normally be <b>binding</b> on the Competent Authority. However, the Competent Authority may return the recommendations for reconsideration after recording the reasons.</li> <li>• Similarly, a District Police Establishment Committee (City Police Committee) should be constituted under the Superintendent/Commissioner of Police. This Committee should have full powers in all establishment matters of non-gazetted police officers.</li> </ul>

(b) Competent Prosecution and Guidance to Investigation

<p>A system of <b>District Attorney</b> should be instituted. An <b>officer of the rank of District Judge</b> should be appointed as the District Attorney. The District Attorney shall be the <b>head of Prosecution in a District</b> (or group of Districts). The District Attorney shall <b>function under the Chief Prosecutor of the State</b>. The District Attorney should also guide investigation of crimes in the district</p>	<p>The <b>Chief Prosecutor for the State</b> shall be appointed by the Board of Investigation for a period of three years. The Chief Prosecutor shall be an eminent criminal lawyer. The Chief Prosecutor would <b>supervise and guide the District Attorneys</b>.</p>
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(c) Local Police and Traffic Management

<p>A <b>task force</b> may be constituted in the <b>Ministry of Home Affairs to identify those laws</b> whose implementation, including investigation of violations could be <b>transferred to the implementing departments</b>. A similar task force should look into the state laws in each state.</p>	
<p><b>Municipal Police Service should be constituted</b> in Metropolitan cities having population of <b>more than one million</b>. The Municipal Police should be empowered to deal with the <b>offences prescribed under the municipal laws</b>.</p>	<p>The <b>function of Traffic control</b> (along with traffic police) may be <b>transferred to the local governments</b> in all cities having a population of more than one million</p>

(d) Metropolitan Police Authorities

<p>All cities with a <b>population above one million</b> should have Metropolitan Police Authorities. This Authority should have powers to plan and <b>oversee community policing, improving police citizen interface, suggesting ways to improve quality of policing</b>, approve annual police plans and review the working of such plans.</p>
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(e) Reducing Burden on Police by Outsourcing Non-Core Functions:

<p>Each State Government should immediately <b>set up a multi-disciplinary task force</b> to draw up a <b>list of non-core police functions</b> that could be outsourced to other agencies.</p>	<p>Necessary capacity building exercise would have to be carried out for such agencies and functionaries in order to develop their skills in these areas.</p>
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(f) Empowering Cutting Edge Functionaries:

<p>The <b>existing system of the constabulary should be substituted with recruitment of graduates at the level of Assistant Sub-Inspector of Police (ASI)</b>.</p>	<p>Recruitment of constables would, however, continue in the Armed Police.</p>
<p>The procedure for <b>recruitment of police functionaries should be totally transparent and objective</b>.</p>	<p>Affirmative action should be taken to <b>motivate persons from different sections</b> of society to join the police service. <b>Recruitment campaigns</b> should be organised to facilitate this process</p>

(g) Welfare Measures for Police:

<p>Raising the qualifications for the entry level posts in police and undertaking recruitment at a higher level than at present and for <b>abolition of the degrading orderly system</b>. These combined with <b>better working conditions, improved promotion prospects and job enrichment</b> can go a long way towards improving morale and performance. In addition, priority has to be given to welfare measures such as <b>better education for children, medical care, housing etc.</b> so that there is an overall improvement in their working and living conditions.</p>	<p>Time bound measures for <b>improving satisfaction levels among police personnel</b> by provision of <b>adequate housing</b> and other welfare measures are required to be taken up on an urgent basis. Provision of <b>adequate leave, at least for one month each year</b>, on the pattern of the armed forces would also help provide a safety valve for police personnel suffering from physical and psychological exhaustion due to trying working conditions.</p>
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(h) Complaint Authority at District and State Level:

<p><b>District Police Complaints Authority</b></p>	<ul style="list-style-type: none"><li>• A <b>District Police Complaints Authority</b> should be constituted to <b>enquire into allegations against the police within the district</b>.</li><li>• It should have an <b>eminent citizen as its Chairperson</b>, with an eminent lawyer and a retired government servant as its Members.</li><li>• The Chairperson and Members of the District Police Complaints Authority should be appointed by the State Government in consultation with the Chairperson of the State Human Rights Commission. A government officer should be appointed as Secretary of the District Police Complaints Authority.</li><li>• The District Police Complaints Authority should have the <b>powers to enquire into misconduct or abuse of power against police officers up to the rank of Deputy Superintendent of Police</b>.</li><li>• It should exercise all the <b>powers of a civil court</b>. The Authority should be empowered to investigate any case itself or ask any other agency to investigate and submit a report. The <b>Disciplinary Authorities should normally accept the recommendations</b> of the District Authorities.</li></ul>
<p><b>State Police Complaints Authority</b></p>	<ul style="list-style-type: none"><li>• A State Police Complaints Authority should be constituted to <b>look into cases of serious misconduct by the police</b>. The State level Authority should also look into complaints against <b>officers of the rank of Superintendent of Police and above</b>.</li><li>• The State Police Complaints Authority should have a <b>retired High Court Judge as Chairperson</b> and nominees of the State Government, the State Human Rights Commission, the State Lokayukta, and the State Women Commission.</li><li>• An eminent human rights activist should also be the member of the Complaints Authority. The Chairperson and the Member of the Authority (eminent human rights activist) should be appointed by the State Government based on the recommendations of the State Human Rights Commission.</li><li>• A government officer should officiate as the secretary of the Authority. The Authority should have the power to ask any agency to conduct an enquiry or enquire itself. The Authority should also be empowered to enquire into or review any case of police misconduct, which is before any District Police Complaints Authority, if it finds it necessary in public interest to do so.</li><li>• The State Police Complaints Authority should also <b>monitor the functioning of the District Police Complaints Authority</b>.</li></ul>

**(I) Independent Inspectorate of Police:**

In addition to ensuring effective departmental inspections, an <b>Independent Inspectorate of Police may be established</b> under the supervision of the Police Performance and Accountability Commission <b>to carry out performance audits of police stations and other police offices</b> through inspections and review of departmental inspections.	It should render professional advice for improvement of standards in policing and also present an annual <b>report to the Police Performance and Accountability Commission.</b>
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**(j) Improvement of Forensic Science Infrastructure:**

There is a need to <b>set up separate National and State Forensic Science Organisations</b> as state of the art scientific organizations. At the state level these organisations should function under the supervision of the Board of Investigation.	There is a need to expand the forensic facilities and upgrade them technologically. <b>Every district</b> or a group of districts having 30 to 40 lakhs population <b>should have a forensic laboratory.</b>
The <b>syllabus of MSc Forensic Science should be continuously upgraded</b> in line with international trends.	Necessary <b>amendments should be effected in the CrPC and other laws</b> to raise the level and scope of forensic science evidence

**(k) Strengthening Intelligence Gathering:**

Human intelligence should be combined with information derived from diverse sources with the <b>focus on increased use of technology.</b> Adequate powers should be delegated to intelligence agencies to procure/use the latest technology.	Intelligence agencies should <b>develop multi-disciplinary capability</b> by utilising services of experts in various disciplines for intelligence gathering and processing. Sufficient powers should be delegated to them to obtain such expertise.	Intelligence should be such that the administration is able to use it to act in time by resorting to conflict management or by taking preventive measures.
Instead of monitoring public places by posting a large number of policemen it would be economical as well more effective if <b>devices like video cameras/CCTVs</b> are installed in such places.	The <b>beat police system should be revived</b> and strengthened.	<b>Informants</b> giving information should be <b>protected</b> to keep their identity secret so that they do not fear any threat to life or revenge.

**(l) Training of the Police:**

Deputation to training institutions must be made more attractive in terms of facilities and allowances so that the best talent is drawn as instructors. The <b>Chief of Training</b> in the state should be <b>appointed on the recommendation of the Police Performance and Accountability Commission.</b>	The instructors should be professional trainers and a balanced mix of policemen and persons from other walks of life should be adopted.	Each state should earmark a fixed percentage of the police budget for training purposes.
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There should be common training programmes for police, public prosecutors and magistrates. There should also be common training programmes for police and executive magistrates.	Training should <b>focus on bringing in attitudinal change in police</b> so that they become more responsive and sensitive to citizens' needs.	All training programmes must conclude with an <b>assessment of the trainees, preferably by an independent agency.</b>
Modern methods of training such as <b>case study methods should be used.</b>	Impact of training on the trainees should be evaluated by independent field studies and based on the findings the training should be redesigned.	All training programmes should include a <b>module on gender and human rights.</b> Training programmes should sensitise the police towards the weaker sections.

**(m) Gender Issues in Policing:**

The representation of <b>women</b> in police at all levels should be increased through affirmative action so that they constitute about <b>33% of the police.</b>
Police at all levels as well as other functionaries of the criminal justice system need to be <b>sensitised on gender issues</b> through well-structured <b>training</b> programmes.
<b>Citizens groups and NGOs</b> should be encouraged to increase awareness about gender issues in society and help <b>bring to light violence against women</b> and also assist the police in the investigation of crimes against women.

**(n) Crime against Vulnerable Sections:**

The administration and police should be <b>sensitised</b> towards the special problems of the <b>Scheduled Castes and Scheduled Tribes.</b> <b>Appropriate training</b> programmes could help in the sensitising process.	The administration and police should play a more proactive <b>role in detection and investigation of crimes against the weaker sections.</b>	Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the weaker sections should not be downplayed for fear of further disturbances or retribution and adequate preparation should be made to face any such eventuality.
The administration should also focus on <b>rehabilitation of the victims</b> and provide all required support including counselling by experts.	As far as possible the <b>deployment of police personnel</b> in police stations with a significant proportion of religious and linguistic minorities should be in <b>proportion to the population of such communities within the local jurisdiction</b> of such police stations.	Government must take concrete steps to increase awareness in the administration and among the police in particular, regarding crimes against children and take steps not only to tackle such crimes, but also to deal with the ensuing trauma.

(o) National Security Commission:

There is **no need** for a National Security Commission with a limited function of **recommending** panels for **appointment to Chiefs of the Armed Forces of the Union**. There should be a separate mechanism for recommending the names for appointment as Chief of each one of these forces, with the final authority vesting in the Union Government.

(p) Union-State and Inter-State:

The **Ministry of Home Affairs** should proactively and in consultation with the states, evolve formal institutions and **protocols for effective coordination** between the Union and the states and among the states. These protocols should **cover issues like information/intelligence sharing, joint investigation, joint operations, inter-state operations** by a state police in another state, regional cooperation mechanisms and the safeguards required.

## 5.9 Reforms in the Criminal Justice System

The criminal justice system **comprises the police (investigation), the prosecutor (prosecution), the courts (trial) and the prison (punishment and reforms)**. The criminal justice system which **protects a law abiding citizen and deters a potential law breaker**. The **essence** of an efficient criminal justice system is that *the trial of an accused should be swift and punishment for a criminal should be certain and deterrent*.



<b>Facilitating Access to Justice</b>	Providing citizens with improved access to justice also requires a major thrust on <b>increasing the number of courts</b> ; equipping the courts with required human, material and <b>technological resources</b> ; <b>simplifying their cumbersome procedures</b> and placing an increased emphasis on <b>use of the local language</b> to deliver swift justice at lower costs. <ul style="list-style-type: none"><li>• Hence a system of local courts should be introduced as an integral part of the judiciary. There should be <b>one such court for a population of 25, 000</b> in rural areas (this norm could be modified for urban areas).</li><li>• The local courts should have powers to try all criminal cases where the prescribed <b>punishment is less than one year</b>. All such trials should be through <b>summary proceedings</b>.</li><li>• The judge of the local court should be appointed by the District and Sessions Judge in consultation with his/her two senior-most colleagues. Retired judges or retired government officers (with appropriate experience) could be appointed.</li><li>• These courts may function from government premises and could also be in the form of mobile courts.</li><li>• These local courts may be constituted by a law <b>passed by the Parliament to ensure uniformity</b>.</li></ul>
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<p><b>Reforms in Investigation</b></p>	<ul style="list-style-type: none"> <li>• <b>Citizen Friendly Registration Of Crimes</b> <ul style="list-style-type: none"> <li>○ <b>Technology</b> should be used to <b>improve the accessibility of police stations</b> to the public. Establishing <b>call centers and public kiosks</b> are possible options in this regard.</li> <li>○ Police stations should be equipped with <b>CCTV cameras</b> in order to <b>prevent malpractice</b>, ensure transparency and make the police more citizen-friendly. This could be implemented in all police stations <b>within a time frame of five years</b>.</li> <li>○ The performance of police stations should be assessed on the basis of the cases successfully detected and prosecuted and not on the number of cases registered. This is necessary to eliminate the widely prevalent malpractice of ‘burking’ of cases.</li> </ul> </li> <li>• <b>Sections 161 and 162 of CrPC should be amended</b> to include the following: <ul style="list-style-type: none"> <li>○ The <b>statement of witnesses</b> should be either in narrative or in question and answer form and should be <b>signed by the witness</b>.</li> <li>○ A <b>copy of the statement</b> should be handed over to the witness immediately under acknowledgement. The statement could be used for both corroboration and contradiction in a Court of Law.</li> <li>○ The statements of all <b>important witnesses</b> should be <b>either audio or video recorded</b></li> </ul> </li> <li>• <b>Confessions Before Police:</b> <ul style="list-style-type: none"> <li>○ Confessions <b>made before the police should be admissible</b>. All such statements should be <b>video recorded</b> and the tapes produced before the court. Necessary <b>amendments should be made in the Indian Evidence Act</b></li> <li>○ The witness/accused should be warned on videotape that any statement he makes is liable to be used against him in a court of law, and <b>he is entitled to the presence of his lawyer or a family member while making such a statement</b>. If the person opts for this, the presence of the lawyer/ family member should be secured before proceeding with recording the statement.</li> <li>○ The accused should be produced before a <b>magistrate</b> immediately thereafter, who <b>shall confirm</b> by examining the accused whether the <b>confession was obtained voluntarily or under duress</b>.</li> </ul> </li> </ul>
<p><b>Reforms in Trials</b></p>	<ul style="list-style-type: none"> <li>• It is necessary to <b>amend Section 311 CrPC</b> and impose a duty on every court to <b>suo motu cause production of evidence</b> for the purpose of discovering the truth, which should be the ultimate test of the criminal justice system. Suitable amendments to the Indian Evidence Act, 1872 may also be made to facilitate this.</li> <li>• A central issue facing all criminal justice systems is to <b>strike a balance between the extent to which an accused could be used as a source of information and his/her right against self incrimination</b>. In every trial, the Court shall, immediately after the witnesses for the prosecution have been examined, <b>question the accused generally, to explain personally any circumstances appearing in the evidence against him</b>.</li> </ul>
<p><b>Rights of Victims</b></p>	<p>A <b>new law for protecting the rights of the victims</b> of the crimes may be enacted. The law should include the following salient features:</p> <ol style="list-style-type: none"> <li>1. Victims should be treated with dignity by all concerned in the criminal justice system.</li> <li>2. It shall be the duty of the police and the prosecution to <b>keep the victim updated</b> about the progress of the case.</li> <li>3. <b>If the victim wants to oppose the bail application of an accused he/she shall be given an opportunity to be heard</b>. Similarly, for release of prisoners on</li> </ol>

	<p>parole, a mechanism should be developed to consider the views of the victims.</p> <p>4. A <b>victim compensation fund</b> should be created by State Governments for providing compensation to the victims of crime.</p>
<b>Classification of Offences</b>	<ul style="list-style-type: none"> <li>To remove the distinction between cognizable and non-cognizable offences and making it obligatory on the Police Officer to investigate all offences in respect of which a complaint is made.</li> <li><b>Increasing the number of offences for which no arrest shall be made.</b></li> <li>Increasing the number of offences where <b>arrest can be made only with the order of the court</b> and reducing the number of cases where arrest can be made without an order or warrant from the Magistrate.</li> <li>Increasing the number of offences which are bailable and reducing the number of offences which are not bailable.</li> <li>Increasing the number of offences that can be brought within the category of compoundable / settlement category.</li> </ul>

## 5.10 Maintaining Public Order

Proper **management of riots** would continue to be an important function of the police as well as the administration.

<b>Public Order Management</b>	<ul style="list-style-type: none"> <li>The administration should be responsive, transparent, vigilant and fair in dealing with all sections of society. Initiatives such as <b>Peace Committees</b> should be utilised effectively to ease tensions and promote harmony.</li> <li>The <b>internal security plan/riot control scheme</b> should be updated periodically.</li> <li>A micro analysis should be carried out in each district to identify sensitive spots and this should be regularly reviewed and updated.</li> <li>The <b>intelligence machinery</b> should not slacken during normal times and credible intelligence should be gathered from multiple sources.</li> <li>Public agencies should follow a <b>zero tolerance strategy in dealing with violations of laws.</b></li> <li>The use of preventive measures in a planned and effective manner needs to be emphasized.</li> <li>Regular supervision and review of these functionaries by the District Magistrate and the Superintendent of Police respectively should be done to focus attention on effective use of these provisions.</li> <li><b>Based on the experience</b> with major riots and the recommendations of various Commissions of Inquiry <b>and pronouncements of the Supreme Court and the High Courts, fresh and comprehensive guidelines may be drawn up</b> for regulation of processions, protest marches etc.</li> <li>The guidelines should include preparatory steps (through intelligence sources), serious consultation and attempts to arrive at agreement with the groups/ communities involved, regarding route, timing and other aspects of procession.</li> <li>Organisations and <b>persons found guilty of instigating</b> violence should be liable to <b>pay exemplary damages.</b> The damages should be commensurate with the loss caused by such violence.</li> <li>Prohibitory orders once imposed, should be enforced effectively. <b>Videography should be used in sensitive areas.</b></li> <li>If violence erupts, then the <b>first priority should be to quickly suppress the violence.</b></li> <li>Prohibitory orders must be enforced rigorously.</li> <li>If the situation so warrants, the <b>forces of the Union and the Army should be</b></li> </ul>
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	<p><b>requisitioned</b> and used without any reluctance or delay.</p> <ul style="list-style-type: none"> <li>• The Commissioner of Police or the <b>District Magistrate and the Superintendent of Police</b> should be <b>given a free hand</b> to deal with the situation in accordance with law.</li> <li>• The <b>media should be briefed</b> with correct facts and figures so that there is no scope for <b>rumour mongering</b>.</li> <li>• The police need to be equipped with <b>state of the art crowd dispersal equipment</b>.</li> <li>• The District Magistrate should ensure that <b>essential supplies</b> are maintained and relief is provided, especially in vulnerable areas and particularly during prolonged spells of <b>curfew</b>.</li> </ul>
Accountability of Public Servants Charged With Maintaining Public Order	<ul style="list-style-type: none"> <li>• The <b>State Police Complaints Authority</b> should be empowered to identify and <b>fix responsibility</b> in cases of glaring <b>errors of omission and commission by police</b> and executive magistrates in the discharge of their duties relating to the maintenance of public order.</li> </ul>
The Executive Magistrates and the District Magistrate	<p>The <b>position of the District Magistrate vis-à-vis the police</b>, and as a coordinator and facilitator in the district <b>needs to be strengthened</b>. The District Magistrate <b>should be empowered to issue directions</b> under the following circumstances:</p> <ul style="list-style-type: none"> <li>• Promotion of land reforms and settlement of land disputes.</li> <li>• Extensive disturbance of public peace and tranquility in the district (<b>The decision of the DM as to what constitutes extensive disturbance of public peace should be final</b>).</li> <li>• Conduct of elections to any public body.</li> <li>• Handling of <b>natural calamities</b> and rehabilitation of the persons affected thereby.</li> <li>• Situations arising out of any external aggression or internal disturbances.</li> <li>• Any similar matter, not within the purview of any one department and affecting the general welfare of the public of the district.</li> <li>• Whenever police assistance is required to enforce any law or programme of the government.</li> </ul>
Capability Building of Executive Magistrates	<ul style="list-style-type: none"> <li>• All officers likely to be posted as Executive Magistrates should be specially <b>trained in the relevant laws</b> and procedures and should be eligible for posting only after qualifying in an examination.</li> <li>• On the lines of a police manual, each state should also <b>evolve a Manual for Executive Magistrates</b>.</li> </ul>
Inter-Agency Coordination	<ul style="list-style-type: none"> <li>• In a District, the District Magistrate should coordinate the role of all agencies at the time of crisis.</li> <li>• In major cities, with the Police Commissioner System, a coordination committee should be set up under the Mayor, assisted by the Commissioner of Police and the Municipal Commissioner. All major service providers should be represented on this Coordination Committee.</li> </ul>
Adoption of Zero Tolerance Strategy	<ul style="list-style-type: none"> <li>• All public agencies should adopt a zero tolerance strategy <b>towards crime</b>, in order to create a climate of <b>compliance</b> with laws leading to maintenance of public order.</li> <li>• This strategy should be institutionalised in the various public agencies by creating appropriate statistical databases, backed up by modern technology, to monitor the level and trends of various types of offences and link these to a system of incentives and penalties for the officials working in these</li> </ul>

	agencies. It should be combined with initiatives to involve the community in crime prevention measures.
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## 5.11 Constitutional issues and Special Laws

**Major public order crises can threaten our social fabric and endanger national security.** The proliferation of organised crimes and terrorism, the rise of insurgent movements in certain parts of the country and the nexus among these, throw up challenges that **require a coherent national response** in the form of new laws and administrative structures.

Hence the **question** arises that **public order should move to the concurrent list** so that both state and centre can make legislation and rules for its maintenance.

<b>Obligation of Union and States</b>	<ul style="list-style-type: none"> <li>• A law should be enacted to empower the Union Government to deploy its forces and to even direct such forces in case of major public order problems which may lead to the breakdown of the constitutional machinery in a state. However, such <b>deployment should take place only after the state concerned fails</b> to act on a <b>direction issued by the Union under Article 256</b> of the Constitution.</li> <li>• All such deployments should be only for a temporary period <b>not exceeding three months</b>, which could be <b>extended by another three months after authorisation by Parliament</b>.</li> <li>• The law should spell out the hierarchy of the civil administration which would supervise the forces under such circumstances.</li> </ul>
<b>Federal Crimes</b>	<ul style="list-style-type: none"> <li>• Specific <b>provisions to define organised crimes</b> should be included in the <b>new law governing 'Federal Crimes'</b>. The <b>definition of organised crime</b> in this law should be on the <b>lines of the Maharashtra Control of Organised Crime Act, 1999</b>.</li> </ul>
<b>Armed Forces Special Powers Act, 1958</b>	<ul style="list-style-type: none"> <li>• The Armed Forces (Special Powers) Act, 1958 should be <b>repealed</b>. To provide for an enabling legislation for deployment of Armed Forces of the Union in the North-Eastern states of the country, the <b>Unlawful Activities (Prevention) Act, 1967 should be amended</b> by inserting a new Chapter VI A as recommended by the Committee to Review the Armed Forces (Special Powers) Act, 1958. The new Chapter VI A would <b>apply only to the North-Eastern states</b>.</li> </ul>

## 5.12 Conclusion

**An unruly society would be a recipe for economic disaster.** There is a growing **concern that in the eyes of the law enforcing agencies some are more equal than others**. It has been the endeavour of this commission to **propose changes which would substantially remove such a perception**, reduce the scope for extraneous influences to bear upon the functioning of the police and make them professional, fair and citizen-friendly.

6.1 Introduction	6.2 Core Principles of Local Governance as Outlined by the Administrative Reforms Commission
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## 6.1 Introduction

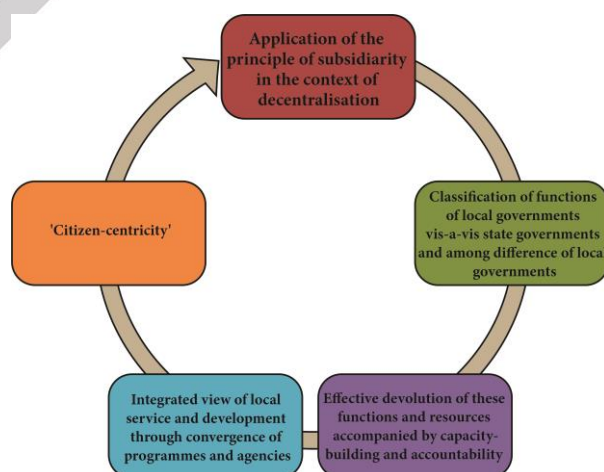
Integrating institutional reforms in local governance with economic reforms was Gandhiji's far-sighted vision of **Poorna Swaraj**. Economic reforms and local government empowerment are the two great initiatives launched in the 1990's.

Our Constitution provides a clear **mandate for democratic decentralisation** not only through the **Directive Principles of State Policy** which exhorts the State to promote Panchayati Raj Institutions but more specifically now through the **73rd and 74th Amendments** of the Constitution which seek to create an institutional framework **for ushering in grass roots democracy** through the medium of genuinely self-governing local bodies in both urban and rural areas of the country.

By **making regular elections to Panchayati Raj/Municipal bodies mandatory**, these institutions have been **given permanency** as entities of self-government with a specific role in planning for economic development and social justice for the local area.

**But, in practice, real empowerment as envisaged has not taken place. Local government being a State subject under Schedule VII, the implement ability of these provisions is, to a large extent, dependent on the intention and strength of the State Panchayati Raj enactment.**

## 6.2 Core Principles of Local Governance as Outlined by the Administrative Reforms Commission



Though the situation varies from State to State, overall, **the process of devolution of powers is still in its infancy** in the relationship between States and local governments. It has to be strengthened in the coming years by empowering local governments, while the State Government continues to have an important and significant role, appropriate to that level.

### 6.3 Common Issues in Local Governance: Rural and Urban

**Principle of Subsidiarity:** The 73rd and 74th Amendments of 1992 of the Constitution, which aimed at a **fundamental shift** in the nature of governance. However, the past **experience of over a decade** shows that creating structures of elected local governments and ensuring **regular elections do not necessarily guarantee effective local empowerment**. The Constitution left the issue of degree of empowerment and devolution to the State Legislature.

An analysis of the empowerment and functioning of local governments in various States leads to the following broad conclusions:

- Despite the mandatory constitutional injunctions, it took years, and in some cases a decade, to even constitute local governments and hold elections.
- Even when local governments are constituted and elections are held, States often **postpone the subsequent elections on some pretext** or other. There has been **no linear development or evolution** in respect of democratic decentralisation.
- State Governments, legislators and civil servants are in general **reluctant to effectively empower local governments**.
- Even **mandatory provisions like the constitution of District Planning Committees and Metropolitan Planning Committees have been ignored** in many States.
- Where the Panchayats have been constituted and elections held regularly, they are still left at the mercy of State Legislatures and State Executive.
- Some **legislators** at times tend to act as executives, **intervening** in transfers and postings, sanctioning of local bodies contracts and tenders, crime investigation and prosecution all of which are therefore often at the mercy of the local legislator.

#### 1. Rigid structure of Panchayat Rai System

In the current constitutional scheme, detailed and inflexible mandatory provisions exist in respect of the constitution and composition of local governments including the manner of election. There have been strong voices across the country seeking a more flexible scheme, granting greater freedoms to States to design the Panchayat structure, suitable to their requirements.

#### 2. Issues Related To Election

Due to **delay in delimitation of constituencies** mainly in urban areas the elections get delayed.

#### 3. Issues Related To State Election Commission

The State Election Commission **performs functions similar to that of the Election Commission of India**. It is, therefore, **essential that the machinery for organising local elections is adequately supported**.

#### 4. Issues Related To Devolution Of Functions

There is no clear devolution of functions to local bodies as it has been found that **inadequate devolution of functions provided under the 11th and 12th schedule** of local bodies has led to lack of empowerment of local bodies and has resulted in poor Socio-economic development.

#### 5. Issues In Devolution of Funds

- Despite the important role that local bodies play in the democratic process and in meeting the basic requirements of the people, the **financial resources generated by these bodies fall far short of their requirements**.
- The local bodies are heavily **dependent on State Governments for financial inflows**, even for routine functions because the proceeds of various buoyant taxes like State Excise, VAT and Motor Vehicles Tax are not available to them as they form part of the Consolidated Fund of the State. The **major sources of income for local governments like property tax etc. are woefully inadequate** to meet their obligations both due to their inherent nature and inefficiency in collecting them. This **asymmetry between the taxation power and the**



**responsibility to provide civic amenities necessitates transfer of funds from the State** to the local governments either through untied grants or through a share in other State Taxes or as part of various development schemes.

#### 6. Capacity Building For Self Government

- **Beyond short term training of personnel** and elected elements of these bodies, little has so far been contemplated, and even in this sphere there has been limited initiative and fitful progress.

#### 7. Issues In Accountability

Generally speaking, accountability of public institutions has focused almost wholly on **two issues namely;**

- **Prevention of activities** not specifically authorised by law or any subordinate legislation
- **Integrity of the public system or maintenance of financial propriety**, which is often equated with adherence to financial rules. While these are important, there are other components also for which the local bodies are expected to be accountable. One of them is **responsiveness**. But it has been found that local bodies have been **lacking in accountability with reference to these parameters.**

#### 6.3.1 Administrative Reforms Commission Recommendations

<p><b>Principle of Subsidiarity</b></p> <ul style="list-style-type: none"> <li>• <b>Article 243 G should be amended</b> as follows: “Subject to the provisions of this Constitution, the Legislature of a State <i>shall</i>, by law, vest a Panchayat at the appropriate level with such powers and authority as are necessary to enable them to function as institutions of self government in respect of all functions which can be performed at the local level including the functions in respect of the matters listed in the Eleventh Schedule”.</li> <li>• <b>Article 243 W</b> should be similarly amended to empower urban local bodies.</li> </ul>	<p><b>Strengthening the Voice of Local Bodies</b></p> <ul style="list-style-type: none"> <li>• Parliament may by law provide for the <b>constitution of a Legislative Council in each State</b>, consisting of members elected by the local governments.</li> </ul>
<p><b>Structure</b></p> <ul style="list-style-type: none"> <li>• The Constitutional provisions relating to reservation of seats (Article 243 D) must be retained in the current form to ensure adequate <b>representation to the under-privileged sections and women.</b></li> <li>• <i>Members of Parliament and State Legislatures should not become members of local bodies.</i></li> <li>• There shall be a <b>District Council in every district with representation from both urban and rural areas.</b></li> </ul>	<p><b>Electoral Process</b></p> <ul style="list-style-type: none"> <li>• The task of <b>delimitation and reservation of constituencies should be entrusted to the State Election Commissions (SECs).</b></li> <li>• Local government laws in all States should provide for <b>adoption of the Assembly electoral rolls for local governments</b> without any revision of names by SECs. For such a process to be effective it is necessary to ensure that the voter registration and preparation of electoral rolls by Election Commission of India is based on geographic contiguity. Similarly, the electoral divisions for elections to local bodies should follow the Building Blocks approach.</li> <li>• <b>Reservation of seats</b> should follow any one of the two <b>principles:</b> <ul style="list-style-type: none"> <li>○ In case of single member constituencies, the</li> </ul> </li> </ul>

	<p><b>rotation can be after at least 2 terms</b> of 5 years each so that there is possibility of longevity of leadership and nurturing of constituencies.</p> <ul style="list-style-type: none"> <li>○ Instead of single member constituencies, elections can be held to multi member constituencies by the <b>List System</b>, ensuring the reservation of seats. This will obviate the need for rotation thus <b>guaranteeing allocation of seats for the reserved categories</b>.</li> <li>• The <b>conduct of elections for the elected members of District and Metropolitan Planning Committees should be entrusted to the State Election Commission</b>.</li> </ul>
<p><b>Constitution of State Election Commission</b></p> <ul style="list-style-type: none"> <li>• The <b>State Election Commissioner</b> should be appointed by the Governor on the <b>recommendation of a collegium</b>, comprising the Chief Minister, the Speaker of the State Legislative Assembly and the Leader of Opposition in the Legislative Assembly.</li> <li>• An institutional mechanism should be created to bring the Election Commission of India and the SECs on a common platform for coordination, learning from each other's experiences and sharing of resources.</li> </ul>	<p><b>Correcting the Urban-Rural Imbalance In Representation In Legislative Bodies</b></p> <ul style="list-style-type: none"> <li>• In order to set right the electoral imbalance between the urban and rural population in view of rapid urbanisation, an adjustment of the territorial constituencies – both for the Lok Sabha and the Legislative Assembly – within a State should be carried out after each census. Articles 81, 82, 170, 330 and 332 of the Constitution would need to be amended.</li> </ul>
<p><b>Devolution Of Powers and Responsibilities</b></p> <ul style="list-style-type: none"> <li>• There should be <b>clear delineation of functions for each level of local government</b> in the case of each subject matter law. This is not a one time exercise and has to be done continuously while working out locally relevant socio-economic programmes, restructuring organisations and framing subject-matter laws.</li> <li>• Each subject matter law, which has functional elements that are best attended to at local levels, should have provision for appropriate devolution to such levels – either in the law or in subordinate legislation. All the relevant Union and State laws have to be reviewed urgently and suitably amended.</li> <li>• In the case of new laws, it will be advisable to <b>add a local government memorandum indicating whether any functions to be attended to by local governments are involved</b> and if so,</li> </ul>	<p><b>Framework Law For Local Bodies</b></p> <ul style="list-style-type: none"> <li>• The Government of India should draft and place before Parliament, a <b>Framework Law for local governments</b>. The Framework Law could be enacted under Article 252 of the Constitution <b>on the lines of the South African Act</b>, for the States to adopt. This Law should lay down the broad <b>principles of devolution of powers, responsibilities and functions</b> to the local governments and communities, based on the following: <ul style="list-style-type: none"> <li>○ Principle of Subsidiarity</li> <li>○ Democratic Decentralisation</li> <li>○ Delineation of Functions</li> <li>○ Devolution in Real Terms</li> <li>○ Convergence</li> <li>○ Citizen Centricity</li> </ul> </li> </ul>

<p>whether this has been provided for in the law.</p> <ul style="list-style-type: none"> <li>• In case of urban local bodies, in addition to the functions listed in the Twelfth Schedule, the following should be <b>devolved to urban local bodies</b>: <ul style="list-style-type: none"> <li>○ School <b>education</b>.</li> <li>○ Public <b>health</b>, including community health centres/area hospitals.</li> <li>○ <b>Traffic management</b> and civic policing activities.</li> <li>○ Urban <b>environment</b> management and heritage.</li> <li>○ <b>Land</b> management, including registration.</li> </ul> </li> </ul>	
<p><b>Finances of Local Government</b></p> <ul style="list-style-type: none"> <li>• <b>The Twelfth Finance Commission made several recommendations regarding the working of the State Finance Commission (SFCs). These are summarised as follows:</b> <ul style="list-style-type: none"> <li>○ The principal <b>recommendations made by the SFCs should be accepted</b> by the Government as is the case with the recommendations made by the Central Finance Commission.</li> <li>○ The SFCs follow the procedure adopted by the Central Finance Commission for transfer of resources from the Centre to the States.</li> <li>○ While estimating the resource gap, the SFCs should follow a normative approach in the assessment of revenues and expenditure rather than make forecasts based on historical trends.</li> <li>○ It is necessary that the States constitute SFCs with people of eminence and competence, instead of viewing the formation of SFCs as a mere constitutional formality.</li> <li>○ In the matter of composition of the SFCs, States may be well advised to follow the Central legislation and rules which prescribe the qualifications for the chairperson and members and frame similar rules. It is important that experts are drawn from specific disciplines such as economics, public finance, public administration and law.</li> <li>○ There should be a permanent SFC cell in the finance department of each State. This cell may be headed by a secretary</li> </ul> </li> </ul>	<p><b>Capacity Building For Self Government</b></p> <ul style="list-style-type: none"> <li>• State Governments should encourage local bodies to <b>outsource specific functions to public or private agencies</b>, as may be appropriate, through enabling guidelines and support. Outsourcing of activities should be backed by development of in-house capacity for monitoring and oversight of outsourced activities.</li> <li>• Comprehensive and holistic training requires expertise and resources from various subject matter specific training institutes. This can be best achieved by networking of institutions concerned with various subjects such as financial management, rural development, disaster management and general management.</li> <li>• Training of elected representatives and personnel should be regarded as a continuing activity. Expenditure requirements on training may be taken into account by the State Finance Commissions while making recommendations.</li> <li>• Academic research has a definite role to play in building long-term strategic institutional capacity for greater public good.</li> <li>• A pool of experts and specialists (e.g. engineers, planners etc.) could be maintained by a federation/consortium of local bodies. This common pool could be then accessed by the local bodies whenever required for specific tasks.</li> </ul>

<p>level officer, who will also function as secretary of the SFC.</p> <ul style="list-style-type: none"> <li>• Each State should prescribe through an Act, the qualifications of persons eligible to be appointed as Members of the State Finance Commission.</li> <li>• State Finance Commissions (SFCs) should <b>evolve objective and transparent norms for devolution</b> and distribution of funds. The norms should <b>include area-wise indices for backwardness</b>. State Finance Commissions should link the devolution of funds to the level/quality of civic amenities that the citizens could expect. This could then form the basis of an impact evaluation.</li> <li>• The Action Taken Report on the recommendations of the SFC must compulsorily be placed in the concerned State Legislature.</li> <li>• Incentives can be built into devolution from the Union to the States to take care of the need to improve devolution from the States to the third tier of governments.</li> <li>• SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations for improvements in their working. In case of smaller local bodies such recommendations could be broad in nature, but in case of larger local bodies, recommendations should be more specific.</li> <li>• It is necessary that a mechanism be put in place which reviews the implementation of all the recommendations of the SFCs. If considered necessary, <b>devolution of funds could be made conditional to local bodies agreeing to implement the recommendations of the SFCs.</b></li> </ul>	
<p><b>Decentralized Planning</b></p> <ul style="list-style-type: none"> <li>• A <b>District Council should be constituted</b> in all districts with representation from rural and urban areas. It should be empowered to <b>exercise the powers and functions in accordance with Articles 243 G and 243 W</b> of the Constitution. In that event, the (District Planning Committee (DPC) will either not exist or become at best, an advisory arm of the District Council.</li> <li>• In the interim and in accordance with the present constitutional scheme, District</li> </ul>	<p><b>Accountability and Transparency</b></p> <ul style="list-style-type: none"> <li>• <b>Audit committees may be constituted</b> by the State Governments at the district level to exercise oversight regarding the integrity of financial information, adequacy of internal controls, compliance with the applicable laws and ethical conduct of all persons involved in local bodies. These committees must have independence, access to all information, ability to communicate with technical experts, and accountability to the public.</li> <li>• For Metropolitan Corporations, separate audit committees should be constituted. Once the</li> </ul>

Planning Committee (DPC) should be constituted in all States within three months of completion of elections to local bodies and should become the sole planning body for the district. The District Planning Committee (DPC) should be assisted by a planning office with a full time District Planning Officer.

- For urban districts where town planning functions are being done by Development Authorities, these authorities should become the technical/planning arms of the District Planning Committee (DPC) and ultimately of the District Council.
- A dedicated centre in every district should be set up to provide inputs to the local **bodies** for preparations of plans. A two-way flow of information between different levels of government may also be ensured.
- Each State Government **should** develop the methodology of participatory local level planning and provide such support as is necessary to institutionalise a regime of decentralised planning.
- States may design a planning calendar prescribing the time limits within which each local body has to finalise its plan and send it to the next higher level, to facilitate the preparation of a comprehensive plan for the district.
- State Planning Boards should ensure that the district plans are integrated with the State plans that are prepared by them. It should be made mandatory for the States to prepare their development plans only after consolidating the plans of the local bodies.
- The function of planning for urban areas has to be clearly demarcated among the local bodies and planning committees.
- For metropolitan areas, the total area likely to be urbanised (the extended metropolitan region) should be assessed by the State Government and a Metropolitan Planning Committee(MPC) constituted for the same which may be deemed to be a District Planning Committee (DPC) for such areas.
- The planning departments of the Development Authorities (DAs) should be merged with the DPCs and MPCs who will prepare the master plans and zonal plans.

District Councils come into existence, a special committee of the District Council may examine the audit reports and other financial statements of the local bodies within the district. Such committee may also be authorised to fix responsibility for financial lapses.

- There should be a **separate Standing Committee of the State Legislature for the local Bodies**. This Committee may function in the manner of a Public Accounts Committee.
- **A local body Ombudsman should be constituted on the lines suggested as follows;**
  - Local body Ombudsman should be constituted for a group of districts **to look into complaints of corruption and maladministration** against functionaries of local bodies, both elected members and officials.
  - Local body Ombudsman should be a single member body **appointed by a Committee** consisting of the Chief Minister of the State, the Speaker of the State Legislative Assembly and the Leader of the Opposition in the Legislative Assembly.
  - The Ombudsman should have the **authority to investigate** cases and submit reports to competent authorities for taking action.
  - In case of complaints and grievances regarding corruption and maladministration against local bodies in general and its elected functionaries, the local body Ombudsman should send its report to the Lokayukta who shall forward it to the Governor of the State with its recommendations.
  - In case of a Metropolitan Corporations, a separate Ombudsman should be constituted.
  - Time limits may be prescribed for the Ombudsman to complete its investigations into complaints.
- In case of complaints and grievances related to infringement of the law governing elections to these local bodies, leading to suspension/disqualification of membership, the authority to investigate should lie with the State Election Commission who shall send its recommendations to the Governor of the State.
- In the hierarchy of functionaries under the control of local bodies, functions should be delegated to the lowest appropriate functionary in order to facilitate access to citizens.
- Each local body should have an **in-house mechanism for redressal of grievances** with set norms for attending and responding to citizens' grievances.
- Evaluation tools for **assessing the performance**

<ul style="list-style-type: none"> <li>• The monopoly role of Development Authorities (DAs) in development of land for urban uses, wherever it exists, should be done away with.</li> </ul>	<p><b>of local bodies</b> should be devised wherein citizens <b>should have a say in the evaluation. Tools such as Citizens Report Cards may be introduced</b> to incorporate a feedback mechanism regarding performance of local bodies.</p>
<p><b>Accounting and Audit</b></p> <ul style="list-style-type: none"> <li>• The <b>accounting system for the urban local bodies (ULBs) as provided in the National Municipal Accounts Manual (NMAM) should be adopted</b> by the State Governments.</li> <li>• It should be ensured that the audit and accounting standards and formats for Panchayats are prepared in a way which is simple and comprehensible to the elected representatives of the Panchayati Raj Institutions (PRIs).</li> <li>• The <b>independence of the Director, Local Fund Audit (DLFA)</b> or any other agency responsible for audit of accounts of local bodies should be institutionalised by making the office independent of the State administration.</li> <li>• Release of Finance Commission Grants to the local bodies may be made conditional on acceptance of arrangements regarding technical supervision of the Comptroller and Auditor General (CAG) over audit of accounts of local bodies.</li> <li>• <b>Audit reports on local bodies</b> should be placed before the State Legislature and these reports should be <b>discussed by a separate committee of the State Legislature</b> on the same lines as the Public Accounts Committee (PAC).</li> <li>• Each State may ensure that the local bodies have adequate capacity to match with the standards of accounting and auditing.</li> <li>• The system of outcome auditing should be gradually introduced.</li> <li>• To complement institutional audit arrangements, adoption and monitoring of prudent financial management practices in the local bodies should be institutionalised by the State Governments.</li> </ul>	<p><b>Technology and Local Governance</b></p> <ul style="list-style-type: none"> <li>• Information and Communication Technology should be utilised by the local governments in process simplification, enhancing transparency and accountability and providing delivery of services through a single window.</li> </ul> <p><b>Space Technology</b></p> <ul style="list-style-type: none"> <li>• Space technology should be harnessed by the local bodies to create an information base and for providing services.</li> <li>• Local governments should become <b>one point service centres</b> for providing various <b>web based and satellite based services</b>. This would however require capacity building in the local governments.</li> </ul>

## 6.4 Rural Local Governance

Despite steady urbanisation, over 70% of India's population continues to live in its villages and about 60% of the nation's workforce draws its sustenance from agriculture and related activities.

**Recommendations of Administrative Reforms Commission towards Empowered Local Governance at Rural Level:**

<p><b>Size of Gram Panchayat</b></p> <ul style="list-style-type: none"> <li>States should ensure that as far as possible <b>Gram Panchayats should be of an appropriate size</b> which would make them <b>viable units of self-governance</b> and also enable effective popular participation. This exercise will need to take into account local geographical and demographic conditions.</li> </ul>	<p><b>Ward Sabhas</b></p> <ul style="list-style-type: none"> <li>Wherever there are <b>large Gram Panchayats</b>, States should take steps to constitute Ward Sabhas which will exercise in such Panchayats, certain powers and functions of the Gram Sabha and of the Gram Panchayat as may be entrusted to them.</li> </ul>
<p><b>Personnel Management In Panchayati Raj Institutions</b></p> <ul style="list-style-type: none"> <li>Panchayats should have <b>power to recruit personnel</b> and to regulate their service conditions subject to such laws and standards as laid down by the State Government.</li> <li>In all States, a <b>detailed review of the staffing pattern</b> and systems, with a zero-based approach to PRI staffing, may be undertaken over the next one year in order to implement the policy of PRI ownership of staff. The Zila Parishads, particularly, should be associated with this exercise.</li> </ul>	<p><b>Panchayati Raj Institutions and State Governments</b></p> <ul style="list-style-type: none"> <li>The provisions in some State Acts regarding <b>approval of the budget of a Panchayat by the higher tier or any other State authority should be abolished.</b></li> <li>State Governments should not have the power to suspend or rescind any resolution passed by the Panchayati Raj Institutions (PRIs) or take action against the elected representatives on the ground of abuse of office, corruption etc. or to supersede/dissolve the Panchayats.</li> <li>For election infringements and other election related complaints, the authority to investigate should be the State Election Commission who will send its recommendations to the Governor.</li> </ul>
<p><b>Position of Parastatals</b></p> <ul style="list-style-type: none"> <li>Parastatals should <b>not be allowed to undermine the authority of the Panchayati Raj Institutions (PRIs).</b></li> <li>There is <b>no need for continuation of the District Rural Development Agency (DRDA).</b> Following the lead taken by Kerala, Karnataka and West Bengal, the DRDAs in other States also should be <b>merged with the respective District Panchayats</b> (Zila Parishad). Similar action should be taken for the District Water and Sanitation Committee (DWSC).</li> <li>The District Health Society (DHS) should be restructured to have an organic relationship with the PRIs.</li> <li>The Union and State Governments should</li> </ul>	<p><b>Functional Devolution</b></p> <ul style="list-style-type: none"> <li>States must undertake comprehensive <b>activity mapping with regard to all the matters mentioned in the Eleventh Schedule.</b></li> <li>The Union Government will also need to take similar action with regard to Centrally Sponsored Schemes.</li> </ul>

<p>normally not set up special committees outside the Panchayati Raj Institutions (PRIs).</p> <ul style="list-style-type: none"> <li>• Community level bodies should not be created by decisions taken at higher levels. If considered necessary the initiative for their creation should come from below and they should be accountable to PRIs.</li> </ul>	
<p><b>Devolving Regulatory Functions To Panchayats</b></p> <ul style="list-style-type: none"> <li>• <b>Some of the regulatory functions which should be entrusted to Panchayats are: -</b> <ul style="list-style-type: none"> <li>○ Rural policing,</li> <li>○ Enforcement of building bye laws,</li> <li>○ Issue of birth, death, caste and residence certificates,</li> <li>○ Issue of voter identity cards,</li> <li>○ Enforcement of regulations pertaining to weights and measures</li> <li>○ Manage small endowments and charities.</li> </ul> </li> </ul>	<p><b>Panchayat Finances</b></p> <ul style="list-style-type: none"> <li>• A comprehensive exercise needs to be taken up regarding broadening and <b>deepening of the revenue base</b> of local governments. This exercise will have to simultaneously look into four major aspects of resource mobilisation: <ul style="list-style-type: none"> <li>○ Potential for taxation.</li> <li>○ Fixation of realistic tax rates.</li> <li>○ Widening of tax base.</li> <li>○ Improved collection.</li> </ul> </li> <li>• All <b>common property resources</b> vested in the Village Panchayats should be identified, listed and made productive <b>for revenue generation</b>.</li> <li>• State Governments should by law expand the tax domain of Panchayats. Simultaneously it should be made obligatory for the Panchayats to levy taxes in this tax domain.</li> <li>• At the higher level, the local bodies could be encouraged to run/ manage utilities such as transport, water supply and power distribution on a sound financial basis and viability.</li> <li>• The <b>expanded tax domain</b> could inter alia include levies on registration of cattle, restaurants, large shops, hotels, cybercafés and tourist buses etc.</li> <li>• The role of State Governments should be limited to prescribing a band of rates for these taxes and levies.</li> <li>• Panchayat Raj Institutions (PRIs) should be given a substantial share in the <b>royalty from minerals collected by the State Government</b>. This aspect should be considered by the State Finance Commission (SFCs) <b>while recommending grants</b> to the PRIs.</li> <li>• State Governments should consider empowering the Panchayati Raj Institutions (PRIs) to collect cess on the royalty from mining activities. In addition they should also be given power to impose and collect additional/special surcharge from such activities (mines /minerals/plants).</li> <li>• Innovative steps taken by the States and the PRIs to augment their resources must be</li> </ul>



	<p>rewarded by linking Central Finance Commission and State Finance Commission grants to such measures. States may reward better performing PRIs through special incentives.</p>
<p><b>Budget Procedure/ Transparency/ Transfer/Allocation of Funds</b></p> <ul style="list-style-type: none"> <li>• Except for the specifically tied, major Centrally Sponsored Schemes and special purpose programmes of the States, all other allocations to the Panchayati Raj Institutions should be in the form of untied funds. The allocation order should contain only a brief description of broad objectives and expected outcomes.</li> <li>• State Governments should modify their rules of financial business to incorporate the system of separate State and District sector budgets, the later indicating district wise allocations.</li> <li>• There should be a <b>separate Panchayat sector line in the State budget.</b></li> <li>• State Governments should make use of the software on fund transfer to Panchayats prepared by the Union Panchayati Raj Ministry for speedy transfer of funds.</li> <li>• State Governments should release funds to the Panchayats in such a manner that these institutions get adequate time to use the allocation during the year itself.</li> </ul>	<p><b>Panchayati Raj Institutions and Access To Credit</b></p> <ul style="list-style-type: none"> <li>• For their infrastructure needs, the <b>Panchayats should be encouraged to borrow</b> from banks/financial institutions. The role of the <b>State</b> Government should remain confined only to <b>fixing the limits of borrowing.</b></li> </ul>
<p><b>Local Area Development Scheme</b></p> <ul style="list-style-type: none"> <li>• The flow of <b>funds for all public development schemes in rural areas should be exclusively routed through Panchayats.</b> Local Area Development Authorities, Regional Development Boards and other organizations having similar functions should immediately be wound up and their functions and assets transferred to the appropriate level of the Panchayat.</li> <li>• Member of Parliament Local Area Development Scheme (<b>MPLAD</b>) and Member of Legislative Assembly Local Area Development Scheme (<b>MLALAD</b>) should be <b>abolished.</b></li> </ul>	<p><b>Centrally Sponsored Schemes</b></p> <ul style="list-style-type: none"> <li>• There has to be territorial/jurisdictional/functional <b>convergence in implementing Centrally Sponsored Schemes.</b></li> <li>• The centrality of Panchayati Raj Institutions (PRIs) in these schemes must be ensured if they are to deal with <b>matters listed in the Eleventh Schedule.</b></li> <li>• The Ministry sanctioning the programme should issue only broad guidelines leaving <b>scope for implementational flexibility</b> so as to ensure local relevance through active involvement of the Panchayats.</li> <li>• All Centrally Sponsored Programmes should have properly demarcated goals and there should be a mechanism to assess their socio-economic impact over a given period of time. The National Sample Survey Organisation (NSSO) may be suitably strengthened and assigned this task.</li> </ul>

<p><b>Information Education Communication</b></p> <ul style="list-style-type: none"> <li>• A multi-pronged approach using different modes of communication like the print media, the visual media, electronic media, folk art and plays etc. should be adopted to disseminate information and create awareness about Panchayati Raj.</li> <li>• The Union Ministry of Information and Broadcasting should devise a mechanism in consultation with the Union Ministry of Panchayati Raj, Ministry of Rural Development and Ministry of Agriculture and other concerned Ministries for effectively implementing this activity.</li> <li>• <b>Rural broadcasting should become a full fledged independent activity of the All India Radio.</b> Rural broadcasting units should be based in the districts and the broadcasts should be primarily <b>in the local language(s)</b> prevalent in the district. These programmes should focus on issues related to <b>Panchayati Raj Institutions, rural development, agriculture, Right to Information and relevant ones on public health, sanitation, education etc.</b></li> </ul>	<p><b>Role of Panchayats In Delivery Of Services</b></p> <ul style="list-style-type: none"> <li>• In terms of the <b>Eleventh Schedule</b> of the Constitution, local level activities of elementary education, preventive and promotive health care, water supply, sanitation, environmental improvement and nutrition should <b>immediately be transferred</b> to the appropriate tiers of the Panchayati Raj Institutions (PRIs).</li> <li>• State Governments need to prepare an overarching Service Delivery Policy outlining the framework within which each department could lay down detailed guidelines for preparation of Service Delivery Plans.</li> </ul>
<p><b>Resource Centre at Village Levels</b></p> <ul style="list-style-type: none"> <li>• These Resource Centres should also be used for <b>documenting local traditional knowledge and heritage.</b></li> <li>• Capacity building should be attempted at the local level by shifting the currently available post school generalistic education to a skill and technology based system having focus on farm &amp; animal husbandry practices, computer applications, commercial cropping and soil and water management.</li> </ul>	<p><b>Local Good Governance In Fifth Schedule Areas</b></p> <ul style="list-style-type: none"> <li>• The Union and State legislations that impinge on provisions of Panchayat Extension to Scheduled Areas Act (<b>PESA</b>) should be immediately modified so as to bring them in conformity with the Act.</li> <li>• If any State exhibits reluctance in implementing the provisions of PESA, Government of India may consider issuing specific directions to it in accordance with the powers given to it under Provision 3 of Part A of the Fifth Schedule.</li> <li>• <b>Regular Annual Reports from the Governor</b> of every State as stipulated under the Fifth Schedule, of the Constitution must be given due importance. In order to ensure that <b>women are not marginalised</b> in meetings of the Gram Sabha, there should be a provision in the PESA Rules and Guidelines that the <b>quorum of a Gram Sabha meeting</b> will be acceptable only when out of the members present, <b>at least thirty three per cent are women.</b></li> <li>• Each State should constitute a group to look into strengthening of the administrative machinery in the Fifth Schedule Areas.</li> </ul>

	<ul style="list-style-type: none"> <li>• Keeping in view the inadequacy of the past efforts, State Governments should <b>form a special planning unit</b> (consisting of professionals and technically qualified personnel) to prepare their tribal-sub plan.</li> <li>• A certain <b>portion of the allocation under Tribal Sub-Plan (TSP) should be made non-lapsable</b> on the pattern of the Non Lapsable Central Pool of Resources (NLCPR) created for the North-Eastern States. A special cell may be set up in the Ministry of Tribal Affairs to monitor expenditure from this fund.</li> <li>• The government may consider preparing an impact assessment report every year with respect to the States covered under PESA.</li> </ul>
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## 6.5 Urban Local Governance

For those living in India’s metropolitan areas, daily living can be chaotic and trying, the unfortunate **result of poor urban planning, creaking infrastructure and ineffectual governance**. In smaller towns, at the intersection of rural and urban India, the situation is often worse – **inadequate facilities, no urban identity and limited resources**, both human and financial, to develop and maintain basic urban services.

**According to the United Nations Population Fund:** - For the first time in history, more than half its human population, 3.3 billion people, will be living in urban areas.

### 6.5.1 Recommendations of Administrative Reforms Commission towards Effective Urban Governance

A new **National Commission on Urbanisation** should be constituted by Government to suggest measures to deal with the rapid urbanisation, including the large cities and bring about more balanced and efficient urbanisation in the country.

#### Structure of Urban Governance

Government may consider the **adoption of a common categorisation** of urban bodies across the country **to improve clarity in their definition** so as to assist a systematic planning process and devolution of funds.

**There should be three tiers of administration** in urban local governments, except in the case of Town Panchayats, where the middle level would not be required. The three tier division should be as follows:

Municipal Council/Corporation	Ward Committee	Area Committee
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While allocating functional responsibilities between the tiers, the **principle of subsidiarity** should be followed. Broadly, the **Area Sabha should perform functions similar to the Gram Sabha** such as **prioritising developmental activities and identifying beneficiaries** under various schemes.

#### Zonal System for Large Cities

**One zone for every five lakh** (or less) population could be considered.

#### Office of Mayor/Chairperson

The **functions of chairing the municipal council and exercising executive authority** in urban local government should be **combined in the same functionary i.e. Chairperson or Mayor**. The

Chairperson/Mayor should be **directly elected** by popular mandate through a city-wide election and will be **chief executive of the municipal body**.

The **elected Council should perform the functions of budget approval, oversight and framing of regulations and policies**.

In municipal corporations and metropolitan cities, the **Mayor should appoint the Mayor's Cabinet** members chosen from the elected corporators. The Mayor's Cabinet shall not exceed **10 percent of the strength of the elected Corporation or fifteen members**, whichever is higher. The Cabinet will exercise executive authority on matters entrusted to them by the Mayor, under his overall control and direction.

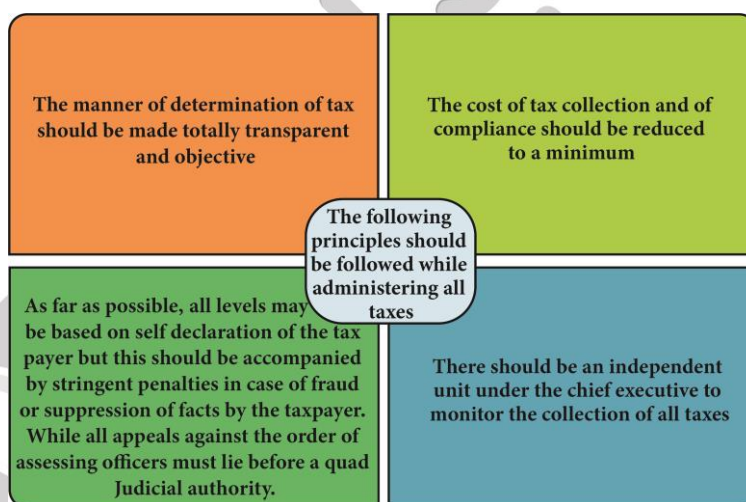
The Mayor should be the Chief Executive of the municipal body while the **Commissioner should perform the functions delegated** to him/her.

### Urban Finances

State Governments should ensure that all local bodies **switch over to the unit area method or capital value method for assessment of property tax** in a time-bound manner, while the **categories of exemption from Property Tax need to be reviewed**.

In order to **ensure that unauthorised constructions do not escape the tax net**, State laws should stipulate that **levy of tax on any property would not, in itself, confer any right of ownership**, in case the property is found to be constructed in violation of any law or regulation. **Tax details for all properties should be placed in the public domain to avoid collusion between the assessing authority and the property owner**.

### Administration of Tax



### Non Tax Revenue

A significant portion of **grants to the municipalities must be linked** with their own **efforts at resource raising**. Also an impact study should be carried out for all major developments in the city. Of needed, a congestion charge and/or betterment levy in relation to such projects may be levied wherever warranted.

The **power to impose fines** for violation of civic laws should be **given to municipal authorities**.

### Leveraging Land as a Resource

Municipal bodies should have a **periodically updated** database of its properties. **IT tools like GIS** should be used for this purpose. This **database should be in the public domain**.

**Land banks available with the municipalities** as well as with the development authorities should be **leveraged for generating resources** for the municipalities. However, such resources should be **used exclusively to finance infrastructure and capital expenditure and not to meet recurring costs**.

### Raising Resources through Other Measures

Another popular mode of resource mobilisation is **Public-Private-Partnerships (PPPs)**. **Urban transport, waste management, housing and roads and bridges** are some of the sectors where PPP models have been successful. PPP models, however, require utmost care on the part of municipal bodies as inadequate scrutiny, faulty contracts, weak monitoring and evaluation mechanisms and above all financial weakness may lead to skewed arrangements in which the public interest may suffer in the long run. Therefore, the **institutional capability of municipal bodies needs to be enhanced** as a necessary precondition for successful PPP projects.

### Infrastructure Services

A time-bound programme for **updating and simplification of all regulatory provisions** relating to the ULBs should be made **mandatory**.

**All service providers** in cities should be brought under one **umbrella** by establishing **'one stop service centres'**.

**Citizens' charters** in all Urban Local Bodies should **specify time limits** for approvals relating to regulatory services such as licenses and permits and these should be scrupulously adhered to. The charter should also **specify the relief available** to the citizens in case of non-adherence.

A system of **self-certification by registered architects for issue of building permits** should be introduced in all ULBs with immediate effect, to start with, for individual residential units.

- **Water Supply**
  - **Urban Local Bodies should be given responsibility for water supply** and distribution in their territorial jurisdictions whether **based on their own source or on collaborative arrangements with parastatals** and other service providers.
  - **State Finance Commissions** may be entrusted with the task of developing suitable normative **parameters** for different classes of local governments for **arriving at optimum tariff structure**.
  - The municipal bodies should **meter all water connections within a time frame**.
  - Infrastructure development plans for water supply should be integrated with the Community Development Programmes (CDPs).
  - Municipal bye-laws should provide **incentives for adoption of water harvesting** measures and **recycling** of waste water for non-potable purposes
- **Sewerage**
  - Each municipal body should prepare a **time bound programme for providing sewerage facilities in slum areas**. Local bodies may **impose a cess on the property tax or development charges in order to raise resources** for expansion and capacity enhancement of the existing sewerage systems. **Community participation** and co-production of services should be encouraged by municipal bodies. This should be supplemented by **awareness generation**.
  - A **separate user charge** should be introduced in all municipalities, even as a minimum levy, **for sanitation and sewerage**, as distinct from water charges.
- **Solid Waste Management**
  - In all towns and cities with a population above one lakh, the possibility of taking up **public private partnership projects** for collection and disposal of garbage may be explored.
  - Municipal bye-laws/rules should provide for segregation of waste into definite categories based on its manner of final disposal.
  - Special solid waste management charges should be levied on units generating high amounts of solid waste.
  - Extensive surveys should be carried out by the State Governments to **identify manual scavengers** and estimate the **number of dry latrines** in existence within six months.
  - Following the survey, adequate **funds** should be allocated for the purpose of **eradication of manual scavenging within one year**.

- **Power Utilities and Municipal Bodies**

- Municipal bodies should be encouraged to take responsibility for power distribution in their areas. Municipal building bye-laws should incorporate power conservation measures
- Municipal bodies should coordinate the layout plans for the distribution networks of power and other utilities.

## Human Development

There has to be a **shift** in emphasis in the crucial service **delivery sectors of education and health from centralised control to decentralised action**, from accountability to the State department to accountability to the local communities and from employment guarantee to service guarantee. It is necessary that all **schools are made functionally self-sufficient, as much as basic facilities and classroom requirements** are provided in all urban schools within the next two years. The municipalities, especially the larger ones, should **seek the help of NGOs, the corporate sector and individual volunteers for assistance in running schools**. Indeed, it would be useful to **initiate a voluntary service element** in our social sector to improve service delivery.

Local bodies should ensure **convergence among health systems, sanitation facilities and drinking water facilities**. and *Primary level public health institutions in urban areas should be managed by the urban local bodies.*

Institution specific standards should be prescribed for schools and hospitals and **third party assessments** carried out to monitor performance in service delivery. **Performance based incentives** should be prescribed at all levels by breaking salary ceilings to guarantee service outcomes and linking permanence in service to performance.

## Urban Transport Authority

- Urban Transport Authorities, to be called **Unified Metropolitan Transport Authorities** in the Metropolitan Corporations, should be set up in **cities with population over one million** within one year, for coordinated planning and implementation of urban transport solutions with overriding priority to public transport.
- Urban Metropolitan Transport Authority (UMTAs) should be **given statutory powers to regulate all modes of public transport**, decide on complementary routes for each operator, and fix fares as well as service standards, etc. In addition, UMTAs should be given financial powers and resources to give or recommend financial support, where necessary, to operators on unviable routes.
- **Integration of land use with transport planning** should be made mandatory for all Urban Local Bodies (ULBs) as well as planning bodies such as the District Planning Committee (DPC) and Metropolitan Planning Committee (MPC).
- Demand for transportation in cities should be managed by adopting demand control **measures** like:
  - **Pedestrianization** of certain areas.
  - **Imposition of congestion levies**
  - Reserving **access to certain areas only through public transport**.
- Public transport systems should generally be multi-modal. The modes should be based on economic viability.
- While building transport infrastructure in cities, it must be ensured that the **needs of the pedestrians, the elderly, the physically challenged** and other users of non motorised means of transport are adequately met.

## Urban Poverty

An exhaustive **survey to identify** the urban poor should be carried out within one year. The basic parameters should be spelt out at the national level. The identification should be based on a door-to-door survey with the survey teams including at least one person from the Area Sabha concerned. The urban poor so identified may be **issued multi-utility identity cards** for availing benefits under all **poverty alleviation programmes**.

After identifying the urban poor through surveys, a **mission mode approach** would need to be adopted for **alleviating urban poverty in a time-bound** and systematic manner. The urban local bodies may also have their own poverty alleviation schemes with adequate backward and forward linkages converging with the other poverty alleviation schemes and the **thrust** of the urban poverty alleviation schemes should be on **upgradation of skills and training**.

In case of setting up of micro-enterprises the urban poverty alleviation schemes should be flexible in selecting projects and providing financial assistance. Moreover, in order to maximise the benefits of micro-finance, **formation of Self-Help Groups (SHGs) needs to be encouraged**. Institutions and NGOs with good track record should be encouraged to promote SHGs for availing micro-finance.

### **Challenges of Slums and Land for Urban Poor**

There has to be total redevelopment of slum areas. While redeveloping, it should be ensured that adequate **provision** has been made for **schools, health centres, sanitation** etc.

- All projects for slum redevelopment must be finalised only after sufficient disclosure and **discussion with the slum dwellers** and their representatives.
- The maximum possible floor area may be provided to the beneficiaries.
- **Only a small percentage of the land may be offered for profit based development** and all needs of public spaces must be built into the scheme. The **facilities to be provided** should include total sanitation, adequate water supply, and depending on factors such as space, location, population and proximity to existing facilities; schools, creches, libraries, dispensaries, cultural activities centres, transport shelters and relevant civic offices.
- A small percentage of the cost of the dwelling unit can be met by the beneficiary.

### **Urban Planning**

The **City Development Plan (CDP)** and **zoning regulations** once approved should **remain in force for ten years** and no authority should normally have any power to change the City Development Plans (CDP).

Infrastructure plans should be made an integral part of the City Development Plan (CDP) in order to ensure that urban planning in cities becomes a truly holistic exercise. The existing system of **enforcement of building regulations needs to be revised**. It should be professionalised by **licensing architects and structural engineers** for assessment of structures and for certification of safe buildings. The units of local bodies dealing with enforcement of building bye-laws and zoning regulations also need to be strengthened.

Prevention of **Disaster Management** must find a prominent place in spatial planning. These should be addressed by including them in the zoning regulations and building bye-laws. The **standards** prescribed by the Bureau of Indian Standards (BIS) for **disaster resistant buildings** should be available in the **public domain, free of cost**.

### **Urban Local Bodies and Relationship with State Government**

Municipal governments should have **full autonomy over the functions/ activities devolved** to them. If the **State Government** feels that there are circumstances that make it necessary to **suspend or rescind any resolution** passed by the Urban Local Bodies or to dissolve or supersede them, it should not do so unless the matter has been **referred to the concerned local body Ombudsman** and the Ombudsman recommends such action.

If, on any occasion, the State Government is in possession of records or has adequate reasons to initiate **action against the Urban Local Bodies or its elected representatives**, it should **place the records before the local body Ombudsman** concerned for investigation.

## 6.6 Conclusion

**Democracy flourishes** and citizens get the fruits of good governance **only when most decisions are taken closest to the people**. Such a people-centred governance process not only **enhances participation and legitimacy** of our political system, but also ensures **greater effectiveness in delivery of services** and accountable governance.

Three **basic issues need to be addressed** while empowering local governments.

**First**, democratic institutions need careful nurturing, abundant patience, and institutional designs that maximise the benefits and ensure constant self-correction.

**Second**, transfer of power in any form is painful and difficult. Local governments are only now taking roots. The states should be enabled to discover a new and vital role, even as local governments become stronger and more vibrant. Political, economic and legal **transformation in the role of states vis-à-vis local governments is critical**.

**Third**, local government empowerment must **ensure continuity and accountability**. There cannot be a wholesale extinction of existing institutions and negation of current practices overnight. A careful transition and utilisation of the strengths of the present arrangements are important.

*Equally, decentralised power should lead to greater efficacy and accountability, not merely decentralised corruption and harassment.*

India is ready for a fundamental governance transformation, and empowered, citizen-centric, accountable local governments are at the heart of this transformation.



# CAPACITY BUILDING FOR CONFLICT RESOLUTION: FRICTION TO FUSION

07

7.1 Introduction	7.2 Conflict Resolution - A Conceptual Framework
7.3 Typology of Conflicts	7.4 Recommendations of Administrative Reforms Commission towards Capacity Building for Conflict Resolution
7.5 Institutional Arrangement for Conflict Resolution	7.6 Conclusion

## 7.1 Introduction

Conflict is as much an **internal process** of the human mind when it **evaluates the pros and cons** of a decision, as it is a part of the **individual's daily interaction with others in society**.

The **maturity of a society is measured not so much by the absence of conflict** in it as the **ability of its institutions and procedures for resolving it**. The **more broad based and impartial this mechanism, the less is the likelihood of discontent and disaffection** festering in it. The State with its organised **judiciary is the final arbiter** of all conflicts, but there always exist **traditional means** of settling matters at the **level of the family and the community** and most issues do get resolved at these levels.

It is only **through mutual understanding, mutual respect and the processes of dialogue that genuine grievances can be removed** and the miasma of misperceptions dissipated. Conflicts and differences cannot be removed by Government decrees nor can the energy of diverse elements be channelized towards nation building except through the means and methods available within a democratic framework.

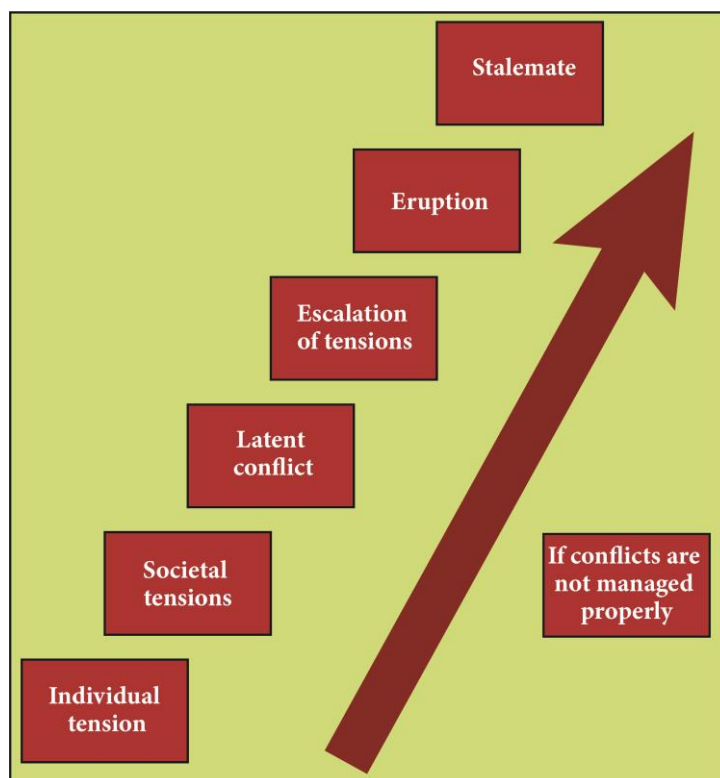
In the last few decades, conflicts have arisen in our country from multiple **causes such as caste and tribal issues, religion, regional disparities, poverty, land and water**, just to name a few.

## 7.2 Conflict Resolution - A Conceptual Framework

Conflict has been defined as a **situation between two or more parties who see their perspectives as incompatible**. Conflicts have a negative beneficial connotation, but **some conflicts are desirable as they can create change**.

### 7.2.1 Stages of Conflicts

A conflict is not a single-event phenomenon but is a **dynamic process** having different stages. The **objectives** of the parties involved, their **approaches**, the **intensity** levels, the **likely** damage etc. all **change between the various phases** of a conflict's life cycle. Therefore an optimum conflict management strategy differs from stage to stage.



Source: 2nd ARC REPORT

Stages of Conflicts	
<b>Individual and Societal Tension</b>	Such tensions are <b>created whenever an individual or a group feels that he/it has been wronged</b> or has not got what was due. Such tensions may also arise due to <b>historical socio-economic inequalities, poor governance</b> .
<b>Latent Conflict</b>	Tensions lead to a <b>feeling of injustice</b> and give rise to simmering discontent. However, <b>at this stage</b> , these tensions may manifest themselves in the <b>form of requests to authorities</b> , etc. From the point of view of the Administration, this is the <b>most opportune time for managing a conflict</b> or rather preventing a conflict. However, as the Administration is preoccupied with fire fighting measures, the <b>early symptoms of latent conflict are often overlooked</b> .
<b>Escalation of Tensions</b>	Unattended grievances, overlooked concerns, <b>neglected tensions by the Administration</b> lead to further aggravation of the discontent. The <b>stand taken by the opposing parties begins to harden</b> . Half hearted attempts in this phase prove to be of little help. The parties involved express their feelings through <b>more aggressive methods</b> such as demonstrations, processions, strikes, bandhs and the like.
<b>Eruption</b>	Tensions if not managed properly lead to a situation where a small spark leads to an eruption of <b>violence</b> . The trigger may by itself not be a major event, but it <b>leads to further polarisation</b> of the people involved, and becomes an excuse for the violent eruption. <b>Normally the Administration swings into action at this stage</b> and tries to control the violence. It has been observed that even after the violence has been contained, <i>adequate efforts are often not made to address the root causes of the conflict</i> .
<b>Stalemate</b>	This is a situation similar to the latent tension and has the <b>potential to erupt at regular intervals</b> .

While **lack of governmental interventions or inept handling of the situation would tend to push the emergent situation to the next stage** of conflict, appropriate and timely measures would in most cases lead to resolution of the conflict situation. What is important to recognise in the above context is that **once a stalemate situation is reached**, the conflict may **enter a cyclical phase, leading to recurrent escalations and eruptions**. Such an eventuality would **require a more complex and multi-pronged approach** to salvage the situation, including taking recourse to negotiations and settlement, resulting in de escalation of tensions and initiation of post conflict confidence building peace process.

In India, by the end of the last century, tendencies bordering on **intolerance have grown** and various groups have shown an increasing predilection for resorting to violence often at the slightest provocation.

### 7.2.2 Conflict Resolution and Indian Constitution

In India after the **violence following partition**, the process of **conflict resolution started with the integration of the princely states**, which was achieved through remarkably peaceful means, considering the magnitude and dimension of the problem. The **drafting of the constitution**, which followed, and the way it was debated, drafted and finally adopted makes it *one of the finest examples of conflict resolution*.

The **Constitution opted for the democratic process and adult franchise**. It has been aptly observed that this was the **best possible choice because the experience of large multi ethnic States** around the world has shown that democracy is one of the most potent instruments for containing and moderating conflict. The Constitution by providing for pluralism, federalism with a strong Union and for economic and social upliftment of the underprivileged sections of society, created the space for diverse groups in the country to acquire a stake in the process of Nation building.

There are certain **features of the Constitution** that highlight the humanistic approach

- Article 30 of the Constitution enshrines the **right of minorities** based on religion to establish and administer their **own educational institutions**, in general.
- Article 25 the rights to **freedom of conscience** and free profession, practice and propagation of religion.
- Article 26 freedom to manage religious affairs.
- Article 29 the rights provided to any section of citizens **to conserve their language, script or culture**.
- Another conflict resolution measure in the Constitution was the **provision for amendments in keeping with the changing times** and the enshrinement of **affirmative action in favour of the traditionally disadvantaged sections** of society. Provisions for creation of institutions for resolving conflicts, for example, water disputes, disputes between States etc.
- Powerful and **independent judiciary**.

### 7.2.3 History of Conflict Resolution in India

#### Linguistic Conflicts

The **formation of linguistic States** and evolution of the **three language formula** succeeded in deepening and **consolidating the unity of the country**. The continuance of a common language has provided the basis for administrative unity and efficiency within the State.

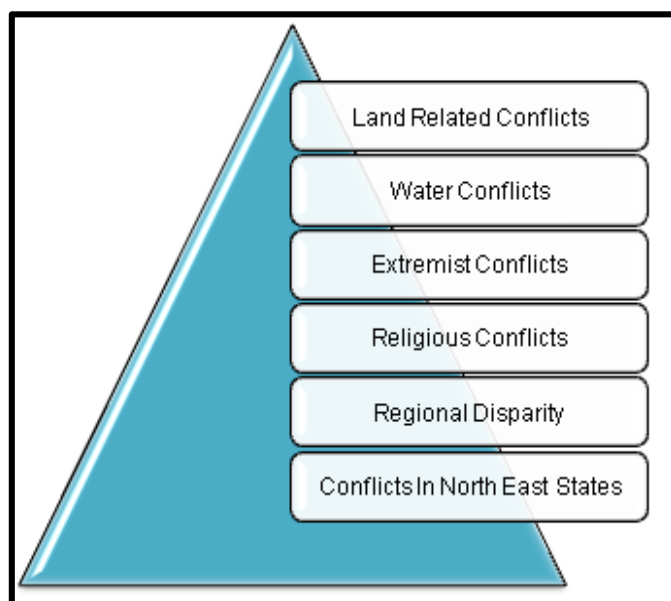
#### Ethnic Conflicts

The three **major movements for secession** in independent India, namely those in **Nagaland**, in **Punjab** in the 1980s, and in **Kashmir**, were **organised around the issue of historical ethnicity, religion and territory** and not around language.

#### Sectarian Conflicts

The quest for a **separate Sikh identity** manifested itself, after Partition, in their **demand for a separate State** in India. Even after the formation of a separate state of Punjab, some related issues remained **unresolved** pertaining inter alia to their demand for **Chandigarh as the State capital, sharing of river waters** etc.

## 7.2.4 Conflicts which are Still Not Resolved



### 7.2.4.1 Left Wing Extremism

Also known as the Naxalite movement, started in March 1967 in the three police station areas (Naxalbari, Khoribari and Phansidewa) of Darjeeling district in West Bengal.

While the **goal** of the left extremists was to actualise **their own vision of the State through revolution**, they chose to usher that revolution **by enlisting the support of the deprived and exploited sections** of society particularly in areas where such sections constituted a significant part of the population. It is, therefore, necessary to identify the reasons for such deprivation and consequent discontent.

#### Causes for Spread of Left Wing Extremism:

<b>Land Related Factors</b>	<ul style="list-style-type: none"> <li>• <b>Evasion of land ceiling laws.</b></li> <li>• Existence of special land tenures (enjoying exemptions under ceiling laws).</li> <li>• Encroachment and occupation of Government and community lands (even the water-bodies) by powerful sections of society.</li> <li>• Lack of title to public land cultivated by the landless poor.</li> <li>• <b>Poor implementation of laws prohibiting transfer of tribal land to non-tribals</b> in the Fifth Schedule areas.</li> <li>• Non-regularisation of <b>traditional land rights.</b></li> </ul>
<b>Displacement and Forced Eviction</b>	<ul style="list-style-type: none"> <li>• Eviction from lands traditionally used by tribals.</li> <li>• Displacements <b>caused by irrigation and power projects</b> without adequate arrangements for rehabilitation.</li> <li>• Large scale land acquisition for public purposes without appropriate compensation or rehabilitation.</li> </ul>
<b>Livelihood Related Causes</b>	<ul style="list-style-type: none"> <li>• Lack of food security: corruption in the Public Distribution System (which are often non-functional).</li> <li>• <b>Disruption of traditional occupations</b> and lack of alternative work opportunities.</li> <li>• Deprivation of traditional rights in common property resources.</li> </ul>

<b>Social Exclusion</b>	<ul style="list-style-type: none"> <li>• Denial of dignity.</li> <li>• Continued practice, in some areas, of <b>untouchability in various forms.</b></li> <li>• <b>Poor implementation of special laws on prevention of atrocities,</b> protection of civil rights and abolition of bonded labour etc.</li> </ul>
<b>Governance Related Factors</b>	<ul style="list-style-type: none"> <li>• Corruption and poor provision/non-provision of <b>essential public services including primary health care and education.</b></li> <li>• Incompetent, ill-trained and poorly motivated public personnel who are mostly absent from their place of posting.</li> <li>• <b>Misuse of powers by the police</b> and violations of the norms of law.</li> <li>• Perversion of electoral politics and unsatisfactory working of local government institutions.</li> </ul>

It may be highlighted again that **these causes are most glaring in forest areas** predominantly inhabited by **tribal populations** who thus become the **main instruments and victims of left extremist violence.**

#### Recommendations of administrative Reforms Commission to manage left wing Extremism:

A long-term (10-year) and short-term (5-year) <b>Programme of Action based on the 14-Point Strategy announced in Parliament</b> may be formulated by the Union Government in consultation with the concerned State Governments to identify State specific action to be taken to implement the Strategy.	While agreeing with the spirit of the 14-Point Strategy, <b>negotiations with the extremist outfits</b> should be an important mode of conflict resolution.	There is a strong case for back to the basics in the matter of administrative monitoring and supervision. The system of <b>periodic official inspections and review</b> of organisational performances needs to be revitalised. It must be recognised that a major reason for such practices falling in disuse in disturbed areas is the apprehension of senior functionaries about their personal safety while on tour. It is advisable that the need to provide suitable security to the senior administrative and technical officers while on tour, is taken into account in working out requirements for security forces in areas affected by serious violence.
There is a need to <b>enhance the capacity of the security forces</b> to act effectively and firmly, but in conformity with constitutional bounds; it is necessary that standard operational procedures and protocols are laid down in specific terms and detail.	Training and reorientation including <b>sensitising the police and paramilitary personnel</b> to the root causes of the disturbances that they are seeking to curb, are necessary	<b>Formation of trained special task forces on the pattern of the Greyhounds in Andhra Pradesh</b> should be an important element of the strategy to build capacity in the police machinery for tackling left extremism.
Establishing and strengthening local level police stations, adequately <b>staffed by local recruits</b> , in the extremist affected regions should be an important component of the	For <b>effective implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Rights) Act, 2006</b> , multi-disciplinary Oversight	Special efforts are needed to monitor the implementation of constitutional and statutory safeguards, development schemes and land reforms initiatives for containing discontent among sections vulnerable to the propaganda of violent left extremism.

policing strategy for tackling left extremism.	Committees may be constituted to ensure that the implementation of this ameliorative legislation does not adversely affect the local ecosystems.	
To facilitate locally relevant development adequate flexibility may be provided to implementing agencies in the affected areas as regards centrally sponsored and other schemes, so as to enable them to introduce suitable changes based on local requirements.	The <b>nexus between illegal mining/forest contractors and transporters and extremists</b> which provides the financial support for the extremist movement <b>needs to be broken</b> . To achieve this, a special anti-extortion and anti-money laundering cell should be established by the State police/State Government.	For implementing large infrastructure projects, particularly road networks, that are strongly opposed by the extremists or are used to extort funds from local contractors, the <b>use of specialised Government agencies like the Border Roads Organisation</b> in place of contractors may be considered as a temporary measure.

#### 7.2.4.2 Land Related Conflicts

**Ceiling on agricultural holdings has had limited success in granting landless labourers and small and marginal farmers access to land ownership.** The benefits of consolidation of land holdings visible in a few States appear to have petered out as is evident from the stagnation in agricultural production and renewed agricultural land fragmentation.

Clearly, **land is at the heart of the crisis** being faced by our agrarian communities and the issue has the potential of precipitating major conflicts. Similarly, the imperatives of a buoyant economy create parallel demands for land, generating its own tensions in a country where the **share of agriculture in the GDP may have shrunk** from around 60% in 1951 to 27% in 2002-03 but where **more than 67% of population continues to be dependent on agriculture**. The demand for land for non-agricultural use including development projects and the growing impulse to urbanise, create further scope for conflicts.

#### Major Causes of Land Related Conflicts:

- **Agrarian and Landholding Issues-** Apart from being uneconomical, small and marginal holders are particularly vulnerable to uncertainties of weather, market fluctuations and even moderate increases in inputs costs etc . In short, small and marginal farmers and even the small medium farmers (holdings of 2-4 Ha) are in the throes of one crisis or the other all the time. Along with it low investments in agriculture, debt burden on farmers, declining productivity of land etc. all aggravate the problems.
- **Displacement-** Although the **land acquisition laws provide for a reasonable compensation** to be paid to the land losers. But generally the compensation so paid is inadequate because the **evaluation** of the market value of land is based on techniques which **do not reflect the actual value of the land** to the land loser.
- **Rehabilitation-** A closely associated issue with displacement is the rehabilitation of persons who have lost their land, and consequently their livelihood.
- **Land Records-** The unsatisfactory **state of land records** is a major source of dispute between individuals as also between individuals and the government. Such disputes sometimes take a violent turn.

**Recommendations of Administrative Reforms Commission for Resolution of land related issues:**

<p>The steps to be taken to alleviate the distress in the agrarian sector are:</p>	<ul style="list-style-type: none"> <li>• Provide renewed impetus to land reform measures like <b>redistribution of surplus land, vesting title in tenants and carrying forward consolidation of land holdings</b> etc for maintaining and promoting the sustainability of agriculture.</li> <li>• In order to provide adequate and timely facilities to farmers, there is a need to augment the banking system in the rural areas and make them more responsive to the farmer' needs.</li> <li>• Redesign poverty alleviation programmes to make them more relevant to the needs of small and marginal farmers.</li> <li>• <b>Step up public investment</b> in order to expand non-farm and off farm activities <b>to provide alternative livelihood opportunities</b> for the poorer farmers within rural areas.</li> <li>• Introduce measures to encourage formation of 'Self Help Groups' (SHGs) to improve access to credit and marketing and empower the disadvantaged.</li> <li>• Diversify risk coverage measures such as <b>weather insurance schemes and price support mechanisms.</b></li> </ul>
<p>New Law For Land Acquisition</p>	<p>A new legislation for land acquisition <b>incorporating the principles laid down in the revised national rehabilitation policy</b> needs to be enacted. The recently announced national policy on rehabilitation of project affected persons should be implemented forthwith <b>for all ongoing projects as well as those in the pipeline.</b></p>
<p>There is need to amend the present approach to Special Economic Zones (SEZs)</p>	<ul style="list-style-type: none"> <li>• In establishing SEZs, <b>use of prime agricultural land should be avoided.</b></li> <li>• The number of SEZs should be limited, with a <b>larger minimum size</b> with locations preferably in backward areas so that they act as nuclei for economic growth.</li> <li>• SEZs promoted by farmers themselves should be encouraged.</li> <li>• The livelihood of the displaced should be a major concern of the SEZ policy.</li> <li>• The SEZ regulations should clearly allocate social responsibility of rehabilitation to entrepreneurs seeking to establish SEZs. This should include provision for water, sanitation, health facilities, and vocational training centres.</li> <li>• The proportion of land that is permitted to be used by the promoters of SEZs for non-processing activities should be kept to a minimum and this should be ensured at the time of approval of their plans. <b>The existing ratio between processing and non-processing activities needs to be re-examined</b> in order to maximize the proportion of land put to productive use. Also strict adherence to environmental regulations should be ensured.</li> <li>• Comprehensive land use plans should be prepared and finalised after wide public consultations. Industrial activities in SEZs should be located only in areas earmarked for the purpose in the land use plans.</li> <li>• The extremely liberal <b>tax holidays</b> provided both to export units and to developers require <b>reconsideration.</b></li> </ul>

### 7.2.4.3 Water Related Issues

#### Inter-State Water Disputes

The Union Government has not been able to act decisively and has generally taken a minimalist attitude when it comes to resolution of water related conflicts. The time lost in **delays** due to wrangling both before and during **tribunal proceedings** is very costly, in terms of loss of production, loss of farmers' income growth and the rising cost of constructing irrigation systems.

Increasingly, **States are becoming resistant to compliance with Awards of tribunals** in spite of express provisions in the constitution regarding the finality of such awards. Another lesson is that a **long time is taken to constitute tribunals** and giving awards and in pronouncements of interim Awards that have led to further complications. After an Award is given, there are **problems of interpretation and implementation** and there is **no mechanism to enforce the binding character of such Awards**. Although courts are barred from reviewing the Awards of the tribunals, the matters are still taken to the Supreme Court on related issues. The questions raised before the Supreme court are usually not so much on the subject of allocation of waters, but on **questions of its sharing during years of poor rainfall** and on those relating to environmental aspects, displacement and rehabilitation.

#### Water Use Efficiency and Conservation

As a result of expansion of economic activities, **average availability of water is likely to fall below the water-stress level** in the near future and given the wide variation across the country, water-stress conditions already exist in many parts. Under the circumstances, there is a **need for much greater efficiency in the use of water** and a greater public awareness on the criticality of water conservation.

#### Problems of Water Resources and National Water Resource Council

India has **failed to develop its water resources through integrated river basin development**, and internecine conflicts over rivers between States have become common and contentious. The **National Water Resource Council** has been stipulated to deal with issues of effective development of water resources but has **failed to do so**. Moreover, the council is supposed to **meet once a year, but this does not often happen**. As far as coordination of river basin planning and management and effective water use are concerned, **the council has not had much impact**.

#### Recommendations of Administrative Reforms Commission towards effective water management:

<p><b>National Water Law</b></p> <p>The commission would <b>recommend</b> that a National Water Law that keeps in view the interests and needs of the States should be enacted. It is necessary that the law, at the minimum, should incorporate the following:</p> <ul style="list-style-type: none"><li>• The national water law should be subject to and consistent with the constitution in all matters including the determination of public interest and the rights and obligations of all parties with regard to water.</li><li>• The use of all water, irrespective of where it occurs in the water cycle, should be subject to regulation by prescribed bodies.</li><li>• <b>The location of water resources in relation to land shall not in itself confer preferential rights to usage.</b></li><li>• The unity of the water cycle and the inter-dependence of its elements where evaporation, clouds and rainfall are linked to groundwater, rivers, waterbodies,</li></ul>	<p>The Union Government needs to be more <b>proactive and decisive in cases of inter-State river disputes</b> and act with the promptness and sustained attention that such disputes demand.</p>
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<p>wetlands and the sea, and where the basic hydrological unit is the catchment, needs to be recognised.</p> <ul style="list-style-type: none"> <li>• <b>Resource planning should be done for a hydrological unit</b> such as a drainage unit as a whole or for a sub-basin. All projects and proposals should be formulated and considered within the framework of such an overall plan for a basin or sub-basin so that the best possible combination of options can be made.</li> <li>• Subject to the provisions of the constitution and relevant laws, responsibility for the development, apportionment and management of available water resources will vest with the basin or regional level in such a manner as to enable the interested parties to participate fully.</li> <li>• Water required to ensure that everyone has access to sufficient drinking water should be reserved. The <b>quantity, quality and reliability of water required to maintain the ecological functions</b> on which human beings depend should also be reserved so that the use of water by humans does not individually or cumulatively compromise the long term sustainability of ecosystems.</li> <li>• Provision should be made for the establishment of one or more regulatory bodies to ensure the implementation of the proposed law.</li> <li>• There should be a standardised <b>national information system</b> with a network of <b>data banks</b> and databases integrating and strengthening the central, state and basin-level agencies and improving the quality of data and the processing capabilities.</li> </ul>	
<p>Since <b>Article 262</b> of the Constitution provides that neither the Supreme Court nor any other Court shall exercise jurisdiction in respect of inter-State river disputes, it is necessary that the <b>spirit behind this provision is fully appreciated.</b></p>	<p><b>River Basin Organisations (RBOs) should be set up for each inter-State river</b>, as proposed by the Report of the National Commission for Integrated Water Resources Development, 1999 by <b>enacting a legislation to replace the River Boards Act, 1956.</b></p>
<p>The Chairmen of all the River Basin Organisations, as and when formed, should be made members of the National Water Resources Council.</p>	<p>The Council and its secretariat should be more proactive, suggest institutional and legislative reforms in detail, devise modalities for resolving inter-State water conflicts, and advice on procedures, administrative arrangements and regulation of use of resources by different beneficiaries keeping in view their optimum development and ensuring maximum benefits to the people.</p>

#### 7.2.4.4 Issues Related to Scheduled Castes

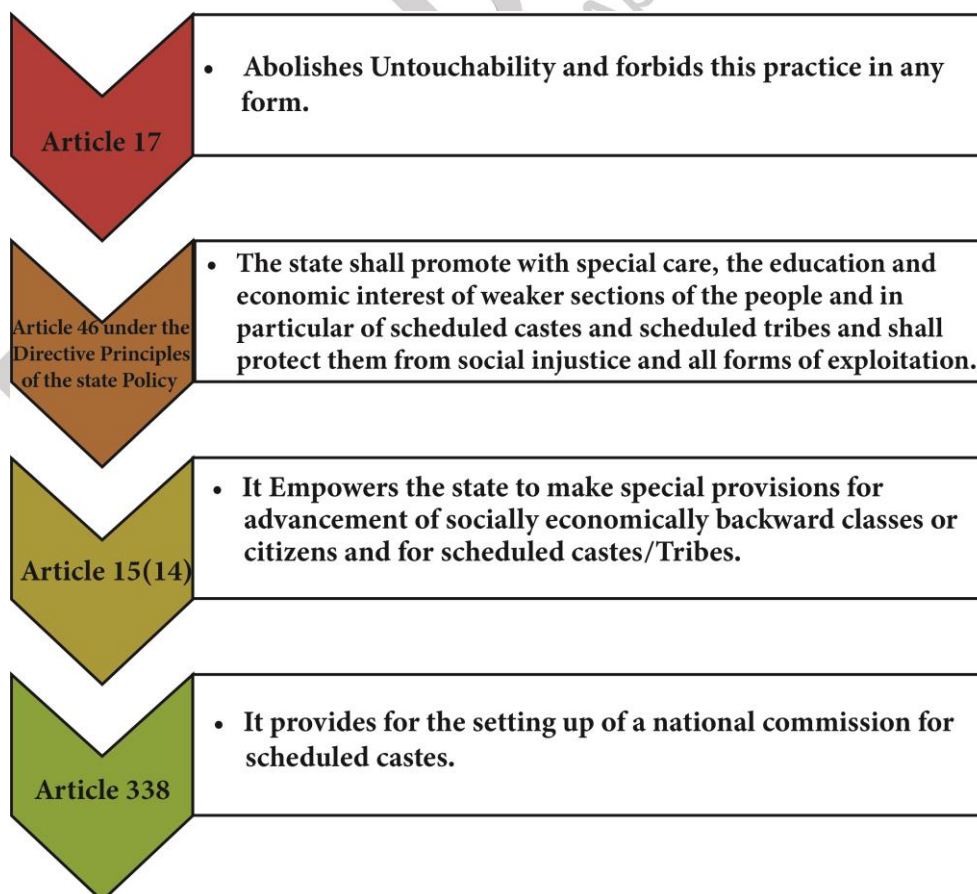
India has a long **history of injustices** that have been meted out to Scheduled CASTES at the hands of Society. The members of the Scheduled castes are among the **poorest** in the country and also, the most **discriminated** against. This discrimination often manifests itself in the **form of socio-economic exploitation, denial of civil rights, social ostracism and even violence** against them which sometimes assumes brutal proportions in the form of massacres, rape, burning of colonies etc.

It has been found that **even after wide encompassing provisions comprising Constitutional, Legislative and Institutional Framework** for the protection of their rights, several instances of **exploitation and denial of their due rights have come to light** in recent years.

#### Constitutional Safeguards for Scheduled Castes

The scheme of the Constitution to safeguard the interests of the weaker sections of society reflects a **three pronged strategy** for changing the status of Scheduled Castes and the Scheduled Tribes based on the traditional social order. This consists of:

- **Protection:** Legal/Regulatory measures for enforcing equality and removing disabilities. Providing strong **punitive action against physical violence** inflicted on them. Eliminating customary arrangements which deeply hurt their dignity and person, preventing control over fruits of their labour and striking at concentration of economic assets and resources and setting up autonomous watchdog institutions to safeguard their interests, rights and the benefits guaranteed to them.
- **Compensatory discrimination:** Enforcement of **reservation** provisions in public services, representative bodies and educational institutions.
- **Development:** Measures to bridge the wide gap between the Scheduled Castes and other communities in their economic conditions and social status, covering allocation of resources and distribution of benefits.



### Legislative Framework

- In order to enforce **Article 17** of the Constitution, within five years of adoption of the Constitution, the Untouchability (Offences) Act, 1955 was enacted by Parliament. Subsequently, to enlarge its scope, the Act was revised in November 1976 and renamed as the **Protection of Civil Rights Act, 1955**.
- Further, to check and deter crimes against the Scheduled Castes and Scheduled Tribes, the **Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** was brought into force with effect from 30th January, 1990.

**Apart from the above mentioned legislations dealing specifically with the practice of untouchability, other social legislations were also enacted post-Independence. Some of these are:**

- Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.
  - Bonded Labour System (Abolition) Act, 1976.
  - The Minimum Wages Act, 1948.
  - Equal Remuneration Act, 1976.
  - Child Labour (Prohibition and Regulation Act, 1986.
  - Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
- Besides, the States also have brought in Land Reforms Laws, Debt Relief Legislations and laws to deal with special problems and practices (for eg. Abolition of the Devadasi system).

### Institutional Framework

National Commission For Scheduled Castes	National Commission For Safai Karamchari
<p>The Constitution earlier provided for appointment of a Special Officer under <b>Article 338</b> to investigate matters relating to the safeguards provided for Scheduled Castes and the Scheduled Tribes. This Office was subsequently designated as Commissioner for Scheduled Castes and Scheduled Tribes. In 1978, a multi-member Commission known as the Commission for Scheduled Castes (SCs) and Scheduled Tribes (STs) was constituted.</p>	<p>The National Commission for Safai Karamcharis was constituted in August 1994, through an Act of Parliament, namely the National Commission for Safai Karamcharis Act, 1993 initially for a period of three years. It is not a permanent Commission but its tenure has been extended from time to time.</p> <p>It consists of a Chairperson, a Vice-Chairperson and five members all nominated by the Union Government.</p> <p>At least one member is a woman. The Commission is serviced by a Secretariat headed by a Secretary.</p> <p>Its function is to oversee the laws and programmes relating to Safai Karamcharis and particularly regarding abolition of manual scavenging and for improvement of conditions of those engaged in this activity.</p> <p>The Union Government is required to <b>consult the National Commission on all policy matters affecting Safai Karamcharis.</b></p>

Besides, the **Human Rights Commission**, established under the Human Rights Act, 1993 also intervenes in complaints of exploitation of the Scheduled Castes and Scheduled Tribes as these are gross violations of human rights. The **National Commission for Women** established under the National Commission for Women Act, 1990 takes up complaints of injustice to women referred to it for redressal irrespective of caste. It therefore looks into complaints pertaining to women belonging to the Scheduled Castes as well.

### Evaluation of Safeguards Provided To Scheduled Castes:

- Despite the number of cases registered under the Prevention of Atrocities Act, the **rate of conviction has been low.**
- Several studies have confirmed that the abhorrent **practice of untouchability still persists.** Studies have also highlighted cases of reluctance and **negligence on the part of the law enforcement machinery.**
- The National commission for Scheduled castes in a special report have stated that ignorance of law, fear of reprisals and lack of faith in the enforcement system, often compel victims to acquiesce in the existing unjust situation. Also because of protracted trials, witnesses become reluctant to testify against powerful elements.
- In case of Institutional framework, the National Human Rights Commission has analysed the effectiveness of the above mentioned watchdog institutions and has concluded that these institutions are handicapped because of the very **large number of complaints received, their limited capacity to deal** with these complaints and also due to the **absence of adequate field staff.**
- The National commission for Scheduled Castes feels there is an urgent need to look into the issue and empower the commission by giving it more powers under the constitution, to ensure the implementation of its recommendations.
- There have been several instances of **nonacceptance of recommendations Of National Commission of Scheduled Castes.**
- State Governments routinely send monthly, quarterly and annual reports of atrocity cases, but these reports often reach the union Government agencies too late for any effective action to be taken.

### Recommendations of Administrative Reforms Commission towards strengthening the framework for protection of Scheduled Castes:

Government should adopt a multi-pronged administrative strategy to ensure that the Constitutional, legal and administrative provisions made to end discrimination against the Scheduled Castes are implemented in letter and spirit.	To ensure <b>speedy disposal of discrimination cases</b> pending in subordinate courts, an internal mechanism may be set up under the control of the High Court Administrative Judge to review such cases.
There is need to place a positive duty on public authorities for promotion of social and communal harmony and prevention of discrimination against the Scheduled Castes and Scheduled Tribes.	There is need for engaging <b>independent agencies to carry out field surveys</b> to identify cases of social discrimination.
There is need to <b>spread awareness about the laws and the measures to punish discrimination and atrocities.</b> It is necessary to launch well-targeted awareness campaigns in areas where the awareness levels are low. The District Administration should organise independent surveys to identify 'vulnerable areas'.	The administration and the police should be sensitised towards the special problems of the Scheduled Castes and Scheduled Tribes. They should also play a more proactive role in detection and investigation of crimes against the weaker sections. Appropriate <b>training programmes</b> would help in the <b>sensitising process.</b>
Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the weaker sections should not be downplayed for fear of further disturbances or retribution.	The Administration should focus on the <b>rehabilitation of the victims</b> and provide all required support to them including counselling
As far as possible the <b>deployment of police personnel in police stations</b> with a significant proportion of SCs and STs should be <b>in proportion to the population of such communities.</b> The same	A statutory duty may be cast on all public authorities to promote equality and actively check social discrimination.

principle should be followed in cases of localities having substantial proportion of linguistic and religious minorities.	
The <b>corporate sector and NGOs need to be involved</b> in complementing the efforts of government for the development of the Scheduled Castes. Such voluntary action should not only be directed towards economic and social empowerment of the SCs, but also towards enabling them to raise their voice against atrocities, discrimination and exploitation.	The local governments - municipalities and panchayats - should be actively involved in various programmes concerned with effective enforcement of various social legislations
It would be desirable to <b>introduce a system of incentives</b> wherein efforts made by these officials in detecting and successfully prosecuting cases of discrimination/atrocities against the Scheduled Castes are suitably acknowledged.	

#### 7.2.4.5 Issues Related to Scheduled Tribes

The Total population of Scheduled Tribes is around 10% of the total population. Of these there are identified 75 Particularly Vulnerable Tribal Groups. However, the **Human Development Indices (HDI) of the ST population are much lower than the rest of the population** in terms of all parameters such as education, health, income, etc. Further, the gap in the infrastructure in the tribal areas vis-à-vis the rest of the areas is widening at a much faster rate.

Social inequalities of the tribal population are manifested in various **forms of exploitation such as bondage, forced labour and indebtedness**. They are also exploited by merchants, money lenders and forest contractors.

#### Social Justice

Despite the stringent provisions under the SC/ST Prevention of Atrocities Act, 1989, there are issues of **delayed disposal of cases, poor rate of conviction, instances of botched up investigation** among others.

#### Panchayat Extension to Scheduled Areas Act (PESA, 1996)

A comparative analysis of PESA and the legislations enacted by the States on this subject reveals that the **provisions of PESA have been highly diluted** in the process of ratification by the States and most of the **powers of the Gram Sabha have been given to the district administration or to the zilla Parishad**. The main objective in enacting PESA was to enable the tribal society to assume control over livelihoods, have a say in management of natural resources and to protect the traditional culture and rights of the tribals. The information available indicates that the main objective of PESA has been diluted to the detriment of the tribal population. Critical issues such as **access to natural resources, especially the definition and rights over minor forest products remain unresolved** and, in general, the objectives of PESA have not been realized in any serious manner in any of the states with a large tribal population.

#### Displacement

Tribals have been displaced in large numbers on account of various large **development projects** like irrigation **dams, hydro-electric and thermal power plants, coal mines** and mineral-based industries. A National Policy on Relief and Rehabilitation of Project Affected Families (PAFs) was notified in February, 2004 with a relief package of seventeen parameters to be fulfilled before permitting dislocation. Thereafter, the Government of India, in October, 2007 **approved a new National Policy for Rehabilitation and Resettlement** but serious work on Project Affected Families (PAFs) is yet to start in tribal areas.

Tribals are **alienated** from their lands not only by acquisition of land for public purposes, but also by **fraudulent transfers, forcible eviction, mortgages, leases and encroachment**.

### Lack of Harmony in Implementation of Laws and Policies

No integrative exercise has so far been undertaken to **examine the relevance of different central laws to these Fifth Schedule Areas and to harmonise them with the aims and objectives of PESA**.

Among the laws which warrant **particular attention are the land Acquisition Act, 1894, the Mines and Minerals (Development and Regulation) Act, 1957, the Indian Forest Act, 1927, the Forest conservation Act, 1980 and the Indian Registration Act**. In so far as policies and CSSs/central Schemes are concerned, policies pertaining to wastelands, water resources and extraction of minerals from lands in Fifth Schedule Areas **do not seem to reflect the intent and purpose of PESA**. These policies, as interpreted and implemented, have given rise at times, to **confrontation between the tribal people and the Administration**.

### Capacity Building

The **main problem**, while dealing with conflicts concerning the tribal population is that the existing constitutional **provisions and laws designed to protect them are not optimally used**. In certain areas, the State has been perceived to be tardy and insensitive in protecting the interests of the tribals and the situation is further aggravated by the absence of government functionaries at their place of posting. A significant section of the tribal population has gradually been **weaned away from the mainstream by the extremists**. Tribal populations have been antagonised by the manner in which they have been alienated from their land and forests by the enforcement agencies.

### Tribal Policy

There is **no clear national tribal policy** laying down the direction and imperatives for tribal development.

### Conflicts Related To Inclusion in List of Scheduled Tribes

There have been **agitations**, sometimes violent by certain groups, while laying their claims for inclusion in the list of Scheduled Tribes. The agitation by **Gujjars** in Rajasthan, and a few groups in Assam are some recent examples of such conflicts.

### Recommendations of Administrative Reforms Commission towards Resolution of Tribal Issues:

While all States in the Fifth Schedule Area have enacted compliance legislations vis-a-vis <b>PESA, their provisions have been diluted</b> by giving the power of the Gram Sabha to other bodies. Subject matter laws and rules in respect of money lending, forest, mining and excise have not also been amended. This needs to be done	<b>Awareness campaigns</b> should be organised in order to make the tribal population aware of the provisions of PESA and the 73rd amendment to the Constitution so as to demand accountability in cases in which the final decisions are contrary to the decisions of the Gram Sabha or Panchayat.	There should be a complete overhaul and systematic re-organisation of existing <b>land records with free access to information about land holdings</b> .
There is a <b>need to harmonise the various legislations and government policies</b> being implemented in tribal areas with the provisions of PESA.	<b>Mining laws</b> applicable to Scheduled Tribal Areas should be in <b>conformity with the principles of the Fifth and Sixth Schedules of the Constitution</b> .	Government should select such police, revenue and forest officials who have the training and zeal to work in tribal areas and understand as well as empathise with the population they serve.

<p>A <b>national plan of action</b> for comprehensive development which would serve as a road map for the welfare of the tribals should be prepared and implemented.</p>	<p>There should be convergence of regulatory and development programmes in the tribal areas. For this purpose, a decadal development plan should be prepared and implemented in a mission mode with appropriate mechanism for resolution of conflicts and adjustments.</p>	<p>The authorities involved in determining the inclusion and exclusion of tribes in the list of Scheduled Tribes should adopt a mechanism of consultation with the major States and those with tribal populations, on the basis of which a comprehensive methodology with clearly defined parameters is arrived at.</p>
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#### 7.2.4.6 Religious Conflicts and Challenges

The **Preamble** to our constitution clearly declares the intention to secure to all citizens '**liberty of thought, expression, belief, faith and worship**'.

There are several **provisions** in our **Constitution** that facilitate religious harmony such as;

- Article 25 guarantees freedom of conscience and the right to freely profess, practice and propagate religion.
- Article 26 ensures the right to manage religious institutions and religious affairs.
- Article 29 grants the rights to all citizens to conserve their language, script and culture.
- Article 30 provides for the protection of the interests of religious and linguistic minorities by giving them a right to establish and administer educational institutions of their choice and the State has been directed not to discriminate against the institutions of the minorities in the matter of giving aid.
- In addition, Article 350A directs the State to provide facilities for **instruction in the mother tongue at the primary stage in education.**

**After Independence, there have been instances of large-scale communal violence in the country.**

Though a number of communal riots have been dealt with effectively, there have also been many serious **failures on the part of the administration in dealing with communal situations** in a prompt and effective manner. A number of **Commissions of Inquiry** such as the Justice Raghbir Dayal Commission (Ranchi riots, 1967), Justice P Jaganmohan Reddy Commission (Ahmedabad riots, 1969), Justice D.P. Madon Commission (Bhiwandi riots, 1970), Justice Ranganath Misra Commission (Delhi riots, 1984), Justice B N Srikrishna Commission (Bombay riots 1992-93) and also the National Human Rights Commission have gone into the causes of these riots and **analysed the causes and response of the administration and the police in handling them.**

#### Causes of Communalism:

<p><b>Systemic Issues</b></p>	<ul style="list-style-type: none"> <li>• <b>Conflict resolution mechanisms are ineffective;</b></li> <li>• Intelligence gathered is not accurate, timely and actionable;</li> <li>• Bad personnel policies: poor choice of officials and short tenures- lead to inadequate grasp of local conditions.</li> <li>• The administration and the police <b>fail to anticipate</b> and read indicators which precipitated violence</li> <li>• Even after the appearance of first signals, the administration and police are <b>slow to react.</b></li> <li>• Field functionaries tend to seek and <b>wait for instructions</b> from superiors and tend to interfere in local matters undermining local initiative and authority.</li> <li>• The administration and police at times <b>act in a partisan manner;</b></li> <li>• At times there is <b>failure of leadership</b>, even total abdication on the part of those entrusted with the maintenance of public order.</li> </ul>
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<b>Post-Riot Management Deficiency</b>	<ul style="list-style-type: none"> <li>• <b>Rehabilitation is often neglected</b>, breeding resentment and residual anger.</li> <li>• <b>Officials are not held to account for their failures</b>, thus perpetuating slackness and incompetence.</li> </ul>
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**Recommendations of administrative reforms commission towards Resolution of communalism and Religious Conflicts:**

<ul style="list-style-type: none"> <li>• <b>Community Policing should be encouraged</b>; It is defined as an area specific proactive process of working with the community for prevention and detection of crime, maintenance of public order and resolving local conflicts and with the objective of providing a better quality of life and sense of security.</li> <li>• Community policing is a <b>philosophy in which the police and the citizens act as partners in providing security</b> to the community and controlling crime. It involves close working between the two with police taking suggestions from people on the one hand and using the citizens as a first line of defence on the other.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>District Peace Committees/Integration Councils</b> should be made effective instruments of addressing issues likely to cause communal disharmony.</li> <li>• The District Magistrate in consultation with the Superintendent of Police should constitute these committees.</li> <li>• In Police Commissionerates, these committees should be constituted by the Police Commissioner in consultation with the Municipal Commissioner. The committees should be of permanent nature. These committees should identify local problems with a potential to degenerate into communal conflicts and suggest means to deal with them at the earliest.</li> <li>• Further, <b>Mohalla Committees</b> should also be organised on the same lines.</li> </ul>
<ul style="list-style-type: none"> <li>• In conflict prone areas, the police should formulate programmes in which the members of the target population get an opportunity of interacting with the police as a confidence building mechanism.</li> </ul>
<ul style="list-style-type: none"> <li>• A <b>separate law to deal with communal violence is not required</b>. The <b>existing provisions</b> of the Indian Penal Code and the Criminal Procedure Code need to be <b>strengthened</b>. This may be achieved by incorporating provisions for: <ul style="list-style-type: none"> <li>○ <b>Enhanced punishments for communal offences.</b></li> <li>○ Setting up of <b>special courts</b> for expeditious trial of cases related to communal violence.</li> <li>○ Giving powers of remand to Executive Magistrates in cases of communal offences.</li> <li>○ Prescription of norms of relief and rehabilitation.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• For providing relief and rehabilitation to victims of communal violence, the framework provided under the Disaster Management Act, 2005 could be effectively used.</li> </ul>

**7.2.4.7 Challenges of Regional Disparities**

Many regional conflicts are an **outcome of disparities in the development** of a particular region compared to the remaining parts of the country or the State of which that particular region is a part. This **highlights the need for disparities to be tackled** preferably through appropriate interventions, or else, by putting in place suitable safety nets and better governance to avoid situations of conflict and strife.

From the data analysed by the Commission it has been **found that not only have the inequalities between States sharpened, there is also wide disparity between regions**. State-wise data suggests that barring West Bengal, the **Eastern region has lagged behind in growth compared to the West and South**.



Interstate differences are only one aspect of balanced regional development; equally important is the **emergence of large disparities between areas within States** that are otherwise performing well, suffering from severe backwardness.

The analysis of economic and social development in our country at the level of the State does not necessarily capture the varying development strands within a State. Over time, there has been a shift in focus from the State as a whole to the district as the unit. However, it needs to be noted that the districts also encompass fairly large areas and populations with diverse characteristics.

**Governments in the backward States are,, fiscally weak** and, as a result, not in a position to muster adequate resources to fund the huge investments required to catch up with the more developed States and are usually **unable to attract sizable private investment due to poor infrastructure** which cannot be upgraded for want of resources. The challenge, in essence, is to **break this vicious cycle**.

#### Recommendations of Administrative Reforms Commission to tackle Regional Disparities:

<p>A composite criteria for <b>identifying backward areas</b> (with the Block as a unit) <b>based on indicators of human development</b> including poverty, literacy and infant mortality rates, along with indices of social and economic infrastructure, should be developed</p>	<p>Union and State Governments should adopt a formula for Block wise devolution of funds targeted at more backward areas.</p>	<p>Governance needs to be particularly strengthened in more backward areas within a State. The role of special purpose vehicles such as <b>backward area development boards and authorities in reducing intra-State disparities</b> needs to be reviewed. It is advisable to strengthen local governments and make them responsible and accountable.</p>
<p>A system of <b>rewarding States</b> (including developed States) achieving significant <b>reduction in intra-State disparities should be introduced</b>.</p>	<p><b>Additional funds</b> need to be provided to build core infrastructure at the inter-district level <b>in less developed States and backward regions</b> in such States. The quantum of assistance should be made proportionate to the number of people living in such areas.</p>	<p>The approach to all such funding should be outcome driven. The strategy should be to define acceptable minimum norms of human and infrastructure development that every block in the country should attain and funding should be driven by the consideration to achieve the norms so defined.</p>

#### 7.2.4.8 Conflicts in the North East

The constitution makers, **recognising the significant difference in the way of life** and administrative set up of the North Eastern region from the rest of the country, **provided for special institutional arrangements for the tribal areas** in the region, giving them a **high degree of self-governance through autonomous District councils under the Sixth Schedule** of the constitution. Similarly, the gradual **administrative reorganisation of the region with the formation of the States** of Nagaland (1963), Meghalaya (1972), conferring first, status of union territory (1972) and subsequently Statehood (1987) to Arunachal Pradesh and Mizoram and elevation of Manipur and Tripura from Union Territories to States in 1972 **attest to the considerable attention given to reduce conflicts in the region through increased empowerment**.

Following the large scale reorganisation of the region in 1972, a regional body, the **North Eastern Council (NEC) was set up** to provide a forum for inter-State coordination, regional planning and integrated development of the region to avoid intra-regional disparities. The **“look-east” policy** announced by the Government of India envisages the North Eastern region as the centre of a thriving and **integrated economic space linked to the neighbouring countries such as Myanmar and**

**Thailand** by a network of rail, road and communication links criss-crossing the river. The policy tries to leverage the strategic geographical location of the region, with past historical links with South East Asia and its rich natural resources (hydel, gas, power etc.) to transform this region's vast potential into reality.

### Roots of Insurgency in North East Region

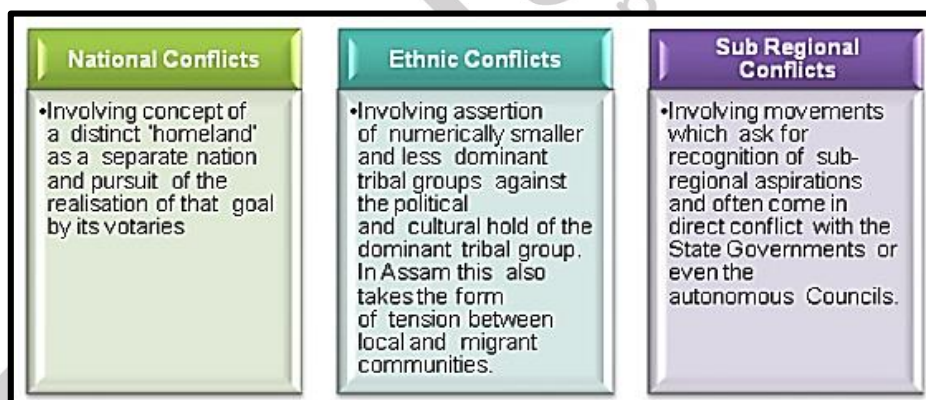
The roots of insurgency in the North Eastern region are **embedded in its geography, history and a host of socio-economic factors.**

- **Ninety-eight percent of the borders of the region are international borders**, pointing to the region's tenuous geographical connectivity with the rest of India.
- While the population share of the region at around 3.90 crores is a mere 3 percent of the national population, its rate of growth has exceeded two hundred per cent between 1951-2001, generating great stress on livelihoods and adding to land fragmentation.
- While, nominally tribals constitute 27 per cent of the population of the entire region minus Assam. It increases to 58 per cent for the remaining States. Percentages, however, do not adequately reflect the extensive diversity in the tribal population of the region which has more than **125 distinct tribal groups**- a diversity not to be seen in States like Jharkhand and Chhattisgarh where tribal populations predominantly.

## 7.3 Typology of Conflicts

Conflicts in the region *range from insurgency for secession to insurgency for autonomy, from 'sponsored terrorism' to ethnic clashes, to conflicts generated as a result of continuous inflow of migrants* from across the borders as well as from other States.

Conflicts in the region can be broadly grouped under the following categories:



### Modes of Conflict Resolution:

The modes of conflict resolution in the North East have been through;

- Security forces/ **police action**;
- More local **autonomy** through mechanisms such as conferment of **Statehood**, the Sixth Schedule, **Article 371 c** of the constitution in case of Manipur and through 'tribe specific accords' in Assam etc;
- **Negotiations** with insurgent outfits; and
- **Development activities** including special economic packages.

However, some of these interventions have had **unintended, deleterious consequences** as well. The manner of resolution of conflicts in certain areas has **led to fresh ones** in others and to a continuous demand cycle. There is, however, no doubt that conflict prevention and resolution in the North East would require a judicious mix of various approaches strengthened by the experience of successes and failures of the past.

## 7.4 Recommendations of Administrative Reforms Commission towards Capacity Building for Conflict Resolution

<p><b>Capacity Building in Administration</b></p>	<ul style="list-style-type: none"> <li>• Greater opportunities may be provided to officers serving in the region <b>to serve outside the North East to gain greater exposure</b> to diverse work situations. Local and technical officers from the State should also be given opportunities to serve in larger States and to improve their professional qualifications through training in the country and abroad.</li> <li>• <b>Incentives available for officers working in the North East should be increased.</b></li> <li>• Regional training institutions for various branches of administration, including the technical services may be operated by the North Eastern Council (NEC).</li> <li>• North East Council (NEC) may initiate discussions with the States to examine the legal implications and feasibility of regional cadres for senior positions in technical and specialised departments under the States.</li> <li>• NEC and the Ministry of Home Affairs may, in collaboration with the States, draw up an agenda for administrative reforms for the region with its implementation being monitored systematically. Satisfactory performance in implementation of this charter may qualify the States to additional funding including special economic packages.</li> </ul>
<p><b>Capacity Building of Police Forces</b></p>	<ul style="list-style-type: none"> <li>• The <b>North Eastern Police Academy (NEPA) needs major upgradation</b> of infrastructure and staff to cater to a larger number of officers at the induction level.</li> <li>• NEPA may also be developed for imparting training to civil police officers from other regions in dealing with insurgency.</li> <li>• Financial and other incentives are necessary for attracting and retaining instructors in the Academy from the Central Police organisations and civil police particularly those with proven track record in counter-insurgency operations.</li> <li>• Concrete steps are needed to introduce a scheme of deploying police personnel from the region to Central Police Organisations and to encourage deputation of police officers from outside the region to the North Eastern States.</li> </ul>
<p><b>Capacity Building of Local Governance Institutions</b></p>	<ul style="list-style-type: none"> <li>• To avoid complaints of less favourable treatment to 'Scheduled Areas' in certain respects, suitable <b>amendment</b> may be made in the <b>Sixth Schedule</b> of the Constitution to enable the Autonomous Councils <b>to benefit from the recommendations of State Finance Commissions and the State Election Commissions</b> provided respectively under Articles 243I and 243K of the Constitution of India.</li> <li>• Ministry of Home Affairs may, in consultation with the concerned State governments and the Autonomous Councils, <b>identify powers under the Sixth Schedule that Governors may exercise at their discretion without having to act on the 'aid and advice' of the Council of Ministers as envisaged in Article 163 (1) of the Constitution.</b></li> </ul>
<p><b>Capacity Building in Regional Institutions</b></p>	<ul style="list-style-type: none"> <li>• The North East Council (NEC) Act, 1971 may be suitably <b>amended to restore the original 'conflict resolution provision'</b> requiring the Council to 'discuss issues of mutual interest to two or more states in the region and to advise the Central Government thereon'.</li> <li>• To enable the Council to assist effectively in the discharge of its</li> </ul>

	<p>responsibilities for reviewing the measures taken by the member States for maintenance of security in the region, Ministry of Home Affairs should keep the Council Secretariat regularly within its 'security coordination loop'.</p> <ul style="list-style-type: none"> <li>• The Council Secretariat would also need to be suitably strengthened to effectively assist in security coordination.</li> <li>• The <b>responsibility</b> of sanctioning funds from the '<b>Non Lapsable Central Pool of Resources</b>' (NLCPR) <b>should be entrusted to the North Eastern Council (NEC)</b>. NEC should work out mechanisms for scrutinising proposals for funding from the 'pool' and their funding in coordination with the Ministries concerned.</li> <li>• It is desirable that a <b>10-year perspective plan</b> is prepared for the entire region encompassing areas like development of human resources and infrastructure. A governance reform agenda should also form part of this plan. This comprehensive plan needs to be reviewed by the Prime Minister regularly with the Chief Ministers for speedy follow-up.</li> <li>• The <b>Ministry for Development of North Eastern Region (DONER)</b> may be <b>abolished</b> and the responsibility for the development of the region, including the infrastructure sectors, and utilisation of the non-lapsable fund should be restored to the subject matter Ministries, with the Ministry of Home Affairs (MHA) acting as the nodal Ministry.</li> </ul>
<p><b>Capacity Building in Other Institutions</b></p>	<ul style="list-style-type: none"> <li>• North East Council (NEC) may prepare a comprehensive <b>scheme for making North East Hill University (NEHU) a centre for advanced study in Sciences, Social Sciences and Humanities</b> to address diverse issues common to the region as a whole.</li> <li>• NEC may also actively coordinate arrangements with the State Governments to make North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (NEIGRIHMS) a centre for tertiary health care particularly for the low income groups in the region.</li> <li>• The <b>Multi-Purpose National ID Card (MNIC) project</b> needs to be taken up on a priority basis. Since there are several Union Government and State Government agencies which issue similar identity cards, it would be necessary to achieve convergence amongst all such systems so that the MNIC becomes the basic document for identification of a person and lends itself to be used as a multi-purpose individual card.</li> <li>• <b>Priority</b> should be given to <b>areas having international borders</b>, for implementation of this Project.</li> </ul>
<p><b>Capacity Building: Miscellaneous Issues</b></p>	<ul style="list-style-type: none"> <li>• The recommendations of the High Level Commission contained in its Report, Transforming the North East and the report of the Task Force on Development Initiatives prepared by the North Eastern Council should be implemented to fill the gaps in infrastructure in the region.</li> <li>• A comprehensive framework needs to be evolved and put in place to <b>promote the region as a preferred investment destination</b>.</li> <li>• A <b>Transport Development Fund</b> to finance construction of important road corridors should be set up.</li> <li>• Comprehensive implementation of a 'look east' policy, though relevant for the country as a whole, is especially important for the long term growth of the North East.</li> <li>• The agenda for its implementation must be prepared in active association with the State Governments. Clear apportionment of responsibility for planning and implementation of the policy between various Ministries of the Union Government for its implementation should be expeditiously undertaken.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Rail connectivity should be improved</b> in the region on a priority basis.</li> <li>• Much greater efforts are needed to <b>establish bank branches</b> and other credit disbursement outlets through further relaxation and incentivisation in the policies of the Reserve Bank and other financial institutions.</li> <li>• There is a need for <b>setting up centres of excellence for professional and higher education in the North East</b>. In addition, a large scale expansion of facilities for technical education, such as Industrial Training Institute (ITI), should be carried out to create a pool of skilled work force and generate entrepreneurial capacity as well as employment.</li> <li>• There is a need to make an <b>in depth study of the customary judicial system</b> in order to achieve better understanding and dissemination of the prevailing norms and practices.</li> <li>• It is necessary to evolve a <b>credible system of maintenance of land records</b> for the North East.</li> </ul>
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## 7.5 Institutional Arrangement for Conflict Resolution

There are **several institutions**, and instrumentalities within the framework of the State **whose mandate it is to deal with potential and actual conflict situations**. Some of these institutions have a **constitutional status** while others were constituted through **statutes or executive orders**. These institutions include those which are **normally the first responders to conflict situations** and also play a role in their subsequent management.

The **process of framing the constitution of India offers an example of successfully harmonising competing interests and nipping in the bud the causes of potential conflicts**. One illustration is the consensus arrived at on the contentious **issue of Official language of the union** by retaining English along with Hindi (Article 343), conceding the preeminence of regional languages in their areas of influence (Article 345) while protecting the interests of other languages in such regions (Article 347). Similarly, on **issues like Inter-State trade and commerce, taxing powers of the union and the States, freedom of religion and citizenship etc**, debates in the Assembly and backroom deliberations of the Drafting committee provide ample evidence of how conflicts were avoided and the **process of give and take** resulted in durable solutions to problems that appeared to be insoluble.

**Some of the salient provisions of the Indian constitution which seek to provide an institutional platform for conflict prevention or resolution are given below:**

- (a) **Article 131** recognises the importance of resolving Union-State/s and Inter-state disputes as being inherently vital to the smooth functioning of a federal polity and confers the exclusive **original jurisdiction on the Supreme Court** to try suits concerning such disputes. **Article 262** empowers Parliament to exclude by legislation, jurisdiction of all courts, including the Supreme court, in a sensitive area of conflict viz. **Inter-State Rivers or River valleys water disputes** and to provide for adjudication of such disputes. In this sense, **this provision is an exception to Article 131**.
- (b) **Article 263** envisages **Inter State Councils** for resolution of disputes and to discuss matters of mutual interest to the Union and the States as well as issues requiring coordination between them.
- (c) **Article 280** provides for establishment, ordinarily for five-year periods, of a quasi-judicial **Finance commission** to recommend the norms of distribution of certain central levies between the union and the States and to generally assess the financial requirements of central subvention for carrying out the administration of the states efficiently. **Article 307** authorises setting up an authority to facilitate **Inter-state trade and commerce**.

Besides, there are other provisions include - **Article 350b** which provides for a special officer to safeguard the interests of linguistic minorities, and **Articles 338 and 338A** which provide for commissions to promote and protect the interests of Scheduled castes and Scheduled Tribes respectively. Such provisions **seek to narrow the scope for grievances escalating into conflicts**.

## 7.6 Conclusion

It is the endeavour of the commission to suggest measures to suitably strengthen other institutions and practices to improve the process of building consensus on matters which have the potential to produce rifts within society.



# COMBATING TERRORISM - PROTECTING BY RIGHTEOUSNESS

08

8.1 Introduction	8.2 Terrorism (Definition)
8. History of Terrorism	8.4 Types of Terrorism
8.5 Means of Terrorism	8.6 Terrorism in India
8.7 Strategy to Counter Terrorism	8.8 Legal Framework: To Deal with Terrorism
8.9 Measures against Financing Terrorism	8.10 Institutional and Administrative Measures
8.11 Role of States	8.12 Conclusion

## 8.1 Introduction

It is well known fact that *earlier* terrorism was a public order or crisis management issue but *today* it has transcended all boundaries and is enmeshed in a complex web of illegal trafficking, organised crimes, drug trafficking and arms trade. The ever growing threat and existence of sleeper cells, spread of modern communications and the increasing use of modern weapons, technology and tactics have enabled the non-state actors for terrorist groups to spread their foothold far and wide subjecting the entire country to their nefarious designs.

Multicultural, multiethnic and diverse country like India which is close to havens of terrorism nearby territories, is *vulnerable* to ever growing and ever present threat of terrorism which could be corroborated by the fact that, **incidence of terrorism have been on the rise year on year.**

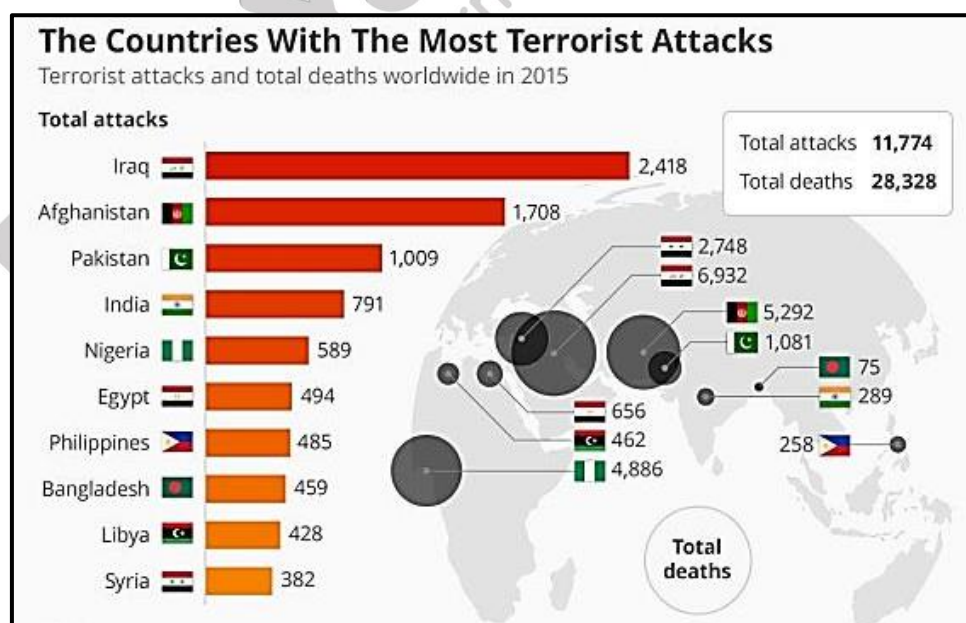


Figure: Incidences of Terrorism

Source: STATISTA

In this light the Administrative Reforms Commission (ARC) has pointed out that there is a “**need to strengthen the hands of security forces in the fight against terrorism even as human rights and constitutional values are protected**”

## 8.2 Terrorism (Definition)

As per the UN Guidelines terrorism is an anxiety inspiring method of repeated violent action, employed by clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby in contrast to assassination the direct targets of violence are not the main targets.

ARC has defined terrorism as “any act meant to injure or kill the civilians and the non combatants, in order to intimidate a population, a government, or an organization and incite them to commit an act against the perpetrators or on the contrary stop them from doing so”.

Features of Terrorism that distinguish it from other types of acts are:

- **Political** in its aims and motives.
- **Violent** or equally important, threatens violence.
- Designed to have far reaching **psychological repercussions** beyond the immediate victim or target.
- Conducted by an organization with an identifiable **chain of command** or conspiratorial cell structure (whose members **wear no uniform** or identifying insignia) and
- Perpetrated by a **sub-national group or non-state entity**.

## 8.3 History of Terrorism

History of terrorism period **between 11th to 13th century** but the modern day usage or form has its roots dated to **Reign of Terror**, when the term 'TERRORISM' gained currency.

Timeline:



## 8.4 Types of Terrorism

<b>Ethno- Nationalist Terrorism</b>	It is described as deliberate <b>violence by a subnational ethnic group</b> to advance its cause. Such violence usually focuses either on the creation of a separate State or on the elevation of the status of one ethnic group over others. <b>Tamil Nationalist groups in Sri Lanka</b> and insurgent groups in North East India are examples of ethnonationalist terrorist activities. It became prominent only <b>after the second world war</b> .
<b>Religious Terrorism</b>	The practitioners of terrorism motivated either in whole or in part by a religious imperative <b>consider violence as a divine duty</b> or a sacramental act



<b>Ideology Oriented</b>	<p>This kind of terrorism is based on <b>either Leftist or Rightist ideology</b>.</p> <ul style="list-style-type: none"> <li>• Leftist ideology is based on belief that all the existing social relations and state structures in capitalist society are exploitative and a revolutionary change through violent means is essential. <b>E.g- Maoist In India, Red Brigades In Italy</b></li> <li>• Rightist ideology seeks to maintain the status-quo or return to past circumstances. Often, groups propagating rightist ideologies may assume ethnic/ racist character. They may force the government to acquire a territory or to intervene to protect the rights of an 'oppressed' minority in a neighboring country.</li> </ul>
<b>State Sponsored</b>	<p>This kind of Terrorism seeks <b>to obtain foreign policy objectives</b>. Because of this nature it has lesser constraints and causes more casualty on targets. Many countries like Pakistan, Sudan, Libya, and North Korea have been engaged in sponsorship of political violence of different nature in their 'enemy' States.</p>
<b>Narco Terrorism</b>	<p>Narco-terrorism has been defined by the Canadian Security Intelligence Service as <b>'the attempt by narcotics traffickers to influence the policies of the Government by systematic threat or use by violence'</b>. It involves mainly <b>two Criminal activities; Drug trafficking and Terrorist Violence</b>, where the major agenda is to raise huge sums of money and finance terrorist acts.</p>

## 8.5 Means of Terrorism

<b>Traditional Means</b>	<b>Environmental Terrorism</b>	<b>Weapons of Mass Destruction</b>	<b>Chemical weapons</b>
<p>These conventional methods involve <b>attacks on persons and property using weapons, bombs, IEDs, grenades, landmines etc.</b>, apart from hostage taking, hijacking and forcible take over of buildings, especially Government/public buildings.</p>	<p>It is a form of premeditated <b>damage caused to the natural world</b> like when Saddam Husain ordered the destruction of around 1000 oil wells during the Gulf War.</p>	<p>The possibility of terrorists acquiring weapons of mass destruction like biological or chemical weapons and <b>inflicting a heavy damage</b> on their target is an ever growing threat of terrorism.</p>	<p>Best method of terrorism may involve release of toxic gases when an attack is caused an industrial facility or deliberate release of poisonous or chemical gases in order to inflict heavy damage in society.</p>
<b>Nuclear Weapons</b>	<b>Bio-terrorism</b>	<b>Suicide Terrorism</b>	<b>Cyber terrorism</b>
<p>Although there are no accounts of terrorist attacks using nuclear weapons, there are clear indications that from the late 1990s onwards, Al-Qaeda has constantly been trying to acquire it with the help of different State agencies.</p>	<p>As a result of advancement in the field of biotechnology bioterrorism has emerged as a new activity where use of biological weapons or biological agents to inflict damage,</p>	<p>Recently, this kind of terrorism can be seen in form of <b>sleeper cells</b> or human bombs that have been used to inflict heavy damage on public property or to assassinate very important leaders one such example in the</p>	<p>It is a form of <b>convergence between terrorism and cyberspace</b> and generally means unlawful attacks and threats of attacks against computer network for <b>critical information</b></p>

	cause death and illness on people, animals, plants. Biological agents are seen as an important tool by the terrorist because they are <b>extremely difficult to detect and can sustain for a long time in the atmosphere</b> or environment.	case of <b>Rajiv Gandhi assassination</b> in India	<b>infrastructure</b> in order to steal data intimidate or coerce government and its people in order to fulfill social or political objectives. E.g: - In 1998, Sri Lankan embassies were swamped with e-mail bombs by ethnic Tamil militants. This is believed to be the first cyber-terror attack in the world.
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## 8.6 Terrorism in India

Terrorism as an offence **does not figure in the Indian Penal Code of 1860**. In India, the **first special law** which attempted to define terrorism was the **Terrorist and Disruptive Activities (Prevention) Act, 1987**, which was followed by the **Prevention of Terrorism Act, 2002 (POTA)**, which was repealed in 2004.

The **Unlawful Activities (Prevention) Act, 1967**, which was amended in 2004, *defines a terrorist act* as whosoever, with **intent to threaten the unity, integrity, security or sovereignty** of India or to **strike terror in the people** or any section of the people in India or in any foreign country, **does any act by using bombs, dynamite or other explosive substances** or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances, (whether biological or otherwise) of a hazardous nature, in such a manner **as to cause, or likely to cause, death of, or injuries** to any person or persons or loss of, **or damage to, or destruction of, property or disruption of any supplies or services essential** to the life of the community in India or in any foreign country or causes **damage or destruction of any property or equipment used or intended to be used for the defence of India** or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or **detains any person and threatens to kill or injure such person in order to compel the Government in India** or the Government of a foreign country or any other person **to do or abstain from doing any act, commits a terrorist act**.

### 8.6.1 Jammu and Kashmir

The **roots** of terrorism in Jammu and Kashmir can be traced long back from the time of Pakistan attack in 1947 which further **intensified after the India Pakistan war of 1971**. Later in the face of 1990 there was a **growth of Islamic fundamentalism** and emergence of groups like Al-Qaeda, Taliban lashkar-e-taiba etc which had common philosophy and outlook. In the last few decades these groups have been perpetrating acts of terrorism in form of suicide attacks, hijacking, attack on Jammu Kashmir Legislative Assembly, on Indian parliament etc.

The Annual Report of the Ministry of Home Affairs for 2006-07 shows that there has been a **change in the violence profile** after April 2006 with **soft targets** like minority groups, tourists and migrant labourers, **all innocent citizens, being targeted by the militants**, with grenade attacks having increased by 49% over the previous year.

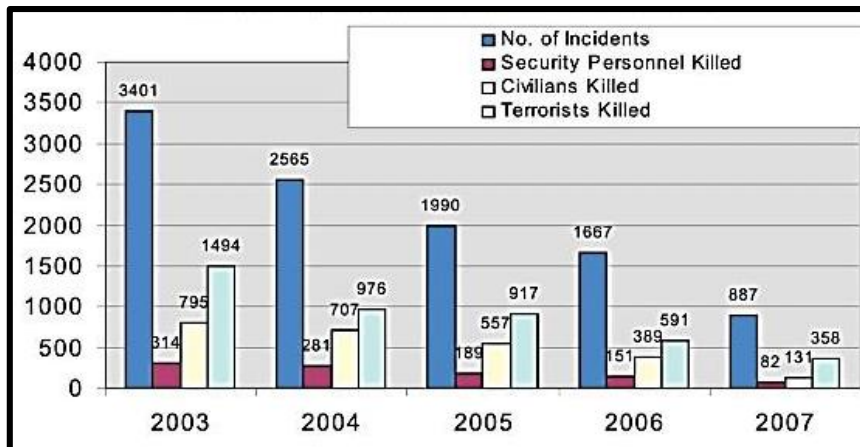
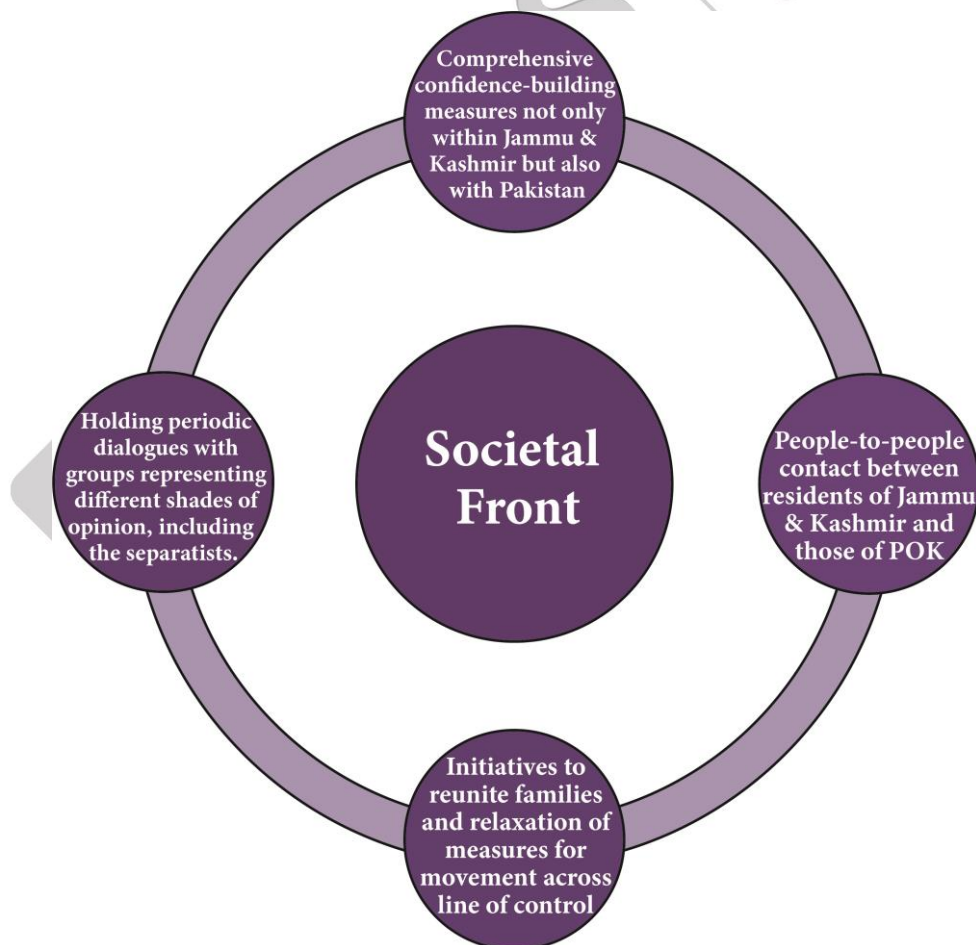


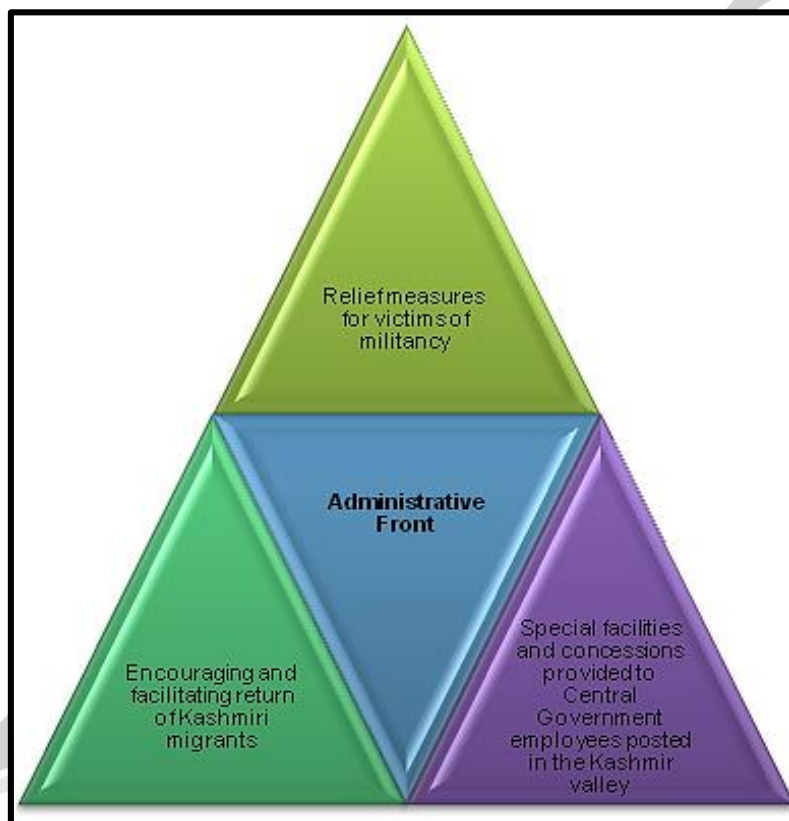
Figure: Terrorism in Jammu and Kashmir  
Source: 2nd ARC REPORT

The Government of India has been endeavouring to tackle the problems of the troubled State through a **multi-pronged strategy** with a holistic approach calculated to address areas of concern **on the political, security, developmental and administrative fronts**. On the political aspect, primacy has been given to political dialogue with emphasis on political democratic processes and emphasis on the rule of law.

**ARC Recommendations:**



Internal Security Front		
<p>Revitalising the Unified Command mechanism (introduced first during 1997) under the chairmanship of the State's Chief Minister and having senior representatives of the Army, Central Police Organisations stationed in the State and senior officers of the State's civil and police administration</p>	<p>Banning nine terrorist organisations reported to be operating in Jammu and Kashmir.</p>	<p>Setting up Village Defence Committees and appointment of Special Police Officers in selected areas after careful screening</p>



The **successful conduct of general elections** as well as elections to local bodies are a positive **indicator of the people's faith in the Indian democracy**. Another positive development has been the increasing influx of tourists in the valley.

### 8.6.2 North East India

The region of North East has had a history of violence and conflict since long which can be traced back to the **Ethno-Nationalist movements for autonomy**. A **major part of the geographical area of this region was initially within the ambit of the State of Assam** but the manifestation of ethno-nationalism quite often expressed through violence **led to formation of some of the present states**. Despite several policy and administrative measures taken by Governments, as well as Institutional Mechanism provided by the Constitution, there has been an ever growing presence of **insurgency, extremism, and illegal migration** in the region.

### 8.6.3 Punjab

Even after the formation of Punjab as a separate Sikh Identity State the issues of regionalism and persistence of violence have been cropping up. Some factors for growth of terrorist ideology was fuelled by linguistic issues, state capital issues, sharing of river waters, religious fundamentalism etc. Rajiv Gandhi Longowal accord and other disputes also made the environment more turbulent.

Government has followed the policy which was based on four parameters: -

- **Security action** to contain and eliminate terrorism;
- Subterranean contacts with militants to **persuade them to give up violence** and come to the negotiating table;
- **Over the table discussions** with dissident elements who were prepared to eschew violence and accept the basic tenets of the Constitution in exchange for full integration into the country's democratic process, and
- **Sensitivity to religious, cultural and ethnic sentiments** of the affected population.

### 8.6.4 Left Wing Extremism

This movement emerged in the year **1967 in West Bengal**, led by an extremists break away faction of the CPM. This movement subsequently developed into naxalism in the eastern parts of India. In the last five decades the Maoists have spread their tentacles in around 10 to 12 States categorised as the **Red Corridor**. A number of attacks have occurred in these areas of Maoists influence, **inflicting heavy damage on security forces, tribals, Governmental infrastructure, industrial establishment**, etc.

### 8.6.5 Religious Fundamentalism

Several terrorist incidents in India have been **motivated by fundamentalist forces** some of which also overlap with **political ambitions** such as separatist elements in Jammu Kashmir or in North East many of these movements **based on religious fundamentalism** have been **supported by external forces**, such as the ISI which has been trying to fuel terrorist activities in the states of Punjab Jammu and Kashmir with the help of several separate splinter groups. Several attacks like that of Ayodhya, in which the security forces succeeded in repulsing, followed by Sarojini Nagar Market blast, **serial bomb blast in Mumbai**, suicide attacks in Hyderabad, **parliament attacks of 2001 and the Akshardham temple attack** among others, are some of the debilitating acts of fundamentalist groups.

Recent development in the field of fundamentalism has been the **growth of several Sach organisations** which play an important role in radicalization and religious indoctrination of young students in order to train them for being recruited by terrorist groups. All the organisations are being **funded by various Islamic charities** but particularly by the *World Assembly of Muslim Youth* with headquarters in Riyadh.

### 8.6.6 Emerging Threats

Recent developments in the field of terrorism has shown a security and intelligence forces that where is networks are **taking advantage of the communication revolution** to develop **transnational links and making terrorism a global threat**.

Another feature of the emerging forms of terrorism is the ability of **many terror outfits co-operate and co-ordinate with each other** for building operational links in form of **supply of arms, logistics and even operational support**. There have also been growing concerns about a complex **interplay of terrorism, organised crime and illegal trafficking networks**.

In light of **modern technology combined with increasing globalisation** the existence of a large migrant population and porous borders in an increasingly multicultural world means that **sleepers cells are easily able to propagate terrorist ideology by using information technology tools** and thus threatening the national security and integrity of democratic countries like India. **Integrated National**

**economies, banks and Financial Institutions** along with faster movement of money across National borders **makes it even easier for terrorists to finance their activities around the globe.**

## 8.7 Strategy to Counter Terrorism

A strategy for fighting terror in India has to be **evolved in the overall context of a national security strategy.**

The **objective of the national security strategy** has to be the **creation and maintenance of a security environment** which would enable the nation to provide opportunities to all individuals to develop to their fullest potential. In order to tackle terrorism the **priority should be socio- economic development** in particular, service delivery mechanism which need to be **responsive to the legitimate and long standing grievances** of the people. a strong mechanism is also required to **deal with criminal elements** but with **respect for human rights.**

To ensure this the **law enforcement agencies have to be supported with an appropriate legal framework, training equipment and intelligence.** An essential role has to be played by government, political parties, civil society, security agencies and media.

Necessary **elements of a strategy** includes: political consensus, good governance, economic development, respect for rule of law, countering subversive terrorist activities, capacity building etc.

## 8.8 Legal Framework: To Deal with Terrorism

India had various enactments for dealing with terrorism in the past - The Terrorist and Disruptive Activities (Prevention) Act, 1987 (allowed to lapse in 1995), The Prevention of Terrorism Act, 2002 (repealed in 2004), **Unlawful Activities (Prevention) Act, 1967** {as amended by the Unlawful Activities (Prevention) Amendment Act, 2004 and 2019} and the **National Security Act, 1980.** The **constitutional validity of anti-terrorism laws has also been upheld by the Supreme Court.**

### **Need For Comprehensive Anti-Terror Legislation:**

The need for a comprehensive anti-terrorism legislation was felt during the historic **judgement** of the Apex Court in the **Rajiv Gandhi assassination case.** While the provisions of the **Terrorist and Disruptive Activities (Prevention) Act, 1987** have generally been decried as being harsh, **none of these could be applied to the perpetrators** of the act as the Apex Court held that neither was it a terrorist act nor were the activities of the perpetrators disruptive under the TADA Act.

However, some of these **legislations were allowed to lapse/repealed** as it was contended that the powers conferred on the law enforcement agencies **had the potential, and in fact, had been misused.** The **Law Commission in its 173rd Report** (2000) examined this issue and highlighted the need for a law to deal firmly and effectively with terrorists. It also **drafted "The Prevention of Terrorist Activities Bill".** The draft bill as recommended by the Law Commission of India included **provisions such as definition of terrorist acts, enhanced punishment for such acts, possession of certain unauthorized arms, special powers of investigating officers** regarding seizure and attachment of property representing proceeds of terrorism, **constitution of special courts, protection of witnesses, confessions made to police officers to be taken into consideration, enhanced police custody, constitution of review committees, protection of action taken in good faith etc.**

### **Following Recommendations have been made by Administrative Reforms Commission:**

1. A **comprehensive and effective legal framework** to deal with all aspects of terrorism needs to be enacted. The law should have adequate **safeguards to prevent its misuse.** The legal provisions to deal with terrorism could be incorporated **in a separate chapter in the National Security Act, 1980.**
2. **Include the following criminal acts which can be construed as being terrorist in nature, in the definition.**

- **Use of firearms**, explosives or any other lethal substance to cause or likely to cause damage to life and property and essential infrastructure including installations/establishments having military significance.
  - **Assassination** of (including attempt thereof) **public functionaries**. The intent should be to threaten the integrity, security and sovereignty of India or overawe public functionaries or to terrorize people or sections of people.
  - Detention of any person or threat to kill or injure any person to force the government to act or abstain from acting in a particular manner.
  - **Providing/facilitating material support**, including finances, for the aforesaid activities.
  - Commission of certain acts or possession of certain arms etc. by members or supporters of terrorist organizations which cause or are likely to cause loss of life, injury to a person or damage to any property.
3. No person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless the Court gives the Public Prosecutor an opportunity of being heard;
  4. **Where the Public Prosecutor opposes the bail application** of accused to release on bail, no person accused of an offence punishable under this Act or any rule made there under shall be released on bail **until the Court is satisfied that there are grounds for believing that the accused is not guilty** of committing such offence
  5. Review Committee should review the case of all detenus periodically and advise the prosecution about the release of the accused on bail and the prosecution shall be bound by such advice.
  6. **Regarding investigation of Cases related to Offences of Terror ;**
    - **Investigation agency should be supervised by an autonomous Board of Investigation**. This would ensure that the Investigation Agency is insulated against any extraneous influences and would function in a professional manner.
    - Staff of the investigation agency should be **pecially trained** for their job with emphasis on collecting evidence through use of forensic tools and eschewing coercive methods.
    - **Setting up of a District Complaints Authority and also a State Police Complaints Authority** which would effectively deal with cases of any misconduct by the police.
    - The person, from whom a confession has been recorded, shall be produced before the Court of a Chief Metropolitan Magistrate or the Court of a Chief Judicial Magistrate along with the original statement of confession, written or recorded on mechanical or electronic device within forty-eight hours.
    - **Confessions made before the police should be admissible**, but this could be made possible only after implementation of reforms in police as recommended by the commission.
  7. **Presumption Under the Law;**
    - If **any kind of arms or explosives** or any other dangerous substance are **recovered from the position of accused** and there is a **reason to believe** that such substances aur explosives or something of similar nature were used in **commission of offence** or if it can be established to an expert opinion then the court can draw adverse inference against the accused.
    - If it is proved in the court that a person tendered financial assistance to a the accused suspected of offence of terrorism, then the court shall draw adverse inference against the accused.
  8. A **statutory Review Committee** should be constituted to examine each case registered under the Terrorism laws, within 30 days of its registration. The Review Committee should satisfy itself that a prima facie case has been made out by the investigation agency. This Committee should review each case every quarter.
  9. A comprehensive **Witness Protection Scheme** should be formulated by the Government of India and by Governments of Each State.
  10. **Special Fast Track Courts** should be constituted as and when required exclusively for trial of terrorism related cases and in this light Provisions may be incorporated in the law on terrorism. Other specific provisions related to such Special Courts may also be incorporated.
  11. Provisions should be incorporated in Comprehensive law related to Terrorism regarding **penalization for unauthorised possession of certain specified arms and ammunitions** in notified areas as well as possession of unauthorised substance or weapons of mass destruction or biological or chemical weapons in both notified and non-notified areas.

12. **A Federal Agency to Investigate Terror related Offences** should be constituted under the law. The following offences may be included in the proposed new law: The law should also prescribe the procedure for investigation and trials of such offences ; organized crimt, terrorism, acts threatening national security Trafficking in arms and human beings, Sedition, major crimes with inter-state ramifications, assassination (including attempts) of major public figures, serious economic offences.
13. A **new law** should be enacted to **govern the working of the CBI**. This law should also stipulate its jurisdiction including the power to investigate the new category of crimes. It should be ensured that this Division of the CBI is staffed by personnel of proven integrity and who are professionally competent and have developed the required expertise in investigation of terrorism related offences. The **autonomy and independence** of this agency may be ensured through a laid down **procedure of appointment and assured fixed tenure for its personnel**.
14. The Committee is of the opinion that in order to ensure proper management and prevention of such incidents which threaten the security of the nation, the CBI should be envisaged as an enforcement agency also which would mean that apart from investigation and prosecution, **CBI should be given mandate to ensure prevention of crimes**. The Committee recommends that a **separate Anti-Terrorism Division should be created in the CBI**.

### Global Counter Terrorism Strategy

The United Nations Global Counter-Terrorism Strategy was adopted by Member States on 8 September 2006. The strategy, in the form of **a resolution and an annexed Plan of action**, is a unique global instrument that will **enhance national, regional and international efforts to counter terrorism**.

This is the **first time that all Member States have agreed to a common strategic approach to fight terrorism**, not only sending a clear message that terrorism is unacceptable in all its forms and manifestation but also resolving to take practical steps individually and collectively to prevent and combat it. Those practical steps include a wide array of measures ranging from **strengthening state capacity to counter terrorist threats to better coordinating United Nations system's counter-terrorism activities**. The plan of action includes the following four measures:

- Measures to **address the conditions conducive to the spread of terrorism**, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization, and lack of good governance.
- Measures to **prevent and combat terrorism**, in particular by denying terrorists access to the means to carry out their attacks, to their targets and to the desired impact of their attacks.
- Measures to **build States' capacity** to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard.
- Measures to **ensure respect for human rights for all and the rule of law** as the fundamental basis of the fight against terrorism, reaffirming that the promotion and protection of human rights for all and the rule of law is essential to all components of the strategy, recognizing that effective counter terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terror.

## 8.9 Measures against Financing Terrorism

It is a well-known fact that sustaining and driving terrorist activities requires substantial amount of funding, and funding and finances are derived from not only **proceeds of illegal activities** by terrorist group but also from certain vegan activity there have been instances of terrorist organisations working with cartels of **drug and arms trafficking, hawala transaction, money laundering, smuggling etc.**



However, **two features distinguish the activities related to money laundering operations with those related to financing of terrorist activities**, which have a bearing on the nature of strategy to be adopted in a counter-terrorist finance regime. These are:

<p>In case of money laundering, the activity <b>begins with the generation of proceeds from unlawful activities/crime and ends with their conversion into legal assets</b> (movable or immovable). On the other hand, <b>financing of terrorist activities could be from legal or illegal funds and it culminates when it reaches the perpetrators of a terrorist act</b>. Even if it involves money laundering activity in between, the money trail has to continue to its final destination. This widens the scope of investigation in cases involving terrorist finance.</p>	<p>In the case of money laundering, even if the proceeds of unlawful activities/ crime get 'laundered', enforcement authorities could undo the effect on the basis of post-facto investigation. <b>In case of terrorist finance</b>, once the finance chain is completed and an act of terrorism has taken place, <b>post facto investigation is limited to generating evidence leading to conviction of the perpetrators</b>; loss of life and damage to property and public confidence is already done.</p>
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Presently, there are several **measures to deal with Terror Finance** such as Prevention of Money Laundering Act (2002), Prevention of Money Laundering (amendment) Act, 2005 Financial Intelligence Unit (FIU), Separate cells of State Police etc.

**Recommendations made by ARC in this Regard:**

**Financial Measures:**

<p>The Prevention of Money-laundering Act (PMLA) may be suitably amended at an early date to expand the list of predicate offences to widen its scope and outreach</p>	<p>The stage at which search and seizure action may be taken under the PMLA may be advanced in cases involving wider ramifications. Adequate Safeguards may also be put in place in such cases</p>
<p>It may be examined whether institutional coordination mechanisms between the Directorate of Enforcement and other intelligence collection and investigating agencies, could be strengthened and some provisions of the PMLA delegated to them by the Enforcement Directorate.</p>	<p>The financial transaction reporting regime under the Financial Intelligence Unit (FIU-IND) may be extended to cover high risk sectors such as real-estate. There is also a need to strengthen the capacity of FIU-IND to enable it to meet future challenges</p>
<p>It would be useful to utilize the platform provided by the Regional Economic Intelligence Councils (REICs) for increased coordination among various investigation agencies in cases which are suspected to be linked with money laundering</p>	<p>Further, owing to the complexity of cases involved, the FIU-IND, apart from disseminating agency specific information, should furnish overall region-centric information to the Central Economic Intelligence Bureau (CEIB) for disseminating it to the respective REICs with a view to expanding the information regime.</p>

## 8.10 Institutional and Administrative Measures

Education	Civil Society	Media
<p>Education has an important role to play to foster an environment of peace. In this light it is important to have a <b>holistic strategy of education to promote peace and harmony</b> covering circular as well as religious schools.</p> <ul style="list-style-type: none"> <li>• <b>Set up peace clubs and peace libraries in schools.</b></li> <li>• Make supplementary reading materials available that promote peace values and skills.</li> <li>• Co-opt the media as a stakeholder in education for peace.</li> <li>• <b>Newspapers can be persuaded to run peace columns</b>, similar to the current columns on religion.</li> <li>• The electronic media can be persuaded to broadcast peace programmes tailored to the needs of education for peace in schools.</li> <li>• <b>Make provisions in schools to enable students to celebrate:</b> <ul style="list-style-type: none"> <li>○ Cultural and religious diversity of India,</li> <li>○ Human Rights Day,</li> <li>○ Day for the Differently abled,</li> <li>○ Girl Child Day,</li> <li>○ Women’s Day, and</li> <li>○ Environment Day.</li> </ul> </li> </ul>	<p>Civil society can play an important role when countering acts of terrorism they can <b>sensitized the society</b> at large as well as could <b>play advisory and educative role</b> in making people of the precautionary measures that need to be taken in case of any terrorist attack or incident. The civil society have been instrumental in <b>drawing governmental attention towards the citizens' grievances</b> and have also been active in highlighting the <b>human rights violations by the security forces</b> while dealing with terrorists. Civil societies and NGOs can partner with law enforcement agencies to develop targeted programmes for cooperation focusing, for example, on spreading awareness and understanding of the diversity of local cultures, religious customs and traditions of certain communities and in developing outreach activities for healing community rifts and tensions.</p>	<p>The media does not intend to promote the cause of terrorism, but the nature and mandated function of the media – to cover events, developments and issues – can be exploited by the terrorists. Thus, <b>regardless of the media’s intentions, the news coverage may serve the expectations of the terrorists.</b> It Should be recognised that even terrorists have a craving for publicity, and the <b>media should not unwittingly help the terrorists in their designs.</b> Government has its own expectations, it wants the media to depend on the official version. Government therefore wants the media to be cooperative and <b>keep the national interests or security concerns uppermost.</b> Therefore, it is necessary that government should work towards harnessing the power of the mass media as a part of its strategy to defeat terrorism. <b>It would be necessary to have an affirmative media policy based on:</b> Transparency in governance, Easy access to information and sources, Advancing the media’s role as an instrument of vigilance to scrutinize and check administrative, legal and judicial violations and excesses that endanger civil and democratic rights in situations of conflict and terrorism, and engaging, enabling, encouraging and assisting the media to fulfil its role of informed, fair and balanced coverage of crisis, particularly terrorism</p> <ul style="list-style-type: none"> <li>• Media policy should include principles of self restraint. Publishers, editors and reporters need to be sensitized to avoid and exclude those elements of media coverage that may unwittingly advance the agenda of terrorists.</li> <li>• The potential of the media in spreading education and awareness needs to be tapped to build the capacity of citizens in dealing with any public disorder, particularly terrorist violence.</li> <li>• Media should be encouraged to evolve a self regulating code of conduct to ensure that publicity arising out of terrorist attacks does not help the terrorist in their anti-national designs.</li> </ul>

## 8.11 Role of States

- A **National forum** should be set up to formulate policy and strategy for dealing with terrorism.
- A stable comprehensive and **All India Anti-Terrorist legislation** provides safeguards against abuse
- Table effective and responsive State Administrative machinery
- in order to deal with violence outdated launched having a relevant provisions must be repealed
- For effective development activities, planning and execution should take into account problems and **issues of displacement of people resettlement** at so that while introduction of conflicts of such issues can be avoided.
- For tackling the root causes of left wing extremism relevant social economic issues like **land reforms, alienation of tribals** and others should be addressed and relevant laws must be strictly enforced.
- In order to tackle the growing **problem of organised crime an all India legislation** should be there.
- Terrorism has to be fought by the security forces with the cooperation of the people. Appropriate **sensitisation training should be given to security forces** for avoiding alienation of the people and for enlisting their cooperation.

## 8.12 Conclusion

In a country, development, **stability, good governance and the rule of law are inextricably linked** and any threat to peace poses an obstacle to the objective of sustainable development. **Political and social climate of a country and economic stability is threatened by terrorism.** Terrorists **do not belong to any religion or faith or community.** Terrorism is an **attack on democracy and the civilized society by a violent few who resort to targeted killing of innocent citizens in pursuit of their evil designs.**

The **use of modern communication system** and state of art technology combined with global **linkages with organised crime, drug trafficking, counterfeit currency and money laundering** has made terrorism the biggest existential challenge.

The **strategy** for anti-terrorism must **recognise** that acts of terrorism not only ruin innocent lives, but also divide our society, create disharmony and schisms among people and cause perpetual damage to the social fabric. Hence, a **multidimensional approach comprising legal and administrative measures combined with good governance, inclusive development, a vigilant media and an alert citizenry** can defeat terrorism in any form.

# SOCIAL CAPITAL: A SHARED DESTINY

09

9.1	Introduction	9.2	Role of Social Capital in Improving Government Performance
9.3	Evolution and Growth	9.4	Constitutional Provisions
9.5	Existing Laws	9.6	Government Policy
9.7	Civil Society as a Major Economic Force	9.8	Classification of Voluntary Sector
9.9	Need for a new Legal Framework in India	9.10	Recommendations of Administrative Reforms Commission
9.11	Revenues of the Third Sector	9.12	Accreditation of Voluntary Organisation
9.13	Regulation of Foreign Contribution	9.14	Third Sector Organisation at Local Level: self-help Groups
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9.17	Self Regulatory Authorities	9.18	Ethical Education and Training
9.19	Cooperatives	9.20	An Integrated Social Policy for India
9.21	Conclusion		

## 9.1 Introduction

Collective efforts and cooperative action have been a **part of human behaviour** right from the early days of civilisation. Gradually such collective action led to **formation** of small habitations, communities, villages and thereafter large cities and metropolises. They in turn, created complex social groups and **governmental** organisations. In course of time, **government and society became too big** and formalized and somewhat **distant from the common man**. Thus evolved a **need for mutual networking** and interaction for solution of issues.

The term '**Social Capital**' was first used by **L.J. Hanifan**, a State Supervisor for Rural Schools in Virginia in 1916, in the **context of the community's involvement in the successful running of schools**.

**Definition:** - Social Capital refers to those institutions, relationships, and norms that *shape the quality and quantity of a society's interaction*. It consists of trust, mutual understanding, shared values and behaviour that bind together the members of a community and make cooperative action possible.

Social Capital organizations play four crucial role:

<b>Service Role</b>	People tend to let <b>non-profit organisations</b> lead the way in responding to critical public needs. The non-profit sector thus functions as a <b>first line of defense</b> , a flexible mechanism through which <b>people concerned about a social or economic problem can begin to respond</b> , without having to convince a majority of their fellow citizens that the problem deserves a more general, government response. Non-profit organisations are also available to sub-groups of the population who desire a range of public goods that exceeds what the government or society is willing to support. Non-profit organisations have a readymade role in planning hospitals, universities, social service agencies and civil organisations.
<b>Value Guardian role</b>	The role of the non-profit sector is to function as a value guardian in society, as exemplar and as embodiment of a fundamental value emphasizing individual initiative for the public good just as private economic enterprises <b>serve as vehicles for promoting individual initiative for the private good</b> . In the process, non-profit bodies foster pluralism, diversity and freedom
<b>Advocacy Role</b>	Non-profit organisations also play a vital role in <b>mobilizing public attention to societal problems and needs</b> . In fact, most of the social movements that have animated western society over the past century, the movement for women's suffrage, <b>protection of civil rights and the initiative to protect environment</b> , all took shape within the non-profit sector
<b>Community Building Role</b>	Finally, non-profit organisations play a vital role in creating and sustaining <b>social cohesiveness through bonds of trust</b> and reciprocity that seem to be pivotal for a democratic society and a market economy to function effectively.

## 9.2 Role of Social Capital in Improving Government Performance

- It can **ensure accountability** in governance along with responsiveness
- Social capital can **bring convergence among different players** on important issues
- Social capital also leads to **greater innovation and flexibility in policymaking**.
- Enhances the **efficient delivery of many services** at the local level through involvement of residents.

In concrete terms, the **growth of social capital leads to evolution of a healthy civil society** manifesting as a distinct entity in the space between public sector (government) and the business (markets), often **called the third sector or non-profit sector**.

Depending on the strength and vivacity of civil society, third sector organisations can assume the following four major forms:

Small community-based initiatives with modest funding E.g. Resident Welfare Associations	Large structured groups with well-defined organisational patterns and goals. They do not have an apparent profit motive but generally work on financially sustainable basis E.g:- Societies, trusts, and Waqf.
There is a third category which is in business, but for certain well defined social objectives. In such organisations, surpluses are ploughed back and reinvested in the activity itself. They may need to interact with the government also E.g. Cooperative.	Regulatory Professional groups/ associations consisting of qualified people who join together to run their profession E.g. Bar Council of India and the Institute of Chartered Accounts of India.

## 9.3 Evolution and Growth

The use of the term social capital became popular during the 20th century but in some form it has been a **necessary element of a gradient life in India right from the early days** of our civilization. In **Rig Veda** there was reference to some collective social entrepreneurship which was seen in the form of **charity or faith based philanthropy** as a duty and responsibility of a conscious human being. Even after many years during the reign of Maurya as well as Gupta and other kingdoms there were references to **strong village communities** based on collective entrepreneurship and social cohesion across the country.

### 1. Social Action Groups/ Self Help Movement:

After the **emergence of industrial revolution** in Europe **political ideas of equality, human rights and social welfare** gradually resulted in the **formation of some intellectual groups and organisations which began to work for certain social issues** which were of concern to the society. The advent of social action groups or self help movements in India can be traced back to **era of British rule** when ideas of social reform combined with National sentiments led to the formation of several societies and sabhas such as **Brahmo samaj, Prarthana sabha, Arya samaj, Indian national social conference** among others.

During the struggle for Independence the whole **emphasis of the Gandhian movement** was on **self-help and cooperation**.

### 2. Corporate Foundations:

The **J N Tata Endowment Trust** was established in our country in 1892, much before Rockefeller and Carnegie set up their philanthropic foundations in the USA. In the coming years, such **business philanthropy** led to substantial action in the field of art, social work and education and within a span of the next fifty years, a large number of Corporate Trusts and Societies came into existence at major industrial and business centres of the country.

### 3. Socio-Political Movements, Growth of constitutionalism and equity:

Vinoba Bhave's **Bhoodan** and Jai Prakash Narain's **Sarvodaya movement** were the two major **voluntary action initiatives** on the socio-political front, which garnered the attention of people across the country during the 1950s-60s. Towards the 1970s and 1980s, the **growth of constitutionalism and the emergence of economic liberalisation fueled ideals of equity, human rights** and expansion of economic opportunities.

### 4. Cooperatives:

In the early years of the 20th century, government thought of **organizing farmers into voluntary groups** which could **secure cheap farm credit** on a collective basis and thus save them from usurious practices of money lenders. Thus, cooperative societies were born. A legislation was enacted in 1904 titled the **"Cooperative Credit Societies Act, 1904"**. Though, the first steps in this direction were initiated by the government, the concept received excellent response from rural India and within a few years a number of cooperative societies were in existence in large parts of the country. Provinces like Bombay, Madras, Bihar, Orissa and Bengal made all out efforts to expand cooperatives in their territory and made their own enactments on the pattern of the further refined 1912 Act. The **Reserve Bank of India** which was established in 1934 **had agriculture credit as one of its primary functions** and by extending refinance facility to the village cooperative system it played an important role in spreading the cooperative movement to all corners of the country. After Independence, the reports of the **All India Rural Credit Cooperative Survey Committee (1951-54)** and formation of **District and Apex Cooperative Banks** in the 1960s provided further fillip to this sector.

## 9.4 Constitutional Provisions

The Indian **Constitution** provides a distinct legal space to social capital/civil society institutions;

- (a) Through its Article on the right to form associations or unions – **Article 19 (1)(c)**;
- (b) Through **Article 43** which talks of States making endeavour to promote cooperatives in rural areas; and
- (c) Through explicit mention in entries made in Schedule 7.

## 9.5 Existing Laws

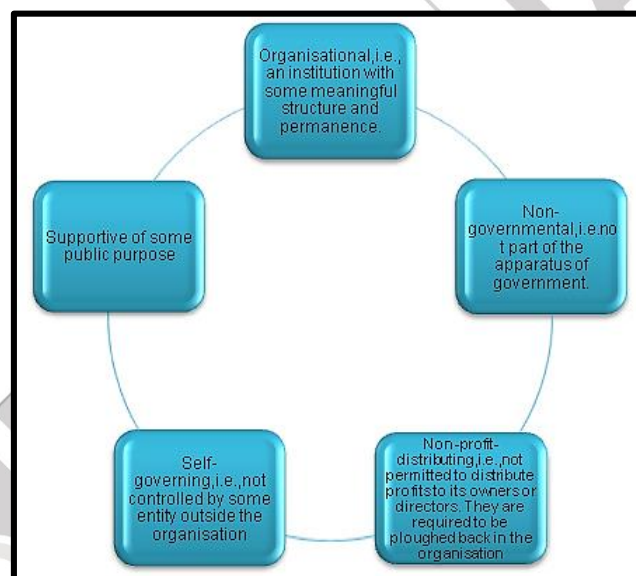
The Societies Registration Act, 1860, The Indian Trusts Act, 1882, The Charitable Endowments Act, 1890, The Trade Unions Act, 1926, The Charitable and Religious Trusts Act, 1920, The Bombay Public Trusts Act, 1950, The Wakf Act, 1954, Section 25 of the Companies Act, 1956, The old State Co-operative Acts and the new Mutually Aided Co-operative Societies Acts (operative in nine States), The Multi-State Co-operative Societies Act, 2002 etc.

## 9.6 Government Policy

The Union Government in its **National Policy on the Voluntary Sector, 2007** stipulates that “**Voluntary Organisations (VOs) mean to include organisations engaged in public service, based on ethical, cultural, social, economic, political, religious, spiritual, philanthropic or scientific and technological considerations.**”

VOs include formal as well as informal groups, such as: Community-Based Organisations (CBOs); Non-Governmental Development Organisations (NGDOs); charitable organisations; support organisations; networks or federations of such organisations; as well as Professional Membership Associations.

**To be considered part of the non-profit sector, an entity must have the following characteristics:**



## 9.7 Civil Society as a Major Economic Force

The advent of liberalisation and **globalisation in the economy led to phenomenal growth** in the number of non governmental organisations across the world in the last few decades. Experts also say that **in India there are more than 2 million NGOs, which employ more than 11 million workers, about 8% of the nation's total workforce.**

Civil Society has potential to play a very crucial role in several government policy objectives: -

- It can **help to scale up productivity** and competitiveness.
- It can **contribute to inclusive wealth creation.**
- It can **foster a people centric attitude** of the government.

## 9.8 Classification of Voluntary Sector

Both the **State as well as the market-led models of development** have been **found to be inadequate** and there is an increasing realisation that active involvement of the voluntary sector is needed in the process of nation building. They are now **viewed as partners** in progress. Civil society organisations **function outside the conventional space of both State and Market**, but they have the potential to negotiate, persuade and pressurise both these institutions to **make them more responsive to the needs and rights of the citizens**.

Classified on the **basis of laws under which they operate and the kind of activities they take:**

Registered Societies formed for specific purpose	Charitable organisations and trusts	Local Stakeholders Groups, Microcredit and Thrift Enterprises, SHGs	Government Promoted Third sector organisations
Professional Self-Regulatory Bodies	Bodies without having any formal organisational structure	Cooperatives	

### Societies, Trusts/ Charitable Institutions, Waqfs and Endowments

#### Legal and Institutional Framework:

1. Societies registered under the **Societies Registration Act, 1860** and various States amendments on it after 1947;
2. Those engaged in **pure religious and charitable work** registered under the **Religious Endowments Act, 1863; the Charitable and Religious Trusts Act, 1920; the Wakf Act, 1995** and similar other State Acts;
3. Trusts and charitable institutions registered under the **Indian Trusts Act, 1882; Charitable Endowments Act, 1890;** and similar other State Acts.

The details with regard to their incorporation, organisational structure and distribution of functions and powers are **governed by the provisions of the specific law under which they are registered**. Broadly, such organisations can **assume a legal personality** in the following five ways:

By way of formal registration before the Charity Commissioner / Inspector General of Registration under the respective State Public Trusts Act e.g. The Bombay Public Trusts Act, 1950, the Gujarat Public Trusts Act, the Rajasthan Public Trusts Act etc;
By invoking interference of civil courts to lay down schemes for governing a Trust under Sections 92 and 93 of the Civil Procedure Code
By registering the Trust deed of a Public Charitable Trust under the Registration Act, 1908.
By notifying an organisation in the list of Charitable Trusts and Religious Endowments which are supervised by the Endowments Commissioner of the State or by a Managing Committee formed under the Charitable Endowments Act, 1890 or under other State laws on Hindu Religious and Charitable Endowments
By creating a Waqf which could be managed under the provisions of the Wakf Act, 1995.

#### What are Trusts?

Trust is a special form of organisation which **emerges out of a will**. The will maker exclusively transfers the **ownership of a property to be used for a particular purpose**. If the purpose is to benefit particular individuals, it becomes a **Private Trust** and if it concerns some purpose of the common public or the community at large, it is called a **Public Trust**.



The first law on Trusts came into force in India in 1882 known as the **Indian Trusts Act, 1882**; it was basically **for management of Private Trusts**.

### What are Religious Endowments?

<p>Religious Endowments and Waqfs are variants of Trusts which are <b>formed for specific religious purposes</b> e.g. for providing support functions relating to the deity, charity and religion amongst Hindus and Muslims respectively.</p>	<p>Unlike Public Trusts, they may not necessarily originate from formal registration, nor do they specifically emphasise on a triangular relationship among the donor, Trustee and the beneficiary</p>	<p>Religious endowments arise from dedication of property for religious purposes. The corresponding action among the Muslim community leads to the creation of Waqfs. Waqfs tie up the property and devote the usufruct to people.</p>
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After independence many **State Governments enacted their own Endowments Acts** and virtually **took over their management installing government officials as Trustees** and managers, with a view **to prevent abuse of funds and ensure uniform organisational framework** for the management of such religious and charitable institutions.

The Indian Constitution **recognizes freedom to manage religious affairs** as one of the fundamental rights of its citizens.

According to **Article 26** - **“Subject to public order, morality and health, every religious denomination** or any section thereof shall have the right:

- To establish and maintain institutions for religious and charitable purposes;
- To manage its own affairs in matters of religion;
- To own and acquire movable and immovable property; and
- To administer such property in accordance with law.

### What are Waqfs?

Waqf implies the **endowment of property, moveable or immovable, tangible or intangible to God by a Muslim**, under the premise that the transfer will **benefit the needy**. As a legal transaction, the Waqif (settler) appoints himself or another trustworthy person as Mutawalli (manager) in an endowment deed (Waqfnamah) to administer the Waqf (charitable Trust).

### What are Trade Unions?

In terms of Section 2 of the **Trade Unions Act, 1926**, a **“Trade Union means a combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between workmen and employers or between workmen and workmen** or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.”

In the *original* Act, **any seven or more members** of a Trade Union were eligible to **apply for registration** under this Act. This however **led to multiplicity of Trade Unions** in the same establishment over a period of time. In order to address this problem an **amendment was made in 2001** and it was provided that no Trade Union of workmen shall be registered unless **at least ten per cent, or one hundred of the workmen, whichever is less**, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration. A new Section 9A regarding minimum requirement about membership of a Trade Union was also inserted according to which a registered Trade Union shall at all times continue to have not less than ten per cent, or one hundred of the workmen, whichever is less, subject to a minimum of seven, engaged or employed in an establishment or industry with which it is connected as its members.

The office bearers and members of the Trade Unions have been **given immunity from criminal and civil liabilities for their activities undertaken in order to further the objectives of a Trade Union**. However, in case of willful contravention of the provisions of the Act, or fraud or mistake in obtaining registration penal provisions could be invoked and the registration certificate can be withdrawn and cancelled by the Registrar. The Registrar is appointed by the appropriate government (both Union and State) in respect of each State. He is assisted by Additional and Deputy Registrars.

## 9.9 Need for a New Legal Framework in India

- The **multiplicity of charity laws** in India has **prevented evolution and growth of a proper institutional framework** in this sector.
- While **voluntary organisations often feel harassed** in complying with various legal obligations, institutions of the **government too have not been effective in regulating** the sector and securing legal compliance.
- Instances of **misuse of tax provisions, fraud and poor governance** have become frequent.
- There is a need to create an effective institutional mechanism which would **provide a supportive environment for the growth** and development of charities in this country.
- India being a federal Union, a decentralized institutional setup for charities similar to that existing in the USA, seems to be appropriate.
- The power of registration and oversight needs to lie with the State Governments.

In this light, the **SAMPRADAAN Indian Centre for Philanthropy conducted a study** along with Planning Commission and made **recommendations** towards adoption of Four Pronged Model:

MODEL I	Maintain the status quo, keeping the existing institutional arrangements as they are, but <b>enhancing their performance</b> by adopting certain recommendations for a <b>more facilitative interface</b> with the public, greater transparency of the regulatory process, measures for <b>securing better compliance, and a better appeals process</b> .
MODEL I	Create a <b>functionally enhanced Charities Directorate in the Income Tax department</b> , plus State level registering agencies, plus a NPO Sector Agency. The Charities Directorate would be the <b>main regulatory agency</b> , looking after monitoring and compliance, as in <i>Canada and the USA</i> , while the <b>State level registering agencies would exist only for registration function</b> . In addition, there would be an NPO Agency to advise the Charities Directorate. It will consist of the representatives of the NPO sector, and professionals such as lawyers and Chartered Accountants. It would provide policy guidance, obtain feedback from the sector and set up a review mechanism for achieving compliance.
MODEL III	Create a Charities Directorate and a mandatory NPO Sector Agency. The <b>difference between this model and the one mentioned above</b> is that the <b>NPO Sector agency would be created by the government as an autonomous Body</b> . It would have its own Governing Body, and professional staff, and would have the general function of promoting effective use of charitable resources by encouraging better management of organisations, and improving governance by providing Trustees with information and advice. It would also be responsible for compliance education functions. It would be a permanent forum for dialogue that this sector has been demanding and would be the interface between the government and the sector.
MODEL IV	Create <b>State level Charity Commissions</b> supported by a NPO Sector Agency. There would be an <b>Appeals Tribunal</b> too. This model suggests setting up a Charities Commission on the <b>UK model</b> . It would be concerned not only with financial regulation but also with the promotion and development of the sector.

### NEED: Model law for Societies and Trusts

- **Diversity of laws across the States** has given rise to emergence of non-uniform practices in the management of voluntary organisations.
- If an institution registered in one State **desires to expand its activities to any other area**, it needs to **comply with a different set of legal requirements**.

## 9.10 Recommendations of Administrative Reforms Commission

In order to **create a uniform legal environment across States**, the Union Government should formulate a comprehensive **model law covering both Societies as well as Trusts**. This model law could be sent to the States who could adopt it with suitable modifications.

### Key Elements of Model Law:

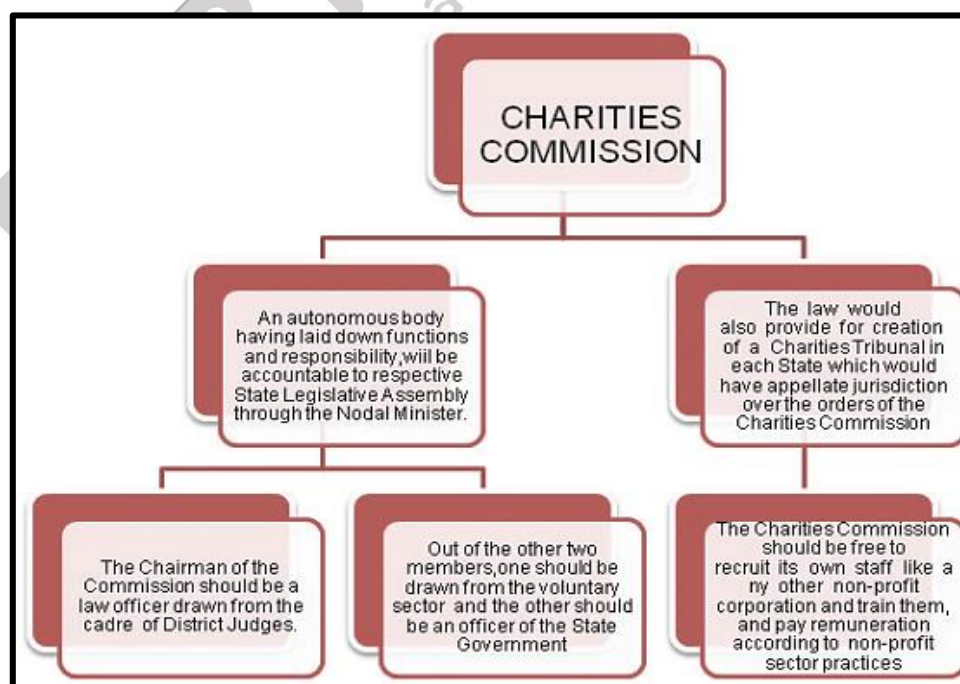
- Defining Charity and Charitable Purpose
- Institutional Mechanism
- Interface with the State Government.

### Defining Charity and Charitable Purpose

The new law will need to draft a **composite definition based on the contents of the original Societies Registration Act, 1860**, various amended State Acts. The definition of “Charity” and “Charitable Purpose” provided in the **UK Law covers almost all the objectives** listed in the extant Union and State laws and the same can be kept in mind while formulating the new legislation. The Commission is of the view that there is need to **set up an Inclusive Committee** which will examine this issue comprehensively and **suggest an appropriate definition** which would inter-alia soften charities-government relationship, particularly in tax matters.

### Institutional Mechanism

In place of the present charity administration consisting of a Charity Commissioner / Inspector General of Registrations as existing in the States, the proposed law would provide for a new governance structure in the form of a **three-member Charities Commission** in each State with necessary support staff.



### Functions of the Charities Commission:

Registration of Non-Profit Organisations (NPOs)	Maintaining a Public register of NPO	Audit and monitoring	Receiving reports from NPO
Disseminating Information Good Practices/methods management among voluntary organisations.	Holding Public discussion consultations	Bringing out Publications	To review periodically the social and economic environment of the charities
Acting as a permanent forum for dialogue with the sector on issues of policy and regulation.	Administering sanctions and penalties for non-compliance	Resolving grievances	

### Interface with the State Government

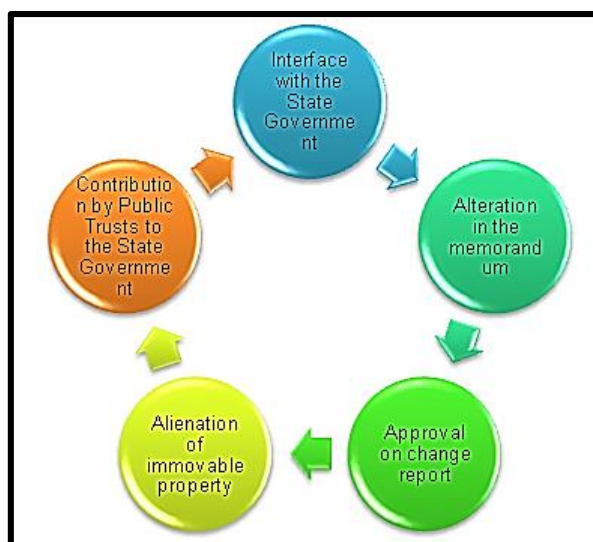
*At present*, a non-profit organisation's interaction with the State authorities consists of: -

- Grant of permission for alteration of the memorandum
- Inspection
- Cancel registration
- Appoint an administrator
- Modify a decision of the Governing Body
- Dissolve the institution
- Impose penalty

In view of such **vast powers** available to the State machinery, there is a feeling among the Non Profit Organisations (NPOs) that the **sector has virtually become a subordinate formation of the State Government**.

### Recommendations of Administrative Reforms Commission

- The Non-Profit Organisation Sector (NPO) should **have freedom in their functioning** (as per the intent of their memorandum). Government's **interface with these organisations should be minimal** and the government should **work only as a facilitator and developer**.
- The discretionary powers acquired by various State Governments during the course of time need to be dispensed with.
- The **Union Government should draft a comprehensive model legislation covering both Trusts and Societies** in lieu of the existing laws on Societies, Trusts, Endowments and Charitable Institutions etc.
- Organisations having an **annual income below a threshold** will have **lighter compliance requirements** with respect to submission of returns / reports / permission etc. However, if irregularities are detected in their functioning, the organisations will be liable for legal and penal action. To start with, the cut off limit could be set at Rs.10 lakhs which could be reviewed for upward revision once in five years. The government should set up an Inclusive Committee which will comprehensively examine the issue of defining 'Charity' and 'Charitable Purpose' and suggest measures to "soften" charities-government relationship, particularly in tax matters.
- **The model legislation should take into consideration the views and suggestions made above with regard to the following issues of charity administration:**



### 9.11 Revenues of the Third Sector

Third Sector Organisations in India raise funds primarily from four major sources viz. **individuals, private foundations (national as well global), business houses and government**. In recent years, the diaspora is also playing a leading role in contributing to social causes.

**The commission has found following issues with respect to Revenue Sources;**

- While the quantum of donation to the voluntary sector from government and foreign donor sources has increased considerably during the past decade, **private philanthropy by individuals, Trusts, foundations, and corporates has not expanded commensurately.**
- There has been a phenomenal increase in the quantum of **international and bilateral funds** to Nonprofit and Voluntary Organisations, which needs to be **monitored constantly.**
- An **Action Aid study** found that, on the corporate front, only 36% of the 647 **companies** surveyed had some sort of **policy** (21% of these or 8% of the total companies had a written policy) to get **involved in social development activities.**
- In recent years, CSR has shifted from the domain of charity to the domain of standard business practices.

**Recommendations of Administrative Reforms Commission:**

<p>The Commission acknowledges that over the years, many of the corporate houses have undertaken significant work in sectors like primary/adult education, livestock development, tank irrigation, sanitation, women and child nutrition and provision of drinking water. The Commission feels that while taking up such activities, the Corporates should take into account the prevailing needs of the local people.</p>	<p>When a community benefit project is taken up by a corporate entity, there should be some mutual consultation between the company and the local government so that there is no unnecessary overlap with other similar development programmes in the area</p>	<p>Government should act <b>as a facilitator and create an environment</b> which encourages business and industry to take up projects and activities which are likely to have an impact on the quality of life of the local community. Both the Union and State Governments <b>provide considerable budgetary support to voluntary organisations</b> on a wide range of activities like rural technology, concerns of social welfare, primary education, maternal and child health care, adult education, empowerment of women and rehabilitation of the disabled.</p>
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## 9.12 Accreditation of Voluntary Organisation

Accreditation is a **formal recognition** of the achievements of an organisation, linked to some internal / external norms such as commitment to long term aims and objectives, organisational ability, adherence to financial norms, transparency and accountability etc.

The process of accreditation and certification undertaken for the voluntary sector should be based on the following **principles**:

1. Accountability and transparency
2. No ranking or ratings
3. Norms will have to be compatible to the sector

**The Administrative Reforms Commission has carefully considered the whole issue and agrees with the view that:**

- Accountability to stakeholders and transparency in the functioning of the voluntary sector is essential; therefore, there is a need for **accreditation** of VOs through **an independent statutory agency like the National Accreditation Council**.
- **Accreditation does not amount to ranking or rating of VOs. It is a stamp of transparency, accountability and credibility.**
- To start with, the government needs to place an appropriate corpus of funds at the disposal of the NAC, which could be supplemented by donations. Thereafter, the Council could finance its activities by charging fees from its clients. Such system of accreditation/certification should be applicable only to those organisations which seek funding from government agencies. In order that the parameters adopted are clear and transparent and the actions taken by NAC are independent, it is advisable that the constitution of the Council, its functions and procedures are clearly spelt out in the law.

## 9.13 Regulation of Foreign Contribution

In the context of development of social capital, the primary concern with regard to receipt of foreign contributions should be to **ensure that genuine organisations are not harassed** or their functioning impeded by byzantine procedures and red tapism. The Commission is of the view that the process of registration under the proposed **law on foreign contribution needs to be kept simple** and there is a need to *fix a time limit for issue of registration certificate/prior approval by the competent authority*.

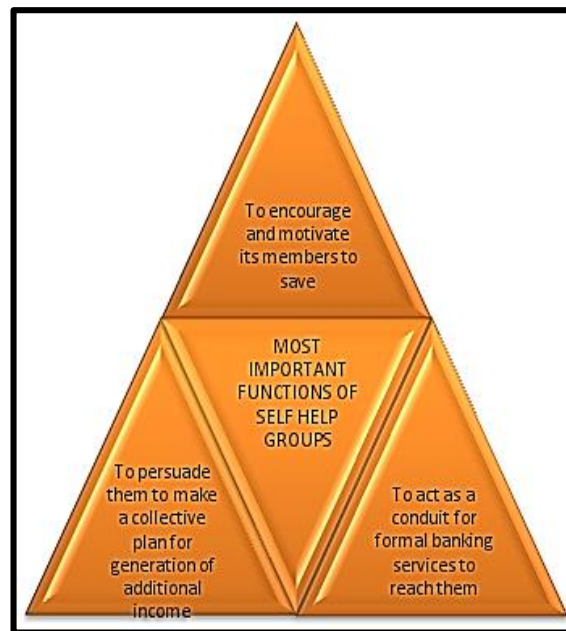
**Recommendations of Administrative Reforms Commission:**

<p><b>The Foreign Contribution (Regulation) Bill, 2006 (FCRA)</b> needs to be amended to include inter-alia the following suggestions:</p> <ul style="list-style-type: none"><li>• The minimum amount of donation which would require interagency consultation,</li><li>• The level of the Authority which would authorize it, and</li><li>• Setting up time limits for such procedures</li></ul>	<p>Currently, the entire work under the FCRA is being handled by a Division of the Home Ministry headquartered at New Delhi. The State Government and its machinery particularly the District Administration which are in a position to observe and monitor the activities of the NGOs in their areas are not involved in the process. The Commission is of the view that if <b>some of the functions under FCRA are decentralized and delegated</b> to the State Government/ District Administration, it will help in:</p> <ul style="list-style-type: none"><li>• Speedy disposal of registration petitions,</li><li>• Close monitoring of their activities, and</li><li>• Scrutiny of returns</li></ul> <p>Moreover, many organisations are in <b>receipt of meagre funds but they have to undergo full compliance requirements</b> under the provisions of FCRA, 1976. This leads to <b>delay and harassment besides putting a strain on the administrative capacity</b> of those charged with the task of scrutinising their returns. The Commission feels that a <b>threshold limit with regard to the amount of foreign</b></p>
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**contribution received in a year by voluntary organisations needs to be fixed.** Organisations receiving contribution below this limit in a year would be exempted from registration and other provisions of this law.

### 9.14 Third Sector Organisation at Local Level: Self Help Groups

Self-Help Groups are **informal associations** of people who choose to come together to find ways to **improve their living conditions**. They help to build Social Capital among the poor, **especially women**.



Such groups **work as a collective guarantee system for members who propose to borrow from organised sources**. Consequently, Self-Help Groups have emerged as the most effective mechanism for **delivery of microfinance services** to the poor. The range of financial services may include products such as deposits, loans, money transfer and insurance.

### 9.15 Financial Inclusion: Status

As per a survey report of the NSSO (59th round), 45.9 million farmer households in the country (51.4%) out of a total of **89.3 million households do not have access to any form of credit from institutional or non-institutional sources**. Overall, 73% of the households do not have credit links with any financial institution. This apart, the overall credit linkage portfolio when taken as a whole for the country, appears to be **highly skewed with the North-Eastern, Eastern and Central regions lagging** far behind other parts of the country.

**In 2006, the Reserve Bank of India set up a Committee under the chairmanship of Ms. Usha Thorat to suggest methods to expand the reach and content of financial sector services in the North-East.**

**In this context the Committee made following recommendations: -**

- **Opening new branches** of commercial banks.
- Increasing number of accounts in the existing banks.
- Improvement of currency management system
- Utilising the **Banking Correspondent (BC) model** to expand the outreach of banking services.
- Providing insurance and capital market products through Banks.
- **Strengthening the Regional Rural Banks.**

- Effective utilisation of Information Technology to provide banking services.
- **Converting well established SHGs into cooperatives;**
- **Relaxing insistence on collaterals; and**
- Enhancing the recovery capacity of the Registrar cooperative societies in the States to collect cooperative dues.

In 2007 another Committee under **Chairmanship of C RANGARAJAN** was set up, on Subject of **'Financial Inclusion in the Country'**. The Committee went into a large number of issues connected with (a) banking in remote areas, (b) empowerment of Self-Help Groups and their linkages with financial institutions and (c) revitalization of the RRBs.

**One of the main findings of this Committee was that the scenario of credit access showed wide inter-region and inter-State variations.**

Following tables depict the fundings of the Committee:

Region	Total HHs	Indebted HHs	% to total HHs	Non-indebted HHs	% to total HHs	Indebted to formal sources	% to total HHs	Excluded by formal sources	% to total HHs
Northern	109.46	56.26	51.40	53.2	48.60	27.423	25.05	82.04	74.95
North Eastern	35.40	7.04	19.90	28.36	80.10	1.448	4.09	33.95	95.91
Eastern	210.61	84.22	40.00	126.39	60.00	39.467	18.74	171.14	81.26
Central	271.33	113.04	41.60	158.29	58.40	60.814	22.41	210.52	77.59
Western	103.66	55.74	53.70	47.92	46.30	45.586	43.98	58.07	56.02
Southern	161.56	117.45	72.70	44.11	27.30	69.072	42.75	92.49	57.25
Group of UTs	1.48	0.49	33.10	0.99	66.90	0.15	10.14	1.33	89.86
All India	893.50	434.24	48.60	459.26	51.40	243.96	27.30	649.54	72.70
NE, C & E Regions*	517.34	204.30	39.49	313.04	60.51	101.73	19.66	415.61	80.34
Share to All-India (%)	57.90	47.05		68.16		41.70		63.99	

\*NE= North-Eastern Region, C= Central Region, E= Eastern Region

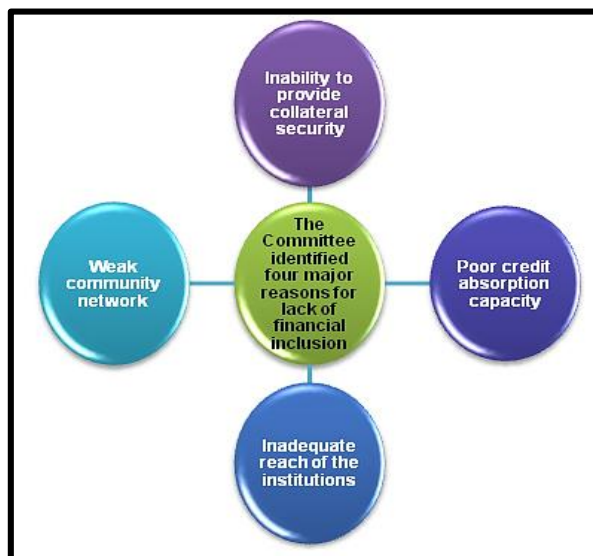
**Table: Number of Farmer Households (HH) in Lakhs not accessing credit from formal sources  
Source: 2nd ARC REPORT**

State / Region	Non-indebted Farmer HHs@		State / Region	Non-indebted Farmer HHs @	
	Lakh	%		Lakh	%
Northern	53.21	48.7	West Bengal	34.53	49.9
Haryana	9.11	46.9	Central	158.29	58.4
Himachal Pradesh	6.03	66.6	Chhattisgarh	16.50	59.8
Jammu & Kashmir	6.43	68.2	Madhya Pradesh	31.09	49.2
Punjab	6.38	34.6	Uttar Pradesh	102.38	59.7
Rajasthan	25.26	47.6	Uttarakhand	8.32	92.8
North Eastern	28.36	80.4	Western	47.92	46.3
Arunachal Pradesh	1.15	94.1	Gujarat	18.20	48.1
Assam	20.51	81.9	Maharashtra	29.72	45.2
Manipur	1.61	75.2	Southern	44.11	27.3
Meghalaya	2.44	95.9	Andhra Pradesh	10.84	18.0
Mizoram	0.60	76.4	Karnataka	15.52	38.4
Nagaland	0.51	63.5	Kerala	7.82	35.6
Tripura	1.19	50.8	Tamil Nadu	9.93	25.5
Sikkim	0.36	61.2			
Eastern	126.39	60.0	Group of UTs	0.99	66.9
Bihar	47.42	67.0			
Jharkhand	22.34	79.1	All India	459.26	51.4
Orissa	22.09	52.2	@ refers to non-indebtedness to both		

**Table: Proportion of Non-indebted Farmer Households (State-wise)  
Source: 2nd ARC REPORT**



The Rangarajan Committee came to a finding that currently there are 256 districts in the country (out of a total 617) spread across 17 States and 1 Union Territory which suffer from acute credit exclusion with a credit gap of over 95%.



### 9.16 Evolution of Self Help Groups Movement

**Textile Labour Association (TLA) of Ahmedabad was the first organised initiative** in this regard, which formed its women’s wing to organise the women belonging to households of mill workers in order to **train them in primary skills like sewing, knitting embroidery, typesetting and stenography etc.** Later on in 1972, it was given a more systematized structure when under the **leadership of Ela Bhatt, Self Employed Women’s Association (SEWA)** was formed as a Trade Union. She organised **women workers such as hawkers, vendors, home based operators like weavers, potters, papad, agarbatti makers, manual labourers, service providers and small producers like cattle rearers, salt workers, gum collectors, cooks and vendors** with the primary **objective of increasing their income and assets; enhancing their food and nutritional standards;** and increasing their organisational and leadership strength. The objective was to organise women for full employment. Currently, SEWA has a membership strength of 9,59,000 which is predominantly urban.

**MYRADA was a Karnataka based non-governmental organisation,** which promoted several locally formed groups during the 1980s, to enable the members to **secure credit collectively and use it along with their own savings for activities which could provide them economically gainful employment.** Major experiments of self-help groups formation at the local level were also initiated in Tamil Nadu and Kerala about two decades ago through the **Tamilnadu Women in Agriculture Programme (TANWA) 1986, Participatory Poverty Reduction Programme of Kerala, (Kudumbashree) 1995 and Tamilnadu Women’s Development Project (TNWDP) 1989.** These initiatives gave a firm footing to the SHG movement in these States.

#### Some Features Of Self Help Groups In The Country: As Found by the ARC

- Self Help Groups is a **dominant model for Micro Finance in India**
- The initial pioneers of Self Help Groups Movement in India were Non-Government Organizations
- **Government has emerged as the largest SHG promoter.**
- Various government subsidy programs linked to SHG have been launched
- **Approximately 44% of the country’s Bank-linked SHGs were in the southern States.**

### Self Help Groups Since 1992:

The most important feature of the growth of the SHG movement in our country has been the formation of small groups and linking them to bank branches for credit delivery. The **SHG-Bank linkage programme** was started as a test project in 1989 when **NABARD**, the Apex Rural Development Bank in the country, sanctioned Rs. 10 lakhs to MYRADA as seed money assistance for forming credit management groups. In the same year, financial support to PRADAN was provided to the Ministry of Rural Development for establishing Self-Help Groups in some rural pockets of Rajasthan. On the basis of these experiences, a **full-fledged project involving a partnership among SHGs, Banks and NGOs** was launched by **NABARD** in 1992.

Other Agencies/Entities involved in development and Promotion of Self Help Groups			
Small Industries Development Bank Of India (SIDBI)	Rashtriya Mahila Kosh (RMK)	Housing and Urban Development Corporation (HUDCO)	Public sector/other Commercial banks which are free to take up any lending as per their policy and RBI guideline

### Private Initiatives for Self Help Groups Development:

**SEWA** in Ahmedabad, **MYRADA** in Karnataka, **Nav Bharat Jagriti Kendra** and **Ramakrishna Mission** in Jharkhand, and **ADITHI** in Bihar are some of the names which took the lead in promoting Self-Help Groups (mostly of women) around income generation activities using local skills.

It is thus, **due to the combined efforts of the government and these private voluntary agencies that the SHGs have come to occupy a place of prominence** in the socio-economic fabric of rural India.

#### 9.16.1 Impact of Self Help Group Movements

**NABARD** carried out an impact evaluation study in 11 states covering more than 200 self-help groups.

58% of the households covered under SHGs reported an <b>increase in assets</b>	Majority of the members <b>developed savings habit</b>	Most of the loans taken went into <b>income developing ventures</b>
Average value of assets per household increased	There was a threefold <b>increase in savings</b> and a doubling of borrowings per household	There was <b>expansion in employment</b> in most of the households
Average net income of household increased	The <b>share of consumption loans in households decreased</b>	There was overall increase in group confidence after participation in SHG activities



**Issues of Self Help Group Movement:**

- Maintaining the participatory character.
- Need to **expand the SHG movement to States such as Bihar, Uttar Pradesh, Madhya Pradesh, Orissa, Rajasthan** and in the North-East (where the SHG movement and micro-finance entrepreneurship is weak)
- Need to extend small group organisations (SHGs) **to Peri-urban and urban areas.**
- Mode of SHG development and financial intermediation
- Self-Help Groups and Regional Rural Banks.
- Issues of sustainability.
- Financial assistance to SHPIs and other support institutions.
- Role of Micro-Finance Institutions.

**9.16.2 Recommendations of Administrative Reforms Commission**

<p>The <b>role of the Government</b> in the growth and development of the SHG movement should be that of a <b>facilitator and promoter</b>. The objective should be to create a supportive environment for this movement.</p>	<p>Since a large number of rural households in the <b>North-Eastern States and Central-Eastern parts</b> of the country (Bihar, Jharkhand, Uttar Pradesh, Uttarakhand, Orissa, Madhya Pradesh, Chhattisgarh and Rajasthan) do not have adequate access to formal sources of credit, a major thrust on the <b>expansion of the SHG movement in these areas</b> should be facilitated. The presence of NABARD should be much more pronounced in these places.</p>	<p>The SHG movement needs to be <b>extended to urban and peri-urban areas</b>. State Governments, NABARD and commercial banks need to be involved. If necessary, the NABARD Act, 1981 may be amended suitably to bring urban / semi-urban areas under its refinance mandate.</p>
<p>Currently, the commercial Banks, on the basis of a project's financial viability can disburse microcredit in urban and semi-urban areas on their own but such micro-credit disbursements are not entitled to refinance from NABARD.</p>	<p>The SHG - Bank Linkage model with a mentor SHPI in tow deserves to be encouraged as the preferred mode for financial intermediation throughout the country.</p>	<p>Commercial Banks and NABARD in collaboration with the State Government need to continuously innovate and design new financial products for these groups.</p>

There should be a planned effort to <b>establish RRB networks in the 87 districts of the country which currently do not have RRB presence.</b>	Special steps should be taken for training / capacity building of government functionaries so that they develop a positive attitude and treat the poor and marginalized as viable and responsible customers and as possible entrepreneurs.	<b>Rural credit is often viewed as a potential Non Performing Asset.</b> There is a <b>need to educate government employees and Bank personnel</b> in this regard. Technology may be leveraged to reduce the cost of reaching out to the poorest of the poor.
There is a need to review the scale of the promotional grant given to SHPIs by NABARD.	In order to scale up the operations of the <b>Rashtriya Mahila Kosh</b> , its corpus should be enhanced substantially. <b>RMK's geographical reach should be expanded</b> to help quick processing of loan applications and effective monitoring of the sanctioned projects in far off areas.	

## 9.17 Self Regulatory Authorities

Self regulatory authority is **generally related to a profession** and includes a body of members responsible for growth and development of that particular profession in the background of its responsibility words society and state.

**There are six major professional bodies operating in India:**

- **Institute of Chartered Accountants of India (ICAI)** - formed under the Chartered Accountants Act, 1949.
- **Bar Council of India (BCI)** - formed under the Advocates Act, 1961.
- **Medical Council of India (MCI)**- formed under the Indian Medical Council Act, 1956.
- **Institute of Cost and Works Accountants of India (ICWAI)**- formed under the Cost and Works Accountants Act, 1959
- **Institute of Company Secretaries of India (ICSI)**- formed under the Company Secretaries Act, 1980
- **Council of Architecture (COA)** - formed under the Architects Act, 1972.

Also **there are certain organisations like institutions of engineers** that have been formed purely by voluntary action of respective members of the profession. They **do not have any statutory background.**

Currently major **functions of self regulatory authorities are to manage and regulate professional education.** *National knowledge commission* was set up in the year 2005 having a **mandate to prepare a blueprint for transformation of the country into a knowledge society that has gone into issues of higher Education.** One of its major **recommendations include taking away professional education from the domain of existing regulatory bodies.**

In this light the National knowledge Commission has recommended **establishing an Independent Regulatory Authority for Higher Education (IRAHE)**, which must be at arm's length from the government and independent of all the stakeholders including concerned ministries of the government.

### Independent Regulatory Authority for Higher Education (IRAHE)

- The IRAHE would have to be **established by an Act of Parliament**, and would be responsible for setting the criteria and deciding on entry.
- It would be the only agency that would be authorized to accord degree granting power to higher education institutions.
- It would be **responsible for monitoring standards** and settling disputes.
- It would apply exactly the same norms to public and private institutions, as it would to domestic and international institutions.
- It would be the authority for **licensing accreditation agencies**.

In the proposed new environment, the **role of the UGC** would need to be redefined, so that it remain **confined to**

- (a) Disbursement of grants, and
- (b) Maintenance of public institutions.

**The All India Council for Technical Education (AICTE) will need to be abolished while the functions of the Medical Council of India (MCI) and the Bar Council of India (BCI) will be limited to their role as Professional Associations. Separate Standing Committees will be constituted within the structure of the IRAHE to take care of the above functions in different streams.**

The main argument behind the recommendations of the National Knowledge Commission is that in the current era, **the curriculum of a particular stream does not cater only to the traditional sector of the profession, but also meets the needs of other competence areas.** For example, **our law colleges/ institutes do not prepare students only for careers in the Bar or in the judiciary. The curriculum also trains them for other equally important functions in society such as those of policy makers, business advisers, academicians, activists and public officials.**

**The Recommendations of Administrative Reforms Commission are:**

<p><b>Professional education should be taken away from the domain of the existing Regulatory Bodies and handed over to specially created agencies – one for each of the streams of higher/professional education. These Bodies may be called National Standards and Quality Council for Medicine, National Standards and Quality Council for Management etc.</b></p> <p>After this bifurcation, the <b>work of the existing Regulatory Bodies’ would remain confined to issues concerning registration, skill upgradation and management of professional standards and ethics. On creation of these separate Councils, the AICTE will stand abolished.</b></p>	<p>Such Councils should be created by law and their role should be to lay down norms, standards and parameters on issues concerning growth and development of their stream through;</p> <ul style="list-style-type: none"><li>• Setting up new institutions,</li><li>• Designing/ updating curriculum,</li><li>• Faculty improvement,</li><li>• Carrying out research / innovation, and</li><li>• Other key issues concerning the stream.</li></ul>
<p><b>The proposed law should take into consideration the following guiding principles while constituting these Councils:</b></p> <ul style="list-style-type: none"><li>• Such Councils <b>should have full autonomy.</b></li><li>• The highest policy and decision making Body of these Councils should have a majority of independent members, and preferably no more than 2 or 3 drawn from government, who could be</li></ul>	<p>Within such norms, standards and parameters, the <b>Universities/ Autonomous Institutions should be given full autonomy</b> for setting up and running institutions under their jurisdiction.</p>

<p>there in an ex-officio capacity.</p> <ul style="list-style-type: none"> <li>• These Councils should have a strong and effective <b>grievance redressal mechanism</b>.</li> <li>• The Councils should be <b>accountable to Parliament</b> and their Report should be placed before the House annually.</li> <li>• In addition, there should be strong norms for suo-motu <b>disclosures under the RTI Act</b>.</li> <li>• Each of these Councils should have a body of experts to advise it on accreditation / certification of institutions falling under their jurisdiction.</li> <li>• Some of the members of such Councils can be elected from office bearers of specialty Associations (e.g. Indian Medical Association), as these members are elected by the practicing professionals in their individual speciality.</li> </ul>	
<p>There should be stronger ties between educational institutions in the public and private sectors through mechanisms such as exchange of faculty.</p>	<p>The <b>recommendations of the National Knowledge Commission regarding reforms in the structure, governance and functioning of Universities should be examined and implemented</b> on priority. The process of <b>appointment of Vice Chancellors should be free from direct or indirect interference of the government</b>. Vice Chancellors should be given a fixed tenure and they should have adequate authority and flexibility to govern the Universities with the advice and consent of the Executive Council.</p>

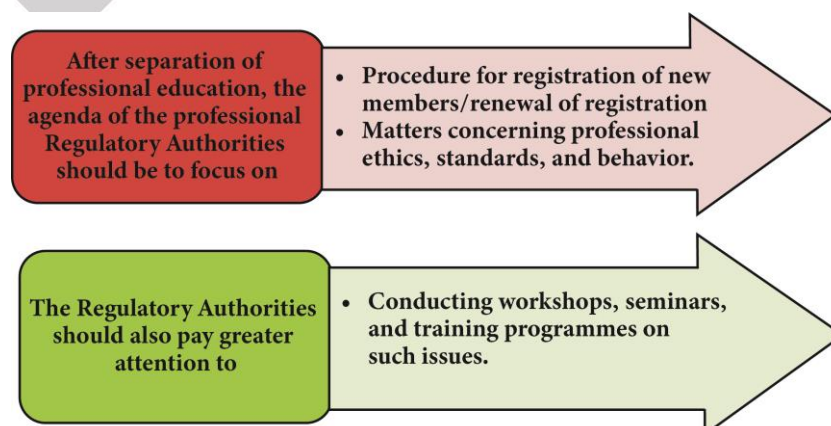
## 9.18 Ethical Education and Training

**Decline of ethics** among professionals can be attributed to **two primary factors**:

- The tenor of the overall educational system; and
- Impact of the environment.

**Ethics finds a very small space in our current academic content.** There is a need to give it a prominent place in the curricula being followed by professional institutions throughout the country.

**In this context the Administrative Reforms Commission recommends:**



### Composition of Self Regulatory Authority:

Regulatory authorities have been **given considerable autonomy by law**. The intent is to reassure the public that **these bodies will function without any constraint and provide quality service** to them. Generally regulatory authorities have been modelled on the lines of Parliamentary form of Government having an elected General Body and a smaller executive outfit having nominated members.

**Administrative Reforms Commission has gone into details of the composition of these bodies and is of the view that any attempt to perform these authorities would require adherence to 4 core principles:**

- **Inclusiveness:** - The need to have the confidence and participation of key stakeholders.
- **Effectiveness:** - The need for the Regulatory Body to discharge its statutory functions as effectively as possible.
- **Transparency:** - To be open about the decisions and actions taken
- **Accountability:** - Being accountable and answerable to the relevant stakeholders.

### Recommendations of Administrative Reforms Commission:

The <b>structure and composition of the General Council</b> and the Executive Committee of Professional Regulatory Authorities should be rationalised. As far as practicable, it should be <b>uniform for all of them</b> .	Every Authority should have a fairly large and representative General Council (the ideal number could be around 50; such a Body encourages a wider perspective and diversity of opinions).
The Executive Committee should be a small Body consisting of 10 to 15 members (a compact forum supports administrative efficiency and accountability).	There should be an explicit provision that <b>a person cannot be elected to the post of President / Vice-President or General Secretary for more than one term</b> . However, a person could be elected as a member of a Body for a maximum of two terms.
The composition of the General Council as well as the Executive Committee should be such that 40% of the strength consists of lay members. The nomination of lay members should be done by the Ministry / Department concerned in consultation with the appropriate Regulatory Authority.	The laws governing the Self-Regulatory Authorities should have a provision under which the Regulatory Authority should be required to present an Annual Report to the Parliament for scrutiny.

## 9.19 Cooperatives

A cooperative is an **autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise**. Cooperatives as business enterprises possess some basic interests such as ownership and control but these interests are directly vested in the hands of the user. Therefore, they follow certain broad values other than those associated purely with profit making. Need for profitability is balanced by the needs of the members and the wider interest of the community. **The values universally recognized as cornerstones of cooperative behaviour are: Self-help, democracy, equality, equity and solidarity.**

### 9.19.1 History of Cooperatives in India

The Indian Cooperative sector has a history dating back to **pre-independence times** when it was born during the later part of colonial era predominantly as a government initiative to address the two major **issues of farmers indebtedness and poverty**. This initiative took formal shape through legislation enacted in 1904 entitled as the **Co-operative credit societies act, 1904**.

**After independence**, a Cooperative work considered as a part of strategy for planned economy development of India as a result they became one of the cardinal **principles of the agenda of Land Reforms**. *Jawaharlal Nehru visualised India in which village would have a Panchayat, a Cooperative and a School*. Rapid and equitable economic development became the focus of State Policy after independence, this resulted in enactment of Co-operative legislations all over the country between 1960s and 70s. On the basis of findings of all India **rural credit survey committee under the Chairmanship of AD GORWALA recommended that States should play an active role in spreading Cooperative movement**. Based on these recommendations several states enacted new laws or amended the existing ones which gave the States a major role in the functioning of cooperative institutions.

During the early years the cooperative societies functioning in multiple jurisdictions had to encounter different laws and therefore their working became complex but a separate consolidated legislation for them parliament enacted **Multi State Cooperative Societies act in 1984**.

During the first few decades after Independence, this sector **played a pivotal role in bringing food sufficiency through the green revolution, in building up a network for distribution of new varieties of seeds, fertilizers and cash credit and in creating an environment of participation and hope among the people**. Beginning with **Amul in Gujarat**, it took extraordinary strides in the dairy sector too.

### 9.19.2 Issues of Co-operatives

- **Bureaucratisation and Government Control:** When the colonial rulers officially brought the cooperatives to India, they created the **post of the Registrar of Cooperative Societies**, a position specially designed by the government with a view to operating the final levers of control over these institutions and not allowing the cooperative sector to blossom as a people's movement. The government of Independent India, while championing the cause of cooperatives, not only retained this key position but also further added a complex hierarchy of bureaucratic power centres to the existing structure. **Existence of such a government controlled cooperative infrastructure has gone against the very logic of the cooperative movement.**
- **Politicisation of Cooperative:** The **Boards** of a majority of cooperative Bodies are **dominated by politicians**. Many of them are in cooperatives because they want to **use this position as a stepping stone for their political ambitions or their current political standing has gone down**. .
- The two of most **important values, Self Help and member centrality, have been missing in Cooperative right since their genesis.**

Recognising the importance of cooperatives, the Union Government has taken several initiatives in the recent past (forming Expert Committees on short and long term credit structures, preparing a draft model law, entering into reform agreement with the State Governments and announcing revival packages). **However, a lot more still remains to be done, particularly, in States where there is reluctance to move ahead.**

### 9.19.3 Recommendations of Administrative Reforms Commission

An Article should be added to **Part-IV of the Constitution in the form of 43B**. In that case, a large scale Constitutional amendment on the pattern of Parts-IX and IX-A which was introduced by the 73rd and 74th Amendments, will not be necessary. The proposed Article 43B may read as follows: Article 43B: Empowerment of Co-operatives: **"The State shall endeavour to secure by suitable legislation or economic organisation or any other way autonomous, democratic, member driven and professional cooperative institutions in different areas of economic activity particularly those relating to agriculture."**

Note: - Consequently the recommendations of the Second Administrative Reforms Commission materialized into incorporation of Provisions related to **formation of Cooperative societies** and various modalities associated with them as **part of Fundamental Rights and Directive Principles of State Policy through 97th Constitutional amendment Act**.



### 9.19.4 Legislative Framework

It is strongly felt that **the cooperative legislations prevalent** in the country have been one of the **major factors behind the not so successful cooperative movement in India**. Most of the laws governing cooperatives suffer from control and accountability related problems.

The **Task Force on the Revival of Cooperative Credit Institutions** in its Report (December, 2004) examined the enabling legislations for cooperatives in detail and **suggested a Model Mutually Aided Cooperative Societies Act** to be adopted by all the States. The salient features of the draft model law suggested by the Task Force are as under:

<p>The law seeks to <b>provide Democratic functioning</b> of Cooperatives.</p>	<p>The <b>model law is member-centric</b>. It ensures that members are in control of their organisation, and that they can hold accountable those they elect. It <b>places responsibilities on members, and it gives them the right to manage their own affairs</b>.</p>	<p>It places responsibilities on elected Directors in such a manner, that elected positions are positions of responsibility and not only of power and authority. Accountability of the Directors to the General Body is in-built, and any lapse is treated seriously. A Director's behaviour is expected to be reported to the General Body for its scrutiny.</p>
<p>The Model Law makes it clear that cooperative societies are not the creatures of the State nor are they statutory creatures. Membership in these societies is voluntary and therefore as in the case of Companies, Societies, Trade Unions, and unincorporated Associations, <b>elections should be an internal affair of each organisation</b>.</p>	<p>The General Body of each cooperative society will <b>appoint an auditor</b>, and the responsibilities of the auditor have been made explicit.</p>	<p>Recruitment of staff will be the responsibility of each cooperative society. Common cadres and recruitment boards are not envisaged</p>
<p>The law envisages creation of cooperative societies based on mutual aid and trust amongst members. While cooperative societies are permitted to accept member savings and deposits, and borrowings from others, they are <b>not permitted to accept savings from non-members</b>. In case a cooperative wishes to accept public (non-voting member) deposits, it will <b>need to be licensed by the RBI</b> and follow such other regulatory norms as prescribed by the RBI.</p>	<p>Profit (surplus) and loss (deficit) are to be shared among members. Cooperatives are expected to be professionally managed in the truest sense of the phrase, as Directors have to face their General Body each year and recommend surplus/deficit sharing to members</p>	<p>The manner of recovery of dues from members is required to be in-built in the Articles of Association.</p>

### The administrative Reforms Commission Further recommends that:

All States (other than Andhra Pradesh, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Orissa, Uttarakhand, Karnataka and Jammu and Kashmir) should immediately take steps to <b>enact their own Mutually Aided / Self-Reliant Cooperative Societies Act on the pattern of the Model Law</b> suggested by the Task Force on Revival of Cooperative Credit Institutions	The States where such Acts are already in existence should also examine the Model Law suggested by the Task Force and <b>amendments in the existing legislations may be made</b> , if so required.	For the next few years, there is need to have parallel laws to deal separately with; <ul style="list-style-type: none"><li>• Mutually Aided / Self-Reliant cooperative societies formed under the recent enactments (post 1995),</li><li>• Societies formed under the old laws in which the government still has financial stakes.</li></ul> The societies referred above should gradually be encouraged to clear off their liabilities and convert into Mutually Aided Societies
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#### 9.19.5 Cooperative Credit and Banking Institutions

The Co-operative credit institutions had come into existence as **a mechanism to pool resources in rural areas and to provide easy credit to rural people**. Subsequently in course of time their **financial health has deteriorated** considerably. The primary reasons for this situation is induced **state interference and politicization** as well as **poor quality of Management**. As a result of this these institutions are facing a lot of problems like who are resource base, dependence on external funding, excessive state intrusion, multiplicity of control, huge pile of losses, lack of business initiatives and regional disparity.

In this context the administrative reforms commission states as follows:

The process of implementation of the *revival package* for **Short-Term Rural Cooperative Credit Structure (STCCS)** formulated on the basis of the **Vaidyanathan Committee Report** should be completed immediately. It consists of the following major steps: -

- States which have so far not signed the MOU for this purpose should be asked to do so without further loss of time.
- The **Banking Regulation Act, NABARD Act and the State Cooperative Societies Acts need to be suitably amended** in order to improve the management / governance of cooperative credit institutions.
- A **model Cooperative Law needs to be enacted** by the States. States which do not wish to pass the Model Act, should introduce a separate chapter on Agricultural and Rural Credit Societies containing the salient provisions of the Model Law in their existing Cooperative legislation.

Similar steps should be taken in a time-bound manner in respect of the recommendations of the same Committee on **Long-Term Cooperative Credit Structure (LTCCS)**.

#### 9.20 An Integrated Social Policy for India

The vision of the founding fathers was articulated by Pandit Nehru's historic words to the people of India on August 15, 1947 that **"long years ago, we made a tryst with destiny and now the time has come when we shall redeem our pledge"**. This was a **message to the people** of the country to **dedicate themselves to the service of India** and to the larger cause of humanity. Specifically, the **economic and social order envisaged for this country is incorporated in the Directive Principles of State Policy** which is a unique feature of our Constitution. In fact, it has been described as a forerunner of the U.N. Convention on the right to development as an inalienable human right.

Based on these principles, **India adopted a model of economic development and formulated Five Years Plan.** The vision of the planners was to **secure a socio-economic order in which the gains of the economy could reach the poor and the unprivileged** in a substantive way. The ultimate objective was to create an economy and a society which could offer adequate livelihood to all, **where social practices like dowry, domestic violence and abuse of children were absent, and where people lived in social harmony.** Over the years, we have made significant progress in many spheres, we have been able to build up an impressive infrastructure for industrial development, the tertiary sector has shown remarkable growth and many of the social and health sector indices have registered considerable improvement. But, there are still **some areas which are cause of deep concern.** Approximately 25% of our population continues to live in penury, below the **poverty** line, a large part of our workforce is either **unemployed** or under employed, and our **social security** measures continue to remain inadequate and cover only a fraction of the total population. Cases of **child rights abuse** come to notice almost regularly, **domestic violence** rocks and destroys many families and incidents of **atrocities against the weaker sections** are still reported aplenty. The **primary reason** behind this situation lies in the fact that our development process has tried to tackle issues in isolation; in bits and pieces. The **government and the planners have not tried to craft a composite social policy which could take up all the above issues in a coordinated and complementary manner.**

### 9.20.1 Recommendations of Administrative Reforms Commission for 'Integrated Social Policy'

The Commission is of the view that **instead of adopting a fragmented development approach, there is need to lay stress on an integrated social policy** which would work on these issues in a comprehensive manner. A significant portion of the plan allocation should be earmarked for implementation of such a composite social policy.

<p>Government should craft an <b>integrated social policy</b> which will ensure priority State action on the key issues relating to social justice and empowerment.</p> <p>The overall success of such a composite social policy in a polity would primarily depend on three factors :-</p> <ul style="list-style-type: none"> <li>• The governance system,</li> <li>• Quality of Human Capital, and</li> <li>• Strength of collective action and cooperative behaviour among citizens that leads to creation of effective civil society / social capital institutions.</li> </ul>	<p><b>This Social Policy should inter alia include the following elements:</b></p> <ul style="list-style-type: none"> <li>• <b>Political elements</b> like affirmative action for the socially excluded, special institutional arrangements to give ladders to the 'weaker sections'</li> <li>• <b>Economic elements</b>, like             <ul style="list-style-type: none"> <li>○ Right to work or an employment guarantee, or a protection of livelihoods.</li> <li>○ Also a clear priority focus on the poorest of the poor, to be the first step for a development design.</li> <li>○ Adequate allocation of resources for social amenities including a national social insurance policy which protects the unemployed.</li> </ul> </li> <li>• <b>Social elements</b> like             <ul style="list-style-type: none"> <li>○ Stronger laws for child rights, anti-dowry, domestic violence, atrocities against the oppressed etc.</li> <li>○ Social welfare provisions, amenities for child care services</li> <li>○ Take an overview of all other policies, related to social sectors such as education, health, population, social welfare, water, decentralisation and make an integrated commitment to transformation for social justice and economic fulfillment.</li> </ul> </li> </ul>
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## 9.21 Conclusion

The prerequisite of good governance all over the world is participation of people.

In a State where there are **strong democratic norms and traditions** there exists greater opportunity for **social capital institutions** to organise and activate people around many key areas of public activity such as welfare and service delivery. It leads to the **formation of a polyarchic society**.

The 9th Report of the Commission advocates the need to bring about 'attitudinal changes' and suggests direct involvement of people to increase openness and public sensitivity in functioning of these institutions.

It will help bring charity organisations closer to public good, improve conduct of professional practitioners, lead to better governance of technical, management and other professional education institutions, rejuvenate cooperatives, strengthen rural credit structure, and provide opportunities for enhancing skills of the poor, enabling them to earn more. The overall impact will be the emergence of a healthy, vibrant and responsive civil society.



# REFURBISHING OF PERSONNEL ADMINISTRATION: SCALING NEW HEIGHTS

10

10.1 Introduction	10.2 Brief History of Civil Service Reforms in India
10.3 Need for Reforms	10.4 Recommendations of 2nd Administrative Reforms Commission in Different Areas of Personnel Administration
10.5 Performance Management System	10.6 Prevailing Performance Appraisal System
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## 10.1 Introduction

Agencies of the government have been successful in dealing with the vast expanded responsibilities since Independence and especially during difficult periods of crisis. There is a growing realization that they are often **deficient in crucial areas such as productivity, responsiveness, accountability and integrity.**

Administration should be *reformed to bring about improved transparency, greater accountability and streamlining of the structure of government, based on decentralization, civil services reform, an open and responsive government, rule of law, fiscal and environmental sustainability and elimination of all forms of corruption.*

The State needs to **reorient its focus on the core functions** of government such as maintaining peace and stability in the country and the task of social investment and provision of public goods through investment in the social sectors like health and education, as these are critical to lifting people out of abject need, preventing intergenerational transmission of poverty, long term development of human capital, achievement of full human potential and promotion of rapid, sustainable and equitable economic growth.

Administration must become far **more accountable and effective** in delivering results **with the same expenditure.** In order to accomplish these goals, there should be conscious efforts to **establish the links and fuse authority with accountability.** While compliance with processes is important to ensure **objectivity and fairness, the processes themselves need to be simplified** and changed from time to time. Priority needs to be given to ensuring that the intended outcomes benefit society. There is a need to **redesign our delivery mechanisms in an innovative manner based on past experience and best practices** and deploy the nation's finest talent for this purpose.

In this context the **Second Administrative Reforms Commission** has delved deeply into the issue of **Civil Services Reforms** and revamping of personnel administration along setting **CORE PRINCIPLES** which are as under:

<b>Balancing asymmetrical Power</b>	Often systemic rigidities, needless complexities and <b>over centralization</b> make public servants ineffective and helpless in achieving positive outcomes. On the other hand, negative power of <b>abuse of authority</b> through flagrant violation of law, petty tyranny and nuisance value is virtually unchecked
<b>Political Independence of Civil Servants</b>	In a democracy, the <b>civil service has to be answerable to the elected government</b> . There is criticism, however, that <b>increasingly partisan intervention</b> and cronyism are undermining the Rule of Law, distorting incentives and condoning corruption. This is adversely affecting the morale of public servants. The <b>relationship between the political executive and the civil services needs to be transformed</b> on the basis of mutual understanding, respect and recognition of each other's distinct roles and responsibilities.
<b>Stability of tenure and Competition and professionalism</b>	Meeting complex challenges requires <b>domain expertise</b> and long experience in the sectors concerned.
<b>Citizen centric administration</b>	The perception of the civil services today is of a vast <b>impersonal</b> organization without commitment to human needs and values. It is necessary to redress the situation particularly in this <b>era of participative democracy</b> by making the governance apparatus an instrument of service to the people.
<b>Accountability</b>	On the one hand, there are alibis for non-performance and on the other, competence and integrity are not adequately recognized or rewarded.
<b>Outcome orientation</b>	Monitoring in government is primarily through measurement of expenditure against outlays and at best through defined outputs. Clearly, there is a <b>need to move towards measurement of outcomes</b> . A change in this direction has already <b>started with the initial outcome budgeting exercises</b> . In order to engineer this shift to outcomes, major changes in attitudes, monitoring and evaluation systems, incentives and accountability measures are necessary.
<b>Promoting civil service values in ethical standards</b>	Apart from the traditional civil service values of efficiency, integrity, accountability and patriotism, it is necessary for civil servants to inculcate and adopt ethical and moral values including <b>probity in public life, respect for human rights and compassion for the downtrodden and commitment to their welfare</b> .

## 10.2 Brief History of Civil Service Reforms in India

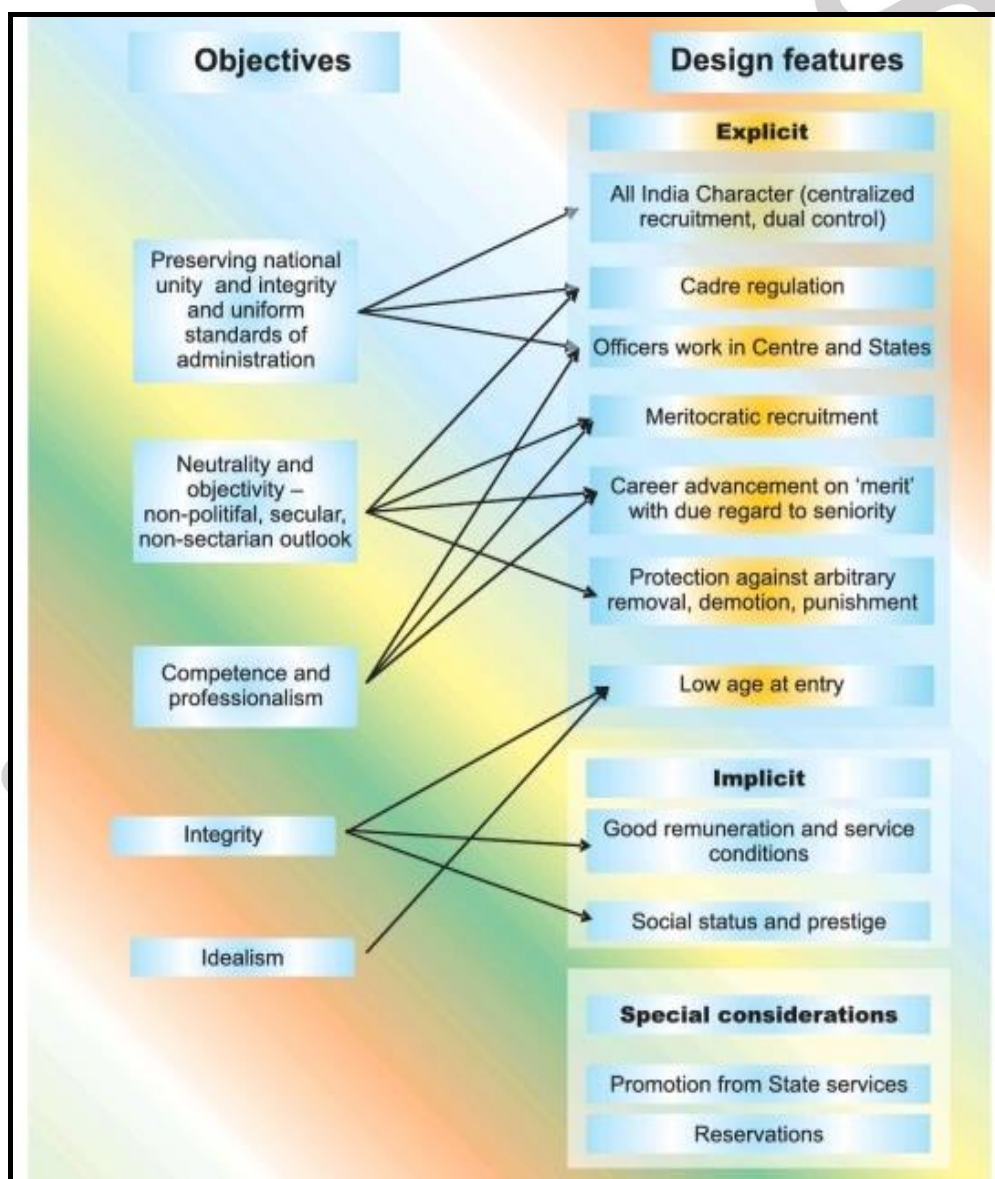
The initiation of civil service reforms in India started during the pre-independence era when a committee appointed by British called the **Macaulay committee (1854)** recommended a **transition from patronage based system of Administration to a system based on performance and merit** which would be applied in civil services. As a result **after the year of 1855** the appointment in civil services started being based **completely on merit**.

### 10.2.1 Civil Services at the Time of Independence

While designing a successor civil service, the Indian political leaders **chose to retain elements of the British structure of a unified administrative system** such as an open entry system based on academic achievements, elaborate training arrangements, permanency of tenure, important posts at Union, State and district levels reserved for the civil service, a regular graduated scale of pay with pension and other benefits and a system of promotions and transfers based predominantly on seniority.

**Article 312** of the Constitution empowers Parliament to create the All India Services (AIS) on the fulfilment of certain conditions. The Indian Administrative and Police Services are deemed to be services created by Parliament under this Article. **Section 3 of the AIS Act, 1951** and the rules and regulations made by the government prescribe the selection process for the IAS. Similar provisions exist for the IPS and the IFoS.

### 10.2.1 Key Objectives of Government in Creating all India Services



Source: 2nd ARC REPORT

### 10.2.3 Gist of the recommendations of the First ARC that are relevant to this Report

<p><b>Need for specialization:</b> The first ARC recognized the need for specialization as the functions of Government had become diversified. <b>A method of selection for senior management posts in functional areas and outside functional areas was laid down.</b></p>	<p><b>Unified Grading structure:</b> A unified grading structure based on qualifications and nature of duties and responsibilities was suggested.</p>
<p><b>Recruitment:</b></p> <ul style="list-style-type: none"> <li>• A single competitive examination for the Class I services, with the age limit raised to 26 years.</li> <li>• <b>Lateral entry to technical posts at senior levels.</b></li> <li>• Direct recruitment to Class II services to be discontinued.</li> <li>• A simple objective type test to be conducted for recruitment of clerical staff.</li> <li>• Recruitment to Central Government posts in certain sectors to be made from among the State Government employees.</li> </ul>	<p><b>Recruitment Agencies:</b> A new procedure for appointment of members of the UPSC and the State Public Service Commission was suggested and Setting up of Recruitment Boards for selection of clerical staff was recommended.</p>
<p><b>Conduct and Discipline:</b> Reforms in disciplinary enquiry proceedings and <b>setting up of Civil Service Tribunals</b> was suggested.</p>	<p><b>Training:</b> National policy on Civil Service Training to be devised.</p>
<p><b>Promotions:</b> Detailed guidelines for promotion were outlined.</p>	<p><b>Service Conditions:</b> The Commission also gave recommendations on matters related to overtime allowances, voluntary retirement, exit mechanism, quantum of pension, government holidays, incentives and awards to be given on timely completion of projects, and establishing work norms for various posts that may be reviewed by the Staff Inspection Unit.</p>

#### **Attributes of A Good Administrator (As Outlined by first Administrative Reforms Commission)**

- Willingness to assume responsibility.
- A steadily enlarging ability to deal with more problems.
- A strong bent toward action.
- A good listener.
- Effective with people.
- Capacity to build his own strength by building the competence of his organization.
- Capacity to use his institutional resources.
- Avoiding using power or authority for their own sake.
- Welcoming reports of troublesome things.
- A good team worker.
- A good initiator.



#### 10.2.4 International examples of reforms in Civil Services and Personnel Administration

Governments have sought to reshape rigid, hierarchical nineteenth century bureaucracies into more flexible, decentralised, citizen responsive civil services, compatible with late twentieth century technological and economic requirements.

##### A Case of Australia:

Australia experienced, during the 1970s, declining international competitiveness and mounting fiscal deficits that translated into substantial foreign and public debts by the early 1980s. It introduced wide ranging reforms seeking to improve the efficiency and effectiveness of the public sector and its accountability to the legislature.

##### Public sector reforms in Australia came through two new Acts:

- **The Financial Management and Accountability Act** provided the accountability and accounting framework. Under the new arrangements, the **chief executives of the agencies are given greater flexibility and autonomy** in their financial management, they are also required to **promote efficient, effective and ethical use of public resources.**
- **The Public Services Act**
  - Set up an **apolitical civil service** which is efficient and effective in serving the government and the Australian public;
  - Provide a legal framework for the effective and fair employment, management and leadership of Australian Public Services employees; and
  - **Establish rights and obligations of Australian Public Services employees.**

##### Performance Management System:

In recent years, all Australian Public Services agencies have developed and implemented performance management systems, to **link improvements in pay and employment conditions to productivity** and to report annually to the government on achievement of outputs and expenditure against Programme Budgeting Statements under an outcomes and outputs framework.

##### Outcomes/Output Framework:

In April 1997, the Australian government decided to put in place a management framework that would manage for results **by developing robust indicators** to assess the performance of the government departments in terms of outcomes for clients..

It has been stated that the **reforms in Australia have improved the information available to civil servants for discharging their accountability and have enhanced the concern with outcomes and effectiveness** of programmes than just with financial outputs. Public enterprises in Australia have improved their performance significantly under a regime of autonomy and professional management.

##### Experience of United Kingdom:

Acting on the **recommendations of the Fulton Committee**, the Government initiated a number of reform measures in the 1980s and 1990s.

- The Thatcher government's **Financial Management Initiative (FMI)** launched in 1982 sought to **devolve responsibility for budgets and financial control to the line departments.**
- **Three-year 'Public Service Agreements'** have been introduced under which departments publicly state the **outcomes the citizens can expect** from the department's spending, and disclose explicit productivity and performance targets.
- The civil service has been opened up to *include people from the private sector and civil society, with encouragement to civil servants to have stents in these sectors.* Fast tracking for high potential civil servants has been introduced.
  - Following the **recommendations of the Nolan Committee on Standards in Public Life, 1994**, the **Civil Service Code** was drawn up and incorporated into law: It is a clear and concise statement of the responsibilities of civil servants and is part of civil servants' terms and conditions of employment.

- In addition to restating the integrity and loyalty required of the civil servants, the Code prohibits, deceiving Parliament, public misuse of official position, and unauthorised disclosure of confidential information.
- The Code provides a **right of appeal to the independent Civil Service Commissioners** on matters of propriety and conscience, if the problem cannot be resolved within the concerned department.
- The heads of departments have been given considerable **authority to develop terms and conditions of service of their staff**. This has allowed them to set conditions of employment to suit their own particular circumstances and thereby achieve better value for money.

A broader review of these reforms brings into focus certain key areas are domains in which the civil services need to be transformed these core areas are:

Changes in personnel management system	A model of incentivisation in civil services	Avenues for progression and career advancement in civil services	Domain knowledge, skills and expertise	Result oriented civil services
Reforms at the senior civil service level	Reorganisation of government with scaled down structure	Civil services values and ethics	Performance management	Involvement of citizens and citizen centric administration

### 10.3 Need for Reforms

The need for Civil Services Reforms can be aptly summarised by citing a **World Bank** study which highlighted that: - study of six measures of perceived quality of governance affecting per capita GDP of more than 150 countries concluded that **"there is a strong positive causal relationship from improved governance to better development outcomes"**.

In the context of the necessity for civil service reforms in India it has been highlighted by the World bank that:

The civil service in India, the legendary **'steel frame' of the British Raj** is today battling against onslaughts to its relevance. The **strengths** of the civil service in India lies in its **extraordinary pool of skills and talents, its field experience, its extensive networking**, its appreciation and overview of the functioning of the government at the cutting edge, its understanding of delivery systems for development, awareness of the formal and informal socio-economic networks in the field, its can deliver attitude, its role in national integration, its ready adaptability to new and unfamiliar situation and tasks, and its social orientation, bolstered by intense competition among the officers.

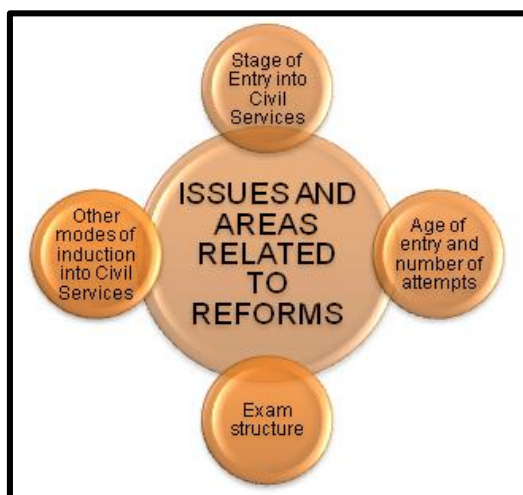
It is widely recognised that the civil services have **contributed** to stability in terms of **maintenance of peace, the conduct of fair elections, managing disasters and the preservation of the unity of the nation**.

Nevertheless, there are several concerns and issues which have been coming up quite frequently in recent years regarding the working of Civil Services in India

## 10.4 Recommendations of 2nd Administrative Reforms Commission in Different Areas of Personnel Administration

### 1. Recruitment

The Commission is prima facie of the opinion that **some of the Services, currently covered by the CSE (especially the Accounts Services) should be included in the category of 'specialised Services' and recruitment should be done through a separate examination.**



### 2. Stage of Entry into Civil Services:

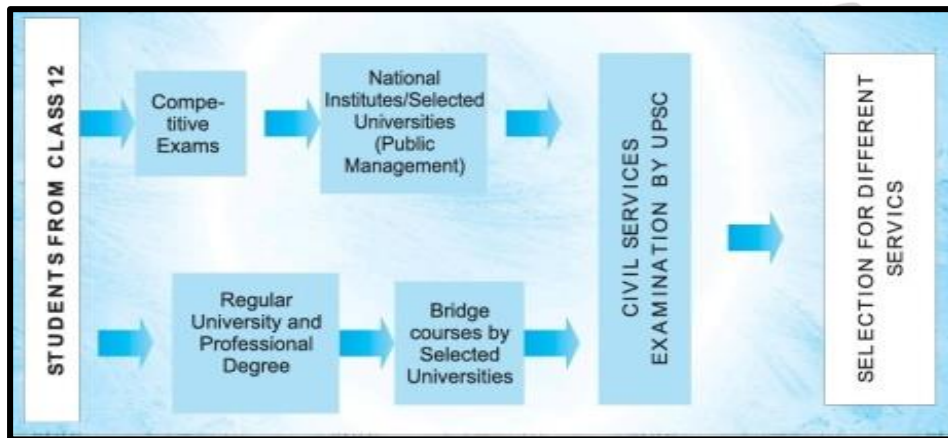
One of the main elements of the change proposed is that grooming for a future civil service career should **start at a young age** when the mind is open and receptive to values of public service whereas entrants into civil service at a late age bring with them a baggage of entrenched mindsets.

Based on these considerations, two proposals have been made, namely: -

The Post School Recruitment System
<ul style="list-style-type: none"><li>• This proposal envisages recruitment to the civil services through Entrance Examination for students <b>who have completed class XII.</b></li><li>• The selected candidates would be joining the institute for a <b>3 years course</b> which would cater to the needs of students to reshape their words serving a modernized and responsive civil services.</li><li>• All the candidates will pass the <b>final test</b> would be awarded a graduation degree which will be nationally recognised</li><li>• Those who do not wish to pursue a career in the civil services will be permitted to exit and pursue their interests elsewhere.</li><li>• Those candidates desirous of pursuing a career in the civil services would, on completion of the course, be given their <b>service allotments on the basis of merit and their choice.</b></li><li>• The candidates selected for civil services would undergo training at International academies or institutes and this training would be service specific.</li><li>• Again, a <b>final merit list for each service will be drawn up at the end of 2 years</b> on the basis of the exams/ tests carried out by the designated academies/ institutes.</li><li>• In the proposed post school recruitment system there needs to be established the <b>National Service College which will provide a 3 year graduation course to the students.</b></li><li>• The <b>existing age criteria</b> will correspondingly <b>need to be reduced.</b></li></ul>

### Post School Grooming For a Public Services Career

- The **syllabi in public policy and management** must include an understanding and insight of our Constitution and laws, the political system, social and economic concerns, public services, human resource management and core principles of good governance.
- This envisages introduction of specially designed new courses which will include the above subjects in a single graduate degree which will become a part of the university curriculum
- The Government of India should not only **establish a few National Institutes of Public Administration** (of the standard of IITs and IIMs) but some reputed universities and institutions should be assisted in introducing these specialized courses in public administration and related subjects.



Source: 2nd ARC REPORT

#### Recommendations of Administrative Reforms Commission Related To Recruitment:

<p>Government of India should establish <b>National Institutes of Public Administration</b> to run Bachelor's Degree courses in public administration/governance/management. In the long run it is expected that these specialized centres of excellence (National Institutes of Public Administration) would <b>evolve as major sources of civil services aspirants</b>.</p>	<p>Selected Central and other Universities should also be assisted to offer such graduate level programmes in public administration/governance/public management which will produce graduates to further expand the pool of eligible applicants to the civil services.</p>	<p>The courses offered in these universities should <b>include core subjects such as the Constitution of India, Indian legal system, administrative law, Indian economy, Indian polity, Indian history and culture apart from optional subjects</b>.</p>
<p>Graduates of the above mentioned special courses from the National Institutes of Public Administration and selected universities would be eligible for appearing in the Civil Services Examinations. Further, graduates in other disciplines would also be eligible to appear in the Civil Services Examination provided they complete a 'Bridge Course' in the core subjects mentioned above.</p>	<p>Liberal need based scholarships should be provided to students admitted to the Institutes/Universities.</p>	<p>An '<b>Expert Committee</b>' should be appointed immediately by the Government in consultation with UPSC to <b>develop the curricula and determine the admission policy to these selected institutes/universities</b>.</p>

<p>Since this is a major reform relating to an important area of governance and will need coordinated guidance, especially in the initial years, a high-level oversight /coordination committee with the Prime Minister as Chairman may be constituted to meet once in three months and give guidance to the implementing agencies and concerned institutions.</p>	<p>Examination and Recruitment reforms following the <b>introduction of public administration/governance management as a full-fledged degree course in National Institutes of Public Administration</b> and selected universities would take some time to be operationalised. Till then, the existing system, where students from all disciplines can appear for the competitive examinations, may continue.</p>	<p>Students who have acquired a graduation degree in the above mentioned course would have the option to join any other career of their choice either in the public or private sector.</p>
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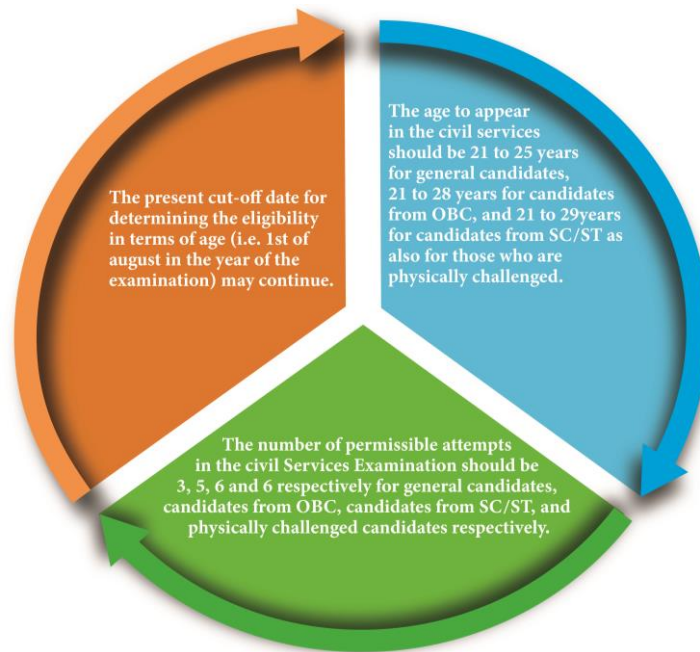
### 3. Age of Entry and Number of Attempt:

The **existing system of higher age limit and larger number of permissible attempts** means that a large number of candidates continue to appear repeatedly in the civil services examination over a long period. Apart from being a **waste of vital human resources**, this places an undesirable **premium on cramming and memorization rather than on intelligence and analytical abilities**. Another outcome of this has been the **proliferation of coaching institutes** to prepare candidates for the Civil Services Examination. These anomalies can be reduced by **lowering the age limit and circumscribing the number of chances**.

The **supporters of the higher age limit generally argue that there is lack of educational facilities in rural and backward areas** compared to large cities. Since there has been a discernible **improvement in the spread of educational facilities during the last three decades**, the perceived disadvantages accruing to candidates from rural and remote areas have been greatly reduced.

Under the circumstances, there is a strong case for reducing the upper age limit belonging to all categories appearing for the civil services examination. Lower age limits, in general, would help in reinvigorating the civil services by making it **possible for civil servants to inculcate the required civil service values at a young age**. In respect of candidates belonging to the OBC and the SC/ST categories, it would greatly help in enhancing their career progression and enable them to occupy apex positions in government. In turn, the government would stand to gain in terms of greater availability of their services.

The issue of age limit and number of attempts for candidates in civil services has been subject of deliberation for many Committees over the years such as; **Hota Committee, YK Alagh Committee, DS Kothari Committee etc. the Administrative Reforms Commission** has deeply deliberated upon all this issue and after getting recommendations from several consultations it has come to conclusion that: -



#### 4. Structure of Examination:

Issues and weaknesses in the current system of examination structure:

- In the present system a considerably **long time of almost one year is taken to complete the whole procedure.**
- Also in the current system, there are several procedural steps right from the beginning of filling of forms to completion of the process of personality test, which necessitates a **lot of paperwork, subsequent filling of forms by candidates and a lot of time lost in travelling.**
- Issues in relation to the testing of candidates in optional subjects:
  - **Large number of optional subjects** presents problems of question setting and evaluation of answer scripts. The fact that these could be answered in any of the 18 languages of the Eighth Schedule of the Constitution clogs the system.
  - The threshold of **difficulty could not be maintained at the same level** among the optional subjects.
  - It is **difficult to balance streams like Humanities, Social Sciences, Engineering and Medical Science.**

#### Recommendations of Administrative Reforms Commission:

Structure of Examination	<p>Either of the following two models may be adopted for compressing the examination cycle:</p> <ul style="list-style-type: none"> <li>• The <b>Preliminary and Main Examinations for the Civil Services Examination would be conducted together on two to three consecutive days.</b> Evaluation of papers for the Main Examination should be done in case of only those candidates who have secured a threshold level of marks in the Preliminary Examination. The personality test would follow thereafter.</li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li>• Based on the results of the Preliminary Examination, candidates eligible for taking the main examination and the personality test would be short listed in accordance with their rankings. Only these short-listed candidates would be eligible for appearing in the <b>Main Examination, which would be conducted within two months of the Preliminary Examination.</b> The short list would be <b>limited to about two to three times of the number of vacancies available.</b> Thus it would be possible to start the Personality Test and the Main Examination almost simultaneously.</li> </ul>
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<p><b>Content</b></p>	<ul style="list-style-type: none"> <li>• The <b>Preliminary Examination</b> should consist of an <b>objective type test</b> having one or two papers on general studies including the Constitution of India, the Indian legal system, Indian economy, polity, history and culture. There should be <b>no optional subjects</b>.</li> <li>• The <b>Main Examination</b> should consist of two papers <b>only in the compulsory subjects</b>. These compulsory subjects may include Constitution of India, Indian legal system, Indian economy, polity, history and culture etc. The question papers should be of the conventional <b>descriptive type</b>. Besides, there should be a <b>separate essay paper</b> as a part of the Main Examination.</li> </ul>
<p><b>Syllabus</b></p>	<p>Steps may be taken by DOPT in consultation with the UPSC to finalise the syllabi of compulsory subjects for both the preliminary and main examination.</p>

**Recommendations of Administrative Reforms Commission related to other modes of Induction into Service and matters therewith:**

<p>The induction of officers of the State Civil Services into the IAS should be done by the UPSC on the basis of a common examination.</p>	<p>UPSC should conduct such an examination <b>annually</b> for officers from the State Civil Services who have <b>completed 8 to 10 years of service in Grade 'A' posts</b>. The eligibility criteria should also include norms such as an upper age limit of 40 years etc. On the basis of this examination, the UPSC should provide the State Governments with an eligibility list. The State Governments should fill up their quota for promotion to the IAS on the basis of this eligibility list. A <b>maximum of two attempts</b> should be allowed to an eligible candidate for taking this examination. To ensure that the existing officers in the State Civil Services are not denied adequate opportunities, the examination in the next two years may be conducted for all such eligible officers and the upper age limit of 40 years may be introduced, thereafter.</p>
<p>The mechanism mentioned above should also be applied in case of induction into other All India Services at the State level.</p>	<p>Induction by way of promotion <b>into Group 'A' Central Services</b> should, <b>in addition to consideration of Annual Confidential Reports (ACRs)</b>, also be done through <b>conduct of examination</b> on the basis of the criteria as mentioned above. The nature of the examination, ratio of posts to be filled by promotion etc. should be decided by the concerned departments in consultation with the UPSC.</p>

<p>The following <b>amendments</b> should be made in the <b>new Cadre Allocation Policy (2008)</b> for allocation of Cadre to candidates selected for the IAS:</p> <ul style="list-style-type: none"> <li>• <b>At least one vacancy each year</b> in each of the cadres of AGMUT (only for the State of Arunachal Pradesh) Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura may be <b>allotted to a successful candidate domiciled</b> therein provided he/she has opted for his/her home State. This may be done <b>even if there is no 'insider' vacancy in these cadres.</b></li> <li>• In case there is more than one eligible candidate, then the allotment may be done in the <b>order – ST, SC, OBC and General candidates</b>, as applicable to each state.</li> <li>• Once the home State quota of the above-mentioned North Eastern States is filled up, further allocation may be done as per the Cadre Allocation Policy (2008), after making adjustments necessitated by the changes recommended above.</li> </ul>	<p>Promotion of officers through Departmental Promotion Committees (DPC), upto the level of Selection Grade may be delegated to the concerned Departments. The UPSC should supervise the functioning of these DPCs through periodic reviews, audit etc.</p>
<p>In the case of disciplinary proceedings, <b>consultation with the UPSC should be mandatory</b> only in cases involving likely dismissal or removal of a government servant</p>	

## 5. Training:

In the context of the Civil Services, as **Shri L.K. Jha has pointed out “administrators are not born but made”**. There is already a well established and fairly good system for training of senior and middle level civil servants in India but unfortunately its scope and reach does not extend to all civil servants.

The pre-Independence period saw the setting up of several national and state level training institutions. However, after Independence the thrust of these training programmes changed with time. **Emphasis was laid on socio-economic development rather than on regulatory functions.** Later on in the mid-eighties, the then Prime Minister, revamped the structure of training - particularly for the Indian Administrative Service (IAS).

After the **economic liberalization** in the 1990s, training institutions have tried to re-orient the training programmes. The Training Division provides assistance for upgradation of the training equipment of government training institutions. Moreover, it has also been coordinating the **implementation of the National Training Policy** which was formulated in 1996.

## 6. National Training Policy:

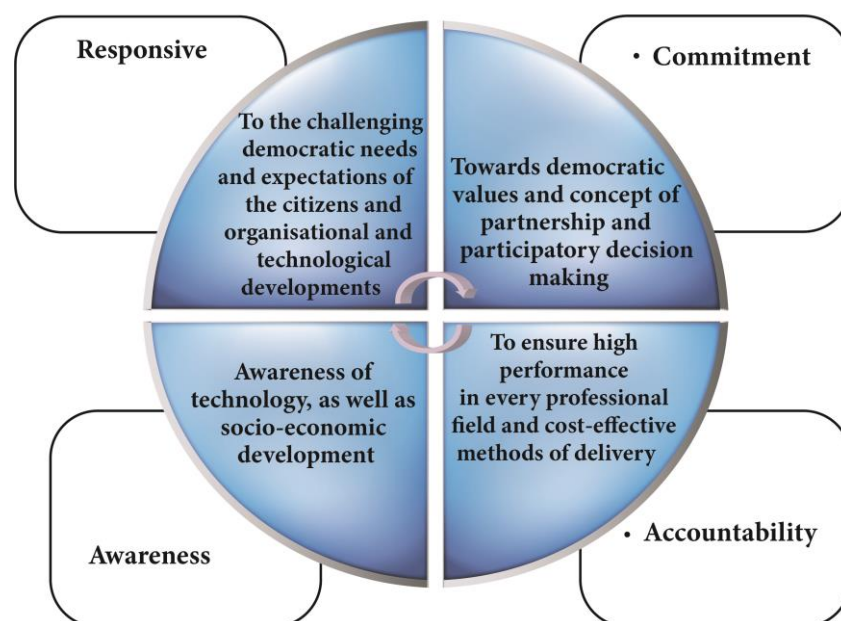
The Policy recognizes that training is an effective and tested tool for performance enhancement, as well as upgradation of knowledge and skills of personnel.

**It states that the objectives of training should be:**

- Keeping up to date and enhancing professional knowledge and skills needed for better performance of individuals and organisations;
- Promoting better understanding of professional requirements as well as sensitisation to professional, socio-economic and political environment in which work is done; and
- Bringing about right attitudinal orientation.



The National Training Policy should focus on the following attributes: -



The National Training Policy emphasizes **training for all**. It stipulates that training would be imparted **to all rungs of the Civil Service**. It was stipulated in the policy that each Department should **set apart 1.5% of its salary budget to be used solely for the purpose of training**.

#### Weaknesses in the Present Training System:

- The current single training system is related to value attached to the foundation course and also **many services which do not consider it necessary to attend the foundation course**.
- The induction training for IAS officers focuses mostly on the district and sub-divisional assignment that an IAS officer is likely to hold in the initial years of his/her career.
- The present training system **does not take into account development of domain expertise** and respective knowledge of the sectors of the government. More so, details and responsive to the officers area of interest and academic qualification.
- An overarching weakness of the current training system is **minimal value attached to the training by many senior officers**.
- There is **no formal evaluation of performance** of trainees even in these newly introduced programmes.
- The mid-term training courses of all durations continue to be rather **generic** and do not adequately cater to the need for inculcating greater domain knowledge.
- Training is mostly focused on the senior civil services and **little goes towards training of middle or lower level government servants**.
- The contents and modules of these training sessions also leave much to be desired. The conventional training programmes focus largely on enhancing professional skills and knowledge of civil servants. They do not provide adequate emphasis on 'administrative law'.

In this regard the following recommendations have been made by the administrative reforms commission:

<p>Every government servant should undergo a <b>mandatory training at the induction stage</b> and also periodically during his/her career. Successful completion of these training should be a <b>minimum necessary condition for confirmation in service and subsequent promotions.</b> Mandatory induction training should be prescribed for Group D staff also before they are assigned postings.</p>	<p>A monitoring mechanism should be set up for overseeing the implementation of the National Training Policy (1996).</p>	<p>The practice of having a <b>Common Foundation Course' for all Group A Services - generalist, specialized and technical, should continue.</b> For Group B and C Services, the Institute of Secretarial Training and Management (ISTM) may be developed as the nodal agency for design and delivery of common Foundation Courses.</p>
<p>All civil servants should undergo <b>mandatory training before each promotion</b> and each officer/official should be evaluated after each training programme. Successful completion of the training programmes should be made mandatory for promotions.</p>	<p>The objective of <b>mid-career training should be to develop domain knowledge</b> and competence required for the changing job profile of the officer. To this end, mid-career learning opportunities relevant to specific domains or specializations should be made available for officers.</p>	<p>Public servants should be <b>encouraged to obtain higher academic qualifications and to write papers for reputed and authoritative journals.</b></p>
<p>A strong network of training institutions at the Union and State levels needs to be built up to cater to the training requirements of civil servants. However, instead of spreading resources over a large number of institutions, a few institutions should be identified for capacity building and upgradation.</p>	<p>The <b>composition of governing bodies</b> of the national training institutions such as the LBSNAA, SVPNPA, IGNTA and also the State Administrative Training Institutes should be broadened <b>by inducting eminent experts.</b> The governing bodies should be adequately empowered to enable them to discharge their functions efficiently.</p>	<p>A <b>National Institute of Good Governance may be set up</b> by upgrading one of the existing national/state institutes. This institute would identify, document, and disseminate best practices and also conduct training programmes. It would also evaluate new initiatives, assist in strategic planning, draft policies and legislations and undertake studies in civil services reforms.</p>

## 10.5 Performance Management System

Traditionally governance structures in India are characterized by rule-based approaches. **Compliance with rules is not sufficient for achieving outcomes.** Objective must be to shift the focus away from traditional concerns such as expenditure and activity levels towards a framework that would manage for results by **developing robust indicators** to assess performance in terms of results. Performance management as it exists in government includes conventional tools like the budgetary exercise, annual reports published by the Ministries/ Departments, performance budgets and the **recently introduced outcome budget.**

### 10.5.1 Performance Budgeting

The Government of India introduced a **scheme of performance budgeting from the financial year 1975-76**. The performance budget is intended to present a meaningful **relationship between inputs and outputs**, and indicate the correlation between planned programmes and their performance in financial and physical terms.

The performance budget has four parts:

Broad objectives, programmes and projects, the organizations and agencies with the responsibility to implement them, the highlights of performance during the previous financial year, progress during the current year, and the programme for the next year.	<b>Linkages between the Five Year plans, the achievements to date, and the tasks ahead.</b>	Financial statements showing the outlays required for the programmes, projects or activities and the provisions in the current and next financial year.	Details of the scope, plan of action, achievements, programmes, and performance during the current year and future programmes, along with outlays in respect of each activity in the various broad programmes of the department.
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### 10.5.2 Zero Based Budgeting

In the mid-1980s, the scheme of zero based budgeting was introduced in government departments. The objective of the scheme was to:

- Involve civil servants at all levels in the budgetary process.
- **Justify the resource requirements for existing activities as well as new activities.**
- Focus justification on the evaluation of discrete programmes or activities of each unit of administration
- **Establish objectives against which accomplishments could be identified and measured**, and assess alternative methods of accomplishing objectives
- Analyze the probable effects of different budgetary provisions or performance levels on the achievement of objectives
- Provide a credible rationale for reallocating resources, especially from old activities to new activities.

### 10.5.3 Outcome Budget

More recently, the **Government has introduced the system of outcome budgeting**. This is a positive step in incorporating a sense of **results orientation** in governance structures by moving from outlays to outputs and outcomes. These are early stages of implementation and only after sufficient experience has been gained, can the success of this initiative be gauged.

## 10.6 Prevailing Performance Appraisal System

**Conventional Closed System of Annual Confidential Reports:**

- The significant feature of this method is the **complete secrecy** of the exercise, both in process and results, unless the rules specifically mention otherwise.
- Adverse remarks are communicated to the officer reported upon.

**Performance Appraisal with Openness:**

- This system is an improvement of the above, with the added feature of transparency and **involvement of the officer at different levels.**

### 10.6.1 System in India

The performance of every Government servant is assessed annually through his/her Confidential Report, which is an important document providing the basic and vital inputs for assessing the performance of the Government servant and his/her suitability for his/her further advancement in his/her career on occasions like confirmation, promotion, crossing of EB, selection for deputation, selection for foreign assignment etc.

The **Reporting Officer, at the beginning of the year, has to set quantitative /physical targets** in consultation with each of the Government servants, whose reports he/she is required to write.

#### Analysis of present Performance Appraisal System:

The prevalent **closed system for appraisal** of civil servants in India (other than the All India Services) has major **limitations**. These include:

It lacks in <b>quantification of targets</b> and evaluation against achievement	<b>Confusion still prevails among civil servants regarding what is good performance</b> and the level of performance expected from them.	The present performance appraisal system <b>does not solve the issue of poor performance.</b>	Performance appraisal becomes meaningless in certain places where there are <b>frequent transfers.</b>
The format may be good but sometimes the way it is filled up shows lack of due care and seriousness.	Since the present system shares only an adverse grading, a <b>civil servant remains unaware about how he/she is rated in his/her work.</b>	Many reporting officers pay little attention to distinguish good and average workers while grading them.	The system of deciding on representations against an adverse entry sometimes takes so long that reporting officers avoid giving an adverse entry.

The **new Performance Appraisal System for the All India Services** has tried to overcome some of these shortcomings by **including a participative work plan through a consultative and transparent process**. However, the new system also has certain **limitations**:

- The new format **does not recognize the difference in performance parameters applicable for civil servants working in completely different departments/ agencies.**
- The new format also **does not do away with the element of subjectivity** when it comes to assigning numerical ratings/grades to different attributes of the Government servants.
- It still emphasizes the performance appraisal report as the key element. The term Report is **an improvement over Ratings, but does not recognize adequately the development and improvement dimensions**, though the objective is closer now.
- It does not adequately assess the potential of an officer to hold higher responsibilities.
- It emphasizes career development, but does not link it sufficiently with performance improvements. It underplays the need for performance improvements as a career growth intervention.
- There are **too many levels for ratings** and the accepting authority is often far removed from the officer reported upon.
- There is presently no training for orienting the users in the system of the new format. As a result, it could become a routine form filling exercise rather than a performance appraisal one.

The **focus still continues to be on ratings and evaluation rather than on performance planning, analysis, review development and improvements** which ultimately enables employees to achieve superior performance.

## 10.6.2 Recommendations of Administrative Reforms Commission

<b>Making Appraisal System More Transparent and Consultative</b>	The reporting officer, at the beginning of the year, has to <b>set quantitative/physical targets</b> in consultation with each of the Government servants whose report he/she is required to write. It has been observed that in practice <b>no such effective consultation takes place</b> at the beginning of the year for fixing the targets. The appraisal reports for civil servants (other than the AIS) are not disclosed to the officer reported upon except for adverse remarks. This reduces its effectiveness as a tool for performance management.
<b>Performance Appraisal Format to Be Job Specific</b>	<ul style="list-style-type: none"> <li>• The appraisal format prescribed for civil servants should have <b>three sections</b></li> <li>• A generic section that meets the requirements of a particular Service</li> <li>• Another section based on the goals and requirements of the department</li> <li>• A final section which <b>captures the specific requirements</b></li> </ul>
<b>Performance Appraisal to be Year Round</b>	At present, the annual performance exercise is performed in a routine manner after the end of the financial year.
<b>Formulating Guidelines To Assign Numerical Ratings</b>	<ul style="list-style-type: none"> <li>• Earlier system graded according to categories ranging from average, good' and very good to outstanding</li> <li>• The new PAR format for AIS officers <b>replaces this with an improved rating system grades from 0 to 10 for different parameters.</b></li> <li>• The Department of Personnel and Training should formulate detailed guidelines to guide the reporting and reviewing officer for assigning numerical ratings for their subordinates.</li> </ul>
<b>Degree Evaluation</b>	The 360 degree feedback, also known as multi-source feedback is in vogue which involves Self, Superiors, Peers, Subordinates, Internal Customers, External Customers, Others. In the context of India where strong hierarchical structures exist and for historical and social reasons it may not be possible to introduce this system unless <b>concerns of integrity and transparency are addressed.</b>

## 10.7 Performance Management

The evolution of the concept of performance management as a **new Human Resource Management model** reflects a change of emphasis in organizations **away from command and control towards a facilitation model of leadership.**

Performance Management is the essence of managing, and the **primary vehicle for getting the desired results** through employees at all levels in the organization. The performance management process provides an opportunity for the employee and performance manager to discuss development goals and jointly create a plan for achieving those goals. In the absence of such a system, staff members are unclear as to the employer's expectations regarding performance objectives and standards/targets, leading to low productivity, costly mistakes, stress, de-motivation, and conflict. **Sound Performance Management Systems subscribe to the crucial Principle: "What gets measured gets done".**

The government has **tried to institutionalized** the process of Performance Management by including provisions in the **Public Services Bill 2007** which provides that the Government shall, within a period of twelve months from the coming into force of this Act, establish a Performance Management System for Public Service employees, including:

The priorities, objectives, indicators and targets as part of the Government's strategic plans, availability of resources, constraints on performance and outcomes and skills of the public servants.

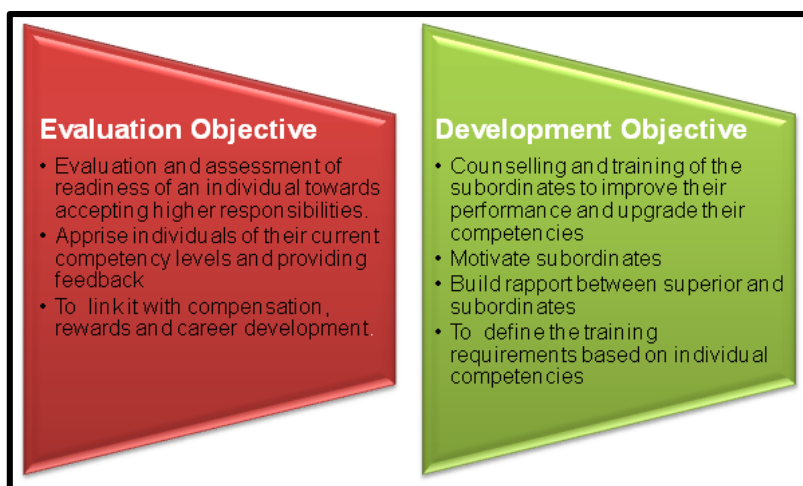
Preparation of performance indicators and its periodical review, preparation and submission of Performance Appraisal Report of each employee with well-defined principles for achievement of targets set for the year.

Performance Management vs. Performance Appraisal: Which One Does Your Small Business Need?	
Performance Management	Performance Appraisal
Performance management is the process of managing staff performance and ensuring that employees attain their set targets in real time.	Performance appraisal helps managers evaluate their subordinates' skills, achievements, and growth once or twice in a year.
<p><b>Features:</b></p> <ul style="list-style-type: none"> <li>✓ <b>360-degree feedback</b> Helps HR managers collect employee performance feedback from multiple stakeholders.</li> <li>✓ <b>Goal setting and tracking</b> Lets managers create and assign employee goals for a specific time duration.</li> <li>✓ <b>Feedback management</b> Monitors feedback data obtained from multiple people to analyze KPIs for each employee or the entire team.</li> <li>✓ <b>Skill development</b> Lets managers evaluate employee performance reports and then, compare employees to their peers.</li> <li>✓ <b>Training management</b> Create personalized training development plans for employees.</li> </ul>	<p><b>Features:</b></p> <ul style="list-style-type: none"> <li>✓ <b>Milestone tracking</b> Lets line managers track employee goals and provide real-time progress feedback.</li> <li>✓ <b>Competency management</b> Helps managers measure and document employee performance to make employment-related decisions.</li> <li>✓ <b>Performance report</b> Get detailed employee performance reports to analyze and rank the top performers.</li> <li>✓ <b>Compensation management</b> Aligns employee compensation to the larger business objectives and goals.</li> <li>✓ <b>Analytics dashboard</b> Aligns employee compensation to the larger business objectives and goals.</li> </ul>
<p><b>Business functions:</b></p> <ul style="list-style-type: none"> <li>Set employee goals.</li> <li>Improve the rate of achieving business goals.</li> </ul>	<p><b>Business functions:</b></p> <ul style="list-style-type: none"> <li>Forecast future workforce budget.</li> <li>Compensate employees based on their performance.</li> </ul>

Source: Twitter

**Objectives of Performance Management System:**

The main objective of performance management is **continuous improvements in performance with a view to attaining organizational goals**. The PMS process has two clear objectives:



**Benefits of Performance Management System for an Organisation:**

Serves as the primary vehicle for setting organisational goals and strategy.	Aligning and integrating the Key Performance Indicators (KPI's) and Objectives of the organization.	Bring in efficiency effectiveness and quality	Ensuring clarity regarding expectation and performance standards
Reduce Line Manager reluctance and fear to do Performance Appraisals with their staff.	Continuously enhance employees competence	Facilitate performance-based remuneration and rewards, so that employees can see and experience a clear link between their performance and the rewards they receive.	Strong commitment from top management
High level of participation	Clear definitions of what constitutes performance in a given role.		

**Performance Agreement:**

- These agreements have variants ranging from explicit contracts to less formal negotiated agreements to more generally applicable principles. For example in New Zealand, the Public Finance Act of 1989 provided for a performance agreement to be signed between the chief executive and the concerned minister every year.

## Recommendations of Administrative Reforms Commission:

**A good employee performance appraisal system is a prerequisite for an effective performance management system.** The existing performance appraisal system should be strengthened on the following lines:

- **Making appraisal more consultative and transparent** - performance appraisal systems for all Services should be modified on the lines of the recently introduced PAR for the All India Services.
- Performance appraisal formats **to be made job specific** - the appraisal format prescribed for civil servants should have **three sections** i.e.
  - A **generic section** that meets the requirements of a particular service to which the officer belongs,
  - Another section based on the goals and **requirements of the department** in which he/she is working, and
  - Final section which captures the specific requirements and **targets relating to the post** that the officer is holding.
- Performance appraisal should be year round: provisions for detailed work-plan and a mid-year review should be introduced for all Services.
- Guidelines need to be formulated for **assigning numerical rating**: DOPT should formulate detailed guidelines to guide the reporting and reviewing officers for assigning numerical ratings for their subordinates. Training modules for implementing performance management systems should be designed and introduced for training programmes for civil servants

Government should **expand the scope of the present performance appraisal system** of its employees to a comprehensive performance management system (PMS).

In implementing PMS in government, it must be emphasized that the PMS should be designed within the overall strategic framework appropriate to the particular ministry/department/organization. It is also necessary to **link individual contributions to strategic objectives of the organization.**

**Annual performance agreements should be signed between the departmental minister and the Secretary of the ministry/heads of departments**, providing physical and verifiable details of the work to be done during a financial year. The actual performance should be assessed by a third party – say, the Central Public Services Authority – with reference to the annual performance agreement. The **details of the annual performance agreements and the result of the assessment by the third party should be provided to the legislature as a part of the Performance Budget/Outcome Budget.**

## 10.8 Motivating Civil Servants

Motivated and willing civil service is the best instrument to achieve the outcomes desired by the state and society. **Motivation comes through incentives.** Contrary to popular perception that it is monetary incentives which matter the most, the fact is that academic theory as well as experience both in the Corporate sector and in Government, indicates that it is the **non-monetary incentives which are the key factors in motivating employees especially in the context of Government.**

The common perception is that the incentive structure in government is too weak and inadequate to motivate better performance. **Even the tool of promotion is not always used for motivation, as the principle of seniority is generally followed rather than competence and performance.** It has also been noted that often civil servants **adopt a 'minimalist' approach in their functioning**, and confine their work to disposing of files making no special effort at resolving problems. In other words, a public servant **rarely walks that 'extra mile' in carrying out his/her duties.**



### Factors affecting Motivation of Public Servants:

- Employment security
- Respect in society
- Balance between work and life
- Opportunity to be part of the larger cause of serving the country
- Variety in job profiles

### Non-Monetary Motivation Factors:

- Recognition
- Job enrichment(a type of job redesign intended to reverse the effects of tasks that are repetitive requiring little autonomy)
- Linking career prospects with performance

Also it has been observed by the Commission that there are a large number of **factors which lead to dissatisfaction** among officers/ officials in the government. Some of these factors are:

- Poor working conditions
- Unfair personnel policies
- Excess or absence of supervision
- Absence of fair play within the organization
- Indiscipline
- Lack of transparency within the organization
- Lack of opportunity for self-expression
- Interference in objective functioning.

The above factors are well known, but a **lack of emphasis on employees' motivation** has often led to their being overlooked.

The Commission is of the view that it should be the **responsibility of the head of each office to ensure that a congenial work environment is created**. Indeed, one of the inputs for evaluating the performance of a supervisory officer should be the extent to which he/she has created a congenial atmosphere in the office by addressing the above mentioned 'dissatisfiers'.

### Recommendations of Administrative Reforms Commission to Instil Motivation in Civil Servants:

<ul style="list-style-type: none"><li>• There is a need to <b>recognise the outstanding work</b> of serving civil servants including through <b>National awards</b>.</li><li>• Further, all organizations should evolve their own in-house mechanism for rewarding good performance from simple, verbal and written appreciation to more tangible rewards.</li></ul>	<ul style="list-style-type: none"><li>• It should be the <b>responsibility of the head of the office</b> to examine the job content of each person working in the organization to ensure that the <b>job content is meaningful and challenging</b> so that the employee derives a sense of satisfaction in performing the tasks assigned to him/her.</li><li>• The head of the office could seek the assistance of a professional agency for this purpose.</li></ul>
<ul style="list-style-type: none"><li>• <b>Selections for foreign assignments</b> should be made, based on the recommendations of the <b>Central Civil Services Authority</b>.</li></ul>	<ul style="list-style-type: none"><li>• Each head of office should ensure that a <b>congenial work environment</b> is created in the office.</li></ul>

## 10.9 Accountability

To ensure that there is proper and responsible use of this power and authority, all democratic countries have developed **systems and procedures of checks and balances**. They have also put in place incentive **mechanisms to reward good performance**. These systems and procedures can broadly be **termed as mechanisms that promote accountability**.

In all democratic countries, civil servants are **accountable both to the political executive and to citizens** for ensuring responsive, transparent and honest policy implementation and service delivery. Setting performance targets and their measurement is easier in respect of service delivery agencies particularly when the service provided is tangible and thus an easily measured unit but for many public organizations **where the output is policy related and therefore, not very concrete, assessment of performance becomes much more complicated**. The diffusion of responsibility and authority across different levels in Government and the lack of linkage between authority and accountability also lead to a system where plausible alibis for non-performance abound, particularly for activities that cut across departmental dividing lines or across different functional divisions within departments.

The accountability mechanisms in any country are broadly **categorized as those that are located within the State and those outside**. Accountability of the executive arm of government to Parliament and to the citizens of the country is of course the fundamental feature of a democracy. The final expression of accountability in a democracy is through the medium of **periodic elections which is an instrument for punishing and rewarding the Government** of the day, and therefore, serves as an ultimate instrument of accountability. An independent **judiciary** embodies the constitutional doctrine of separation of powers and is another important element in the system of checks and balances that exists in any In India, **constitutional and statutory bodies** such as the office of the Comptroller & Auditor General, the Election Commission, and the Central Vigilance Commission (CVC) are examples of other oversight mechanisms that are autonomous but lie within the framework of the State.

The **accountability mechanisms in any country have been categorised by analysts into two categories namely vertical accountability and horizontal accountability**.

Outside the State (Vertical)	
<ul style="list-style-type: none"> <li>To the people through elections</li> <li>Through RTI Act to citizens</li> </ul>	High effectiveness
<ul style="list-style-type: none"> <li>Citizens' oversight committees</li> <li>Civil society/watchdog bodies</li> <li>Media</li> </ul>	Low effectiveness
<ul style="list-style-type: none"> <li>Service delivery surveys</li> <li>Citizens' charters</li> </ul>	Low to medium effectiveness
Within the State (Horizontal)	
<i>External</i> (Outside the Executive)	<ul style="list-style-type: none"> <li>Parliament</li> <li>Judiciary</li> <li>Lokayukta</li> <li>CAG</li> <li>CVC</li> </ul>
<i>Internal</i> (Within the Executive)	<ul style="list-style-type: none"> <li>Superior officers             <ol style="list-style-type: none"> <li>Rewards/punishments</li> <li>Disciplinary procedures</li> <li>Performance Management System</li> </ol> </li> <li>CBI/police/vigilance</li> <li>Internal Audit</li> <li>Grievance Redressal Mechanisms</li> </ul>

Source: 2nd Administrative Reforms Commission Report

#### Recommendations of Administrative Reforms Commission to Promote Accountability:

<p>A system of <b>two intensive reviews – one on completion of 14 years of service, and another on completion of 20 years of service</b> – should be established for all government servants.</p>	<p>The first review at 14 years would primarily serve the purpose of making known to the public servant about his/her strengths and shortcomings for his/her future advancement. The second review at 20 years would mainly serve to assess the fitness of the officer for his/her further continuation in government service.</p>	<p>The services of public servants, who are found to be unfit after the second review at 20 years, should be discontinued. A provision regarding this should be made in the proposed Civil Services Law.</p> <p>Besides, for new appointments it should be expressly provided that the period of employment shall be for 20 years.</p> <p>Further continuance in government service would depend upon the outcome of the intensive performance reviews.</p>
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#### Disciplinary Proceedings of Civil Servants:

The Administrative Reforms Commission had dealt with two specific issues relating to accountability of civil servants in its Fourth Report, on "Ethics in Governance".

The Commission has concluded that:

- The **rights of a civil servant under the Constitution should be subordinate to the overall requirement of public interest** and the contractual right of the State.
- Ultimately, the public servant, an agent of the State, cannot be superior to the State and it is his fundamental duty to serve the State with integrity, devotion, honesty, impartiality, objectivity, transparency and accountability.
- Therefore, **Article 311 need not continue** to be a part of the Constitution.

Recommendations of the Commission with Reference to Disciplinary Proceedings:

In the proposed Civil Services law, the <b>minimum statutory disciplinary and dismissal procedures</b> required to satisfy the criteria of natural justice should be spelt out leaving the details of the procedure to be followed to the respective government departments.	No penalty of removal and dismissal should be imposed, except by an <b>Authority, which is at least three levels above the post</b> which the government servant is holding.
The two stage consultation with the CVC in cases involving a vigilance angle should be done away with and only the second stage advice after completion	<b>Consultation with the UPSC should be mandatory</b> only in cases leading to the proposed dismissal of government servants and all other types of disciplinary cases should be exempted from the UPSC's purview.

## 10.10 Relationship between Political Executive and Civil Servants

In a democracy, **power vests with the people**. This power is exercised through its elected representatives who have the mandate to govern them for a specific period. **The civil services by virtue of its knowledge, experience and understanding of public affairs assist the elected representatives in formulating policy and are responsible for implementing these policies.**

**Advantages of having independent, permanent and impartial Civil Service:**

- The spoils system has the propensity to degenerate into a system of patronage, nepotism and corruption
- A permanent civil service provides **continuity and develops expertise**
- A permanent and impartial civil service is more likely to assess the long-term social payoffs of any policy
- Ensure **uniformity in public administration**
- It is likely to evolve over time, an ethical basis for its functioning.

### 10.10.1 Constitutional Provisions

- **Articles 53 and 154**, the executive power of the Union and the States vests in the President or Governor directly or through officers subordinate to him. These Officials constitute the permanent civil service and are governed by Part XIV of the Constitution.
- In consonance with matters outlined in Article 73 and 163 of the Constitution, the President and Governor frame rules for the conduct of business in the government. Work is allocated among Ministers as per the **Government of India (Allocation of Business) Rules** and the manner in which the officers are required to help the President or Governor to exercise his/her executive functions is governed by the **Government of India (Transaction of Business) Rules**.

### 10.10.2 Areas of Friction between Political Executive and Civil Servants

<p><b>Neutrality</b></p>	<p>Changes in governments particularly at the state level often lead to wholesale <b>transfer of civil servants</b>. There is a perception that officers have to cultivate and <b>seek patronage from politicians</b> for obtaining suitable positions even in the Union Government. As a result, the civil services in <b>public perception</b> are often seen as increasingly politicized.</p>
<p><b>Advisory Role Of Civil Service in Policy Making</b></p>	<p><b>Rendering policy advice</b> to the political executive is the most important staff function of the civil servant. Policy making is the ultimate responsibility of the Minister. After a policy is approved by the elected government, it is the duty of the civil servant to <b>implement such policy</b> in the right earnest whether he/she agrees with it or not. At the same time, it is the duty of the civil servant to <b>provide the factual basis</b>, thorough analysis of all possible implications of any measure under consideration and <b>free and frank advice, without fear or favour</b>, at the stage of policy formulation. It is unfortunate that at times senior civil servants get bogged down in routine administrative decision making and are unable to contribute adequately to this crucial aspect of their functions.</p>
<p><b>Statutory Roles of civil servants</b></p>	<p>It has been observed that there is an increasing trend on the part of the senior functionaries both in the civil services as well as elected representatives including <b>Ministers to interfere in such statutory functions</b>. Acquiescence in the face of such interference is primarily the fault of the officer who has been entrusted with these statutory functions although those bringing such extraneous pressures should also be held to account.</p>
<p><b>Discharging Delegated Functions</b></p>	<p>It has been observed that there is an increasing tendency in government departments to <b>centralize authority</b> and also after having first delegated authority downwards, to interfere in decision making of the subordinate functionaries.</p>
<p><b>Appointment/Recruitments/Posting/Transfers</b></p>	<p>There have been <b>issues of corruption</b> emerging every now and then from a number of states. Moreover, <b>arbitrary and motivated transfers</b> of government servants which are not in public interest and good governance have become a matter of great concern</p>

A healthy working relationship between Ministers and civil servants is critical for good governance. In any democracy, Ministers are responsible to the people through Parliament and therefore the civil servants have to be accountable to the Minister. However, an **impartial civil service is responsible not only to the government of the day but to the Constitution of the land to which they have taken an oath of loyalty**. That is why the division of responsibility between the civil servants and ministers needs to be more clearly defined. A framework in which responsibility and accountability is well defined would be useful.

### 10.10.3 Recommendations of Administrative Reforms Commission

- The Commission is of the view that the **political neutrality and impartiality** of the civil services needs to be preserved. The onus for this lies equally on the political executive and civil servants. The Commission in its Report on “Ethics in Governance” while examining the ethical framework for Ministers has recommended that a **Code of Ethics for Ministers** should inter-alia include the following:

- **Ministers must uphold the political impartiality of the civil service and not ask the civil servants to act in any way which would conflict with the duties and responsibilities of the civil servants**
- Under the **Prevention of Corruption Act, 1988** “abuse of authority unduly favouring or harming someone” and “obstruction of justice” should be classified as an offence under the Act, in order to facilitate the Civil Servants in performing their Statutory duties independently, impartially and with due integrity.
- In both decentralization and delegation of authority the underlying principle should be - that powers delegated are to be exercised by the authority to whom the delegation has been done. Also, the exercise of such delegated authority should be allowed without any formal or informal interference.
- It is essential to lay down certain norms for recruitment in government to avoid complaints of favouritism, nepotism, corruption and abuse of power. These norms are:
  - Well defined procedure for recruitment to all government jobs.
  - Wide publicity and open competition for recruitment to all posts.
  - Minimisation, if not elimination, of discretion in the recruitment process.
  - Selection primarily on the basis of written examination or on the basis of performance in existing public/board/ university examinations with **minimum weight to interview**.

## 10.11 Civil Services Code

*Ethics is a set of values and principles which helps guide behaviour, choice and actions.* It helps to decide whether one's' actions are right or wrong. They also ensure that members of an organization **maintain a consistent and appropriate behaviour** towards one another and towards clients and persons outside the organization.

Civil servants have special obligations because they are responsible for managing resources entrusted to them by the community, because they provide and deliver services to the community and because they take important decisions that affect all aspects of a community's life.

The **Draft Public Services Bill, 2007** proposes the necessary first step towards evolving a code of ethics.

**The Public Service and the Public Servants shall be guided by the following values in the discharge of their functions:**

Patriotism and upholding national pride	Allegiance to constitution and law of the nation	Maintaining absolute integrity	Objectivity, impartiality, honesty, diligence, courtesy and transparency
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The current set of enforceable norms of the Civil Services in India are the **Central Civil Services (Conduct) Rules - 1964** and analogous rules applicable to members of the All India Services or employees of various State Governments. There is **no Code of Ethics** prescribed for Civil Servants in India although such Codes exist in other countries.

### Recommendations of Administrative Reforms Commission:

1. There is a **need for a comprehensive Civil Service Code** that can be conceptualized at three levels: -
  - At the apex level, there should be a **clear and concise statement of the values** and ethical standards that a civil servant should imbibe
  - At the second level, the **broad principles which should govern the behaviour** of a civil servant may be outlined. This would constitute the **Code of Ethics**.
  - At the third level, there should be a **specific Code of Conduct** stipulating in a precise and unambiguous manner, a list of acceptable and unacceptable behaviour and actions.

2. The Commission is of the view that in addition to commitment to the Constitution these values should promote:
  - Adherence to the highest standards of probity, integrity and conduct, Impartiality and non partisanship,
  - Objectivity, Commitment to the citizens' concerns and public good
  - Empathy for the vulnerable and weaker sections of society.
3. The Commission is also of the view that these values, per se, may not be enforceable. But a mechanism may be put in place so that efforts are made, particularly, by those in leadership positions, for inculcating these values in all persons in their organisations.
4. Civil Services Values' and the Code of Ethics should be incorporated in the proposed Civil Services Bill.

#### Code of Ethics for Civil Servants (2nd ARC)

##### **Integrity**

Civil servants should be guided solely by **public interest** in their official decision making and not by any financial or other consideration either in respect of themselves, their families or their friends.

##### **Impartiality**

Civil servants in carrying out their official work, including functions like procurement, recruitment, delivery of services etc, should take **decisions based on merit alone**.

##### **Commitment to public service**

Civil servants should deliver services in a fair, effective, impartial and courteous manner.

##### **Open accountability**

Civil servants are accountable for their decisions and actions and should be willing to subject themselves to appropriate scrutiny for this purpose.

##### **Devotion to duty**

Civil servants maintain absolute and unstinting devotion towards their duties and responsibilities at all times.

##### **Exemplary behaviour**

Civil servants shall treat all members of the public **with respect and courtesy** and, at all times, should behave in a manner that upholds the rich traditions of the civil services.

## 10.12 Civil Services Law

It provides a clear, unified framework within which the civil servants can perform their roles and discharge their responsibilities. A new law is often needed to **create and empower institutions** which would ensure that the civil servants discharge their duties while upholding the principles enshrined in the Constitution.

#### **Existing legal framework of all civil services in India:**

- Part XIV of the Constitution of India makes provisions for dealing with the civil services.
- A number of Rules have been made from time to time by the Union and State Governments and these essentially govern and regulate the public services in India.
- Parliament in exercise of its powers under Article 309 of the Constitution has enacted the All India Services Act, 1951, All India Services (Provident Fund) Rules, 1955, All India Services (Conduct) Rules, 1958, All India Services (Discipline and Appeal) Rules, 1969 etc.

### Need for a Civil Service Law in India:

Arguments Against	Arguments in favour
<ul style="list-style-type: none"> <li>• The Civil Service is an institution of great pragmatism, it is unwise to stir things up if you are unsure what demons you may accidentally unleash in the process.</li> <li>• If it ain't broke, don't x it'</li> <li>• Many of the things which would be in a Bill already have the force of law through Orders in Council.</li> <li>• Legislation would add nothing except perhaps greater legalism in the relationship between Ministers and Civil servants</li> <li>• A Civil Service Act would make no sense unless it was part of a larger piece of legislation</li> </ul>	<ul style="list-style-type: none"> <li>• An Act could provide a forward looking framework for the continued development of the Civil Service.</li> <li>• A Civil Service Act could play a positive role in providing a framework for clarifying the boundaries, easing the rubbing points and providing a confident basis for modernisation.</li> <li>• Finally, an Act would bring the Civil Service more directly under the oversight of Parliament.</li> </ul>

### Recommendations of Administrative Reforms Commission in light of need for Civil Services Law:

<p><b>Title of the Bill:</b> The Bill may be called 'The Civil Services Bill'.</p>	<p><b>Definitions:</b> "Civil Services" shall comprise all personnel holding civil posts under the Union.</p>	<p><b>Civil Service Values:</b> The Civil Services and the Civil Servants shall be guided by the following values in addition to a commitment to uphold the Constitution, the discharge of their functions:</p> <ul style="list-style-type: none"> <li>• <b>Absolute integrity at all times</b></li> <li>• <b>Impartiality and non-partisanship</b></li> <li>• <b>Objectivity</b></li> <li>• <b>Dedication to public service</b></li> <li>• <b>Empathy towards weaker sections</b></li> </ul> <p>The Heads of Departments shall be responsible for promoting these values in their organizations. The <b>Central Civil Services Authority</b> may from time to time review the adoption, adherence to and implementation of the Civil Service Values in the departments or organizations under the Union.</p>
<p><b>Code of Ethics for civil servants</b></p>	<p><b>Recruitment and Conditions of Service:</b> Recruitment and conditions of service of persons appointed to the 'Public Services' shall be governed by Rules made under this Act.</p> <p>An <b>independent agency should audit</b> the recruitments made outside the UPSC and SSC systems and advise the government</p>	<p><b>New Conditions of Appointment:</b></p> <ol style="list-style-type: none"> <li>1. A civil servant, not being a civil servant recruited or inducted for a short term appointment, shall hold office for twenty years from the date of initial appointment.</li> <li>2. The relationship between the Civil Servant and the Government of India during the time he/she holds office shall also be governed by the rules made in this regard. All public servants shall be subjected to two intensive <b>reviews on completion of 14 years and 20 years of service</b></li> </ol>



	<p>suitably. This audit should be conducted under the supervision of the UPSC.</p>	<p>respectively.</p> <ol style="list-style-type: none"> <li>3. Their further continuance beyond 20 years will depend on the outcome of these reviews.</li> <li>4. It should be expressly provided that <b>all new recruitments shall be for a period of 20 years</b> and their continuance beyond 20 years would depend on the outcome of the intensive reviews.</li> </ol>
<p><b>Appointment to Senior Positions in Government:</b> All positions in Government (including in the attached and subordinate offices) at the level of Joint Secretary and above would constitute the 'Senior Management Pool'. This would apply to all posts including those that are presently encadred with the organised Group A Services. All appointments to positions in this pool shall be made on the <b>recommendations of the Central Civil Services Authority</b>, which would go into the past performance and also evaluate the future potential of an officer. The Central Civil Services Authority should recommend a panel of officers suitable for a position in the Government and Government should choose an officer/person from this panel</p>	<p><b>Fixation of Tenures:</b> All senior posts should have a <b>specified tenure</b>. The task of fixing tenures for various posts may also be assigned to this independent agency - <b>Central Civil Services Authority</b>.</p>	<p><b>Widening the Pool of Candidates for Selection to Senior Positions:</b> Candidates outside the government system should be allowed to compete for certain posts <i>at senior levels (Additional Secretary and above)</i>. The task of identifying these posts should be entrusted to the Central Civil Services Authority.</p>
<p><b>Dismissal, Removal etc. of Civil Servants:</b> After the <b>repeal of Articles 310 and 311</b> (as recommended in the Report on 'Ethics in Governance'), safeguards against arbitrary action against government</p>	<p>A <b>performance management system</b> should be mandatory for every organization in the government.</p>	<p><b>Constitution of the Central Civil Services Authority:</b></p> <ul style="list-style-type: none"> <li>• The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Civil Services Authority to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.</li> </ul>

<p>servants should be provided in the new law. These safeguards should include:</p> <ul style="list-style-type: none"> <li>• No penalty of removal and dismissal should be imposed, except by an authority, which is at least three levels above the post which the government servant is holding.</li> <li>• Other penalties apart from dismissal and removal may be imposed by an authority which is at least two levels above the current post of the government servant.</li> <li>• No penalty may be imposed, unless an enquiry is conducted and the accused government servant has been given an opportunity of being heard.</li> <li>• The Head of an organization should have powers to lay down the details of the enquiry procedure, subject to the general guidelines which may be issued by the Government from time to time.</li> </ul>		<ul style="list-style-type: none"> <li>• The Central Civil Services Authority shall be a five-member body consisting of the Chairperson and four members (including the member secretary).</li> <li>• The Chairperson and members of the Authority should be persons of eminence in public life and professionals with acknowledged contributions to society.</li> <li>• The Chairperson and members of the Authority shall be <b>appointed by the President on the recommendations of a Committee consisting of the Prime Minister and the Leader of the single largest group in the opposition in Lok Sabha..</b></li> </ul>
<p><b>Functions of the Central Civil Services Authority:</b> Central Authority shall discharge the following functions:</p> <ol style="list-style-type: none"> <li>1. Review the adoption, adherence to and implementation of the Civil Service Values in the departments or organizations under the Central Government and send reports to the Central Government.</li> </ol>	<p><b>Creation of Executive Agencies in Government:</b> Government should be authorized to create or reorganize some or all of existing Departments into 'Executive Agencies'. The role of the Ministries should primarily be on policy formulation while implementation should be left to the Executive Agencies.</p>	

<ol style="list-style-type: none"> <li>2. <b>Assign domains to all officers of the All India Services and the Central Civil Services on completion of 13 years of service.</b></li> <li>3. Formulate norms and guidelines for appointments at 'Senior Management Level' in Government of India.</li> <li>4. Evaluate and recommend names of officers for posting at the 'Senior Management Level' in Government of India.</li> <li>5. Identify the posts at 'Senior Management Level' in Government of India which could be thrown open for recruitment from all sources.</li> <li>6. <b>Fix the tenure for posts at the 'Senior Management Level' in the Government of India.</b></li> <li>7. <b>Submit an annual report to Parliament.</b></li> </ol>		
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### 10.13 Conclusion

The high ethical standards, professionalism, independence and the quality of policy advice the civil services provides are both acknowledged and valued but the fact remains that the civil services are still not adequately equipped to function efficiently and competitively in a dynamic economy. These **shortcomings** are apparent in the complex array of **outdated, rigid and cumbersome regulations, systemic inflexibilities and a culture which does not adequately promote or recognize performance.** In its Report, the Commission has, therefore, recommended a wide array of reforms that aim at building a civil service that is relevant for the 21st century.

# PROMOTING E- GOVERNANCE: THE SMART WAY FORWARD

# 11

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11.3 Evolution of E- Governance in India	11.4 Stages of E-Governance
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## 11.1 Introduction

The term E- governance basically refers to **carrying out the functions and achieving the results of governance through the utilization of Information and communications technology (ICT).**

### Significance of E- Governance:

The reason why countries around the world are increasingly opting for 'e-Governance' is because **governance per se has become more complex** and varied in the last few decades and more importantly, **citizens' expectations from government have increased manifold.** ICT facilitates efficient storing and retrieval of data, instantaneous transmission of information, processing information and data faster than the earlier manual systems, speeding up governmental processes, **taking decisions expeditiously and judiciously, increasing transparency, enforcing accountability and increasing the reach of government both geographically and demographically.**

However, this would **require transformation and change government processes,** outlook laws, rules and regulations so also change in its way of interaction with the citizens. Adopting e governance also requires **capacity building** within the government and **creation of general awareness** about e governance among the citizens.

## 11.2 E- Governance: Conceptual Framework

### Use of ICT in Good Governance

The growth of information communication technology (ICT) has meant faster and better communication efficient storage, retrieval and processing of data it also involves utilisation and exchange of information to its users whether it is individuals, groups, organisations, businesses or government.

With growing computerization and increasing internet connectivity, this process has presently reached a stage where more and more users are motivated to modify their ways of doing things in order to leverage the advantages provided by ICT. In other words, this has led to **'business process re-engineering'**. So far as governments are concerned, the coming together of computerization and internet connectivity /web-enablement in association with process re-engineering, promises faster and better processing of information leading to speedier and qualitatively better decision making, greater reach and accountability, better utilization of resources and overall good governance. *In the case of citizens, it holds the promise of enhanced access to information and government agencies, efficient service delivery and transparency in dealings and interactions with government.*

### What is E-Governance?

Governance or 'electronic governance' is basically the **application of Information and Communications Technology to the processes of Government functioning in order to bring about 'Simple, Moral, Accountable, Responsive and Transparent' (SMART) governance.**

Advantages:



Dr APJ Abdul Kalam, in the Indian context, as visualised E- Governance as: **"A transparent smart e-Governance with seamless access, secure and authentic flow of information crossing the interdepartmental barrier and providing a fair and unbiased service to the citizens."**

## 11.3 Evolution of E- Governance in India

- 1970 - Government of India established the Department of Electronics.
- 1977 - **National Informatics Centre (NIC)** was the first major step towards e-Governance in India as it brought 'information' and its communication in focus.
- 1980s- Use of computers was confined to very few organizations but the advent of personal computers brought the storage, retrieval and processing capacities of computers to Government offices. A large number of government officers had computers but they were mostly used for 'word processing'.
- 1987 - The launching of NICNET-the **national satellite based computer network** provided the main thrust to India's e-Governance program. This was followed by the launch of the District Information System of the National Informatics Centre (DISNIC) programme to computerize all district offices in the country for which free hardware and software was offered to the State Governments.
- 1990- NICNET was extended via the State capitals to all district headquarters.
- 1999 - The Union Ministry of Information Technology was created.
- 2000- **12-point minimum agenda for e-Governance** was identified by the Government.

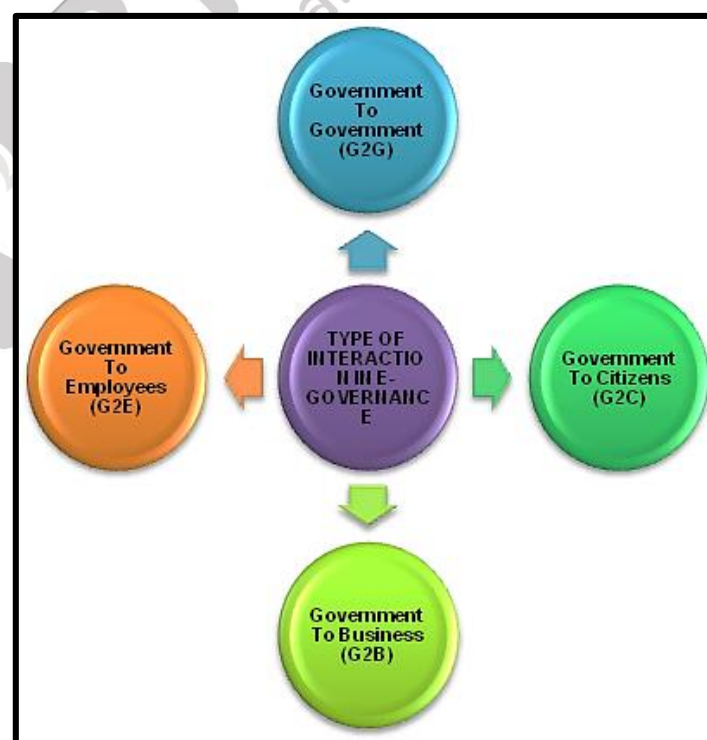
## 11.4 Stages of E-Governance

It is evident that e-Governance is intrinsically **linked with the development of computer technology**, networking of computers and communication systems. With the liberalization of the economy from the early 1990s onwards, there has been a convergence in the availability of cutting edge technologies and opportunities in the field of e-Governance. Generally speaking, the Indian experience demonstrates that the onset of e-Governance proceeded through the following phases:

Computerisation	Networking	Online Presence	Online Interactivity
In the first phase, with the availability of personal computers, a large number of <b>Government offices got equipped with computers.</b> The use of computers began with word processing, quickly followed by data processing.	In this phase, some units of a few <b>government organizations got connected</b> through a hub leading to sharing of information and flow of data between different government entities.	With increasing internet connectivity, a need was felt for maintaining a presence on the web. This resulted in <b>maintenance of websites by government departments and other entities.</b> Generally, these web-pages/ web-sites contained information about the organizational structure, contact details, reports and publications, objectives and vision statements of the respective government entities.	A natural consequence of online presence was opening up of communication channels between government entities and the citizens, civil society organizations etc. The main aim at this stage was to <b>minimize the scope of personal interface with government entities</b> by providing downloadable Forms, Instructions, Acts, Rules etc. In some cases, this has already led to on-line submission of Forms.

## 11.5 Types of Interaction in E-Governance

E-Governance facilitates interaction between **different stakeholders** in governance. These interactions may be described as follows:



<b>Government To Government (G2G)</b>	In this case, Information and communications Technology is used not only to <b>restructure the governmental processes</b> involved in the functioning of government entities but also to <b>increase the flow of information and services within and between different entities</b> . This kind of interaction is only within the sphere of government and can be both <b>horizontal</b> i.e. between different government agencies as well as between different functional areas within an organisation, or <b>vertical</b> i.e. between national, provincial and local government agencies as well as between different levels within an organisation. The primary objective is to increase efficiency, performance and output.
<b>Government To Citizens (G2C)</b>	In this case, an interface is created between the government and citizens which enables the citizens to <b>benefit from efficient delivery of a large range of public services</b> . This expands the availability and accessibility of public services on the one hand and improves the quality of services on the other. It gives citizens the choice of when to interact with the government (e.g. 24 hours a day, 7 days a week), from where to interact with the government (e.g. service centre, unattended kiosk or from one's home/workplace) and how to interact with the government (e.g. through internet, fax, telephone, email, face-to-face, etc). The primary purpose is to make the government citizen friendly.
<b>Government To Business (G2B)</b>	Here, e-Governance tools are used to aid the business community providers of goods and services, to seamlessly interact with the government. The objective is to <b>cut red tape, save time, reduce operational costs</b> and to create a more transparent business environment when dealing with the government. The G2B initiatives can be transactional, such as in <b>licensing, permits, procurement and revenue collection</b> . They can also be promotional and facilitative, such as in trade, tourism and investment. These measures help to provide a congenial environment to businesses to enable them to perform more efficiently.
<b>Government To Employees (G2E)</b>	Government is by far the biggest employer and like any organisation, it has to interact with its employees on a regular basis Use of ICT tools helps in making these interactions fast and efficient on the one hand and increases satisfaction levels of employees on the other.

## 11.6 Benefits of E- Governance

- Better Access to information and quality of services to citizens
- Simplicity, efficiency and accountability in Governance.
- Expanded reach of Governance.

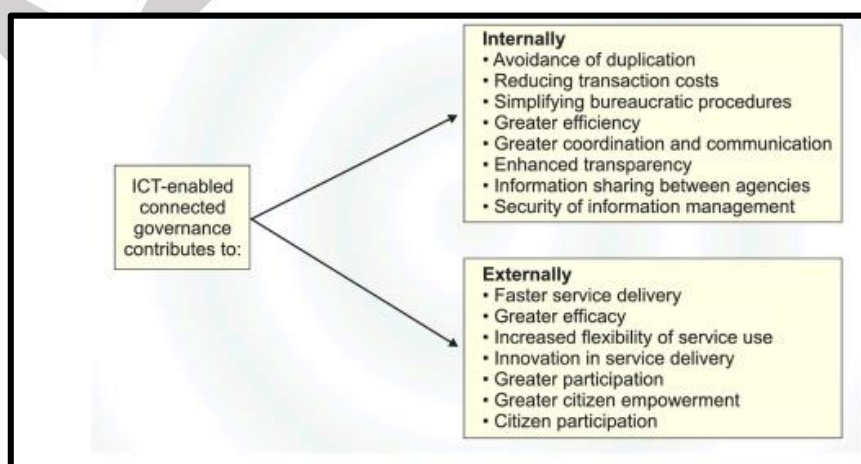


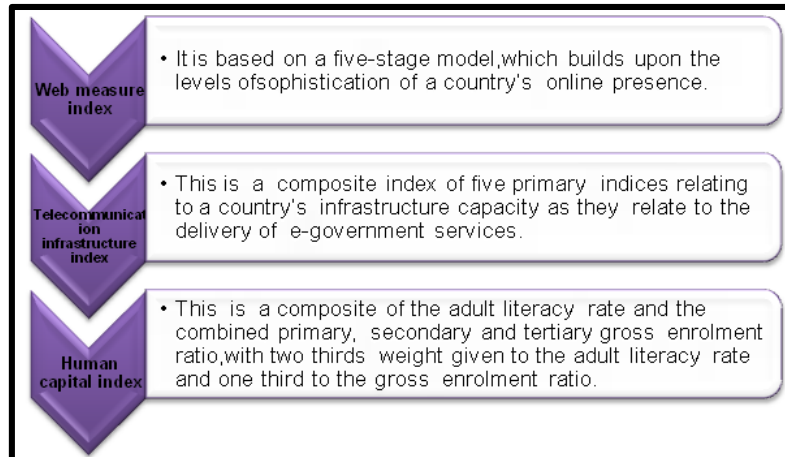
Figure: E- Governance (Benefits)

Source: 2nd Report ARC

## 11.7 International Scenario

The UN Survey (2008) has used a comprehensive 'E-government readiness index' to assess the preparedness of various countries for E-Governance.

### Components of E- Government Readiness Index



It is evident that improving e-Governance readiness would require addressing issues related to not only infrastructure development but also human capital. The survey has laid stress on **March from E-government towards connected Government**. It states that many governments are moving towards 'e- government as a whole concept' which focuses on the provision of services at the front end, supported by integration, consolidation and innovation in backend processes and systems to achieve maximum cost savings and improved service delivery.

## 11.8 E-Governance Initiatives in India

Prior to 2006 when the Government of India formally launched its **National e-Governance Plan (NeGP)** some Departments of Government of India as well as State Governments had initiated steps to adopt e-Governance.

### 11.8.1 Government to Citizen Initiatives

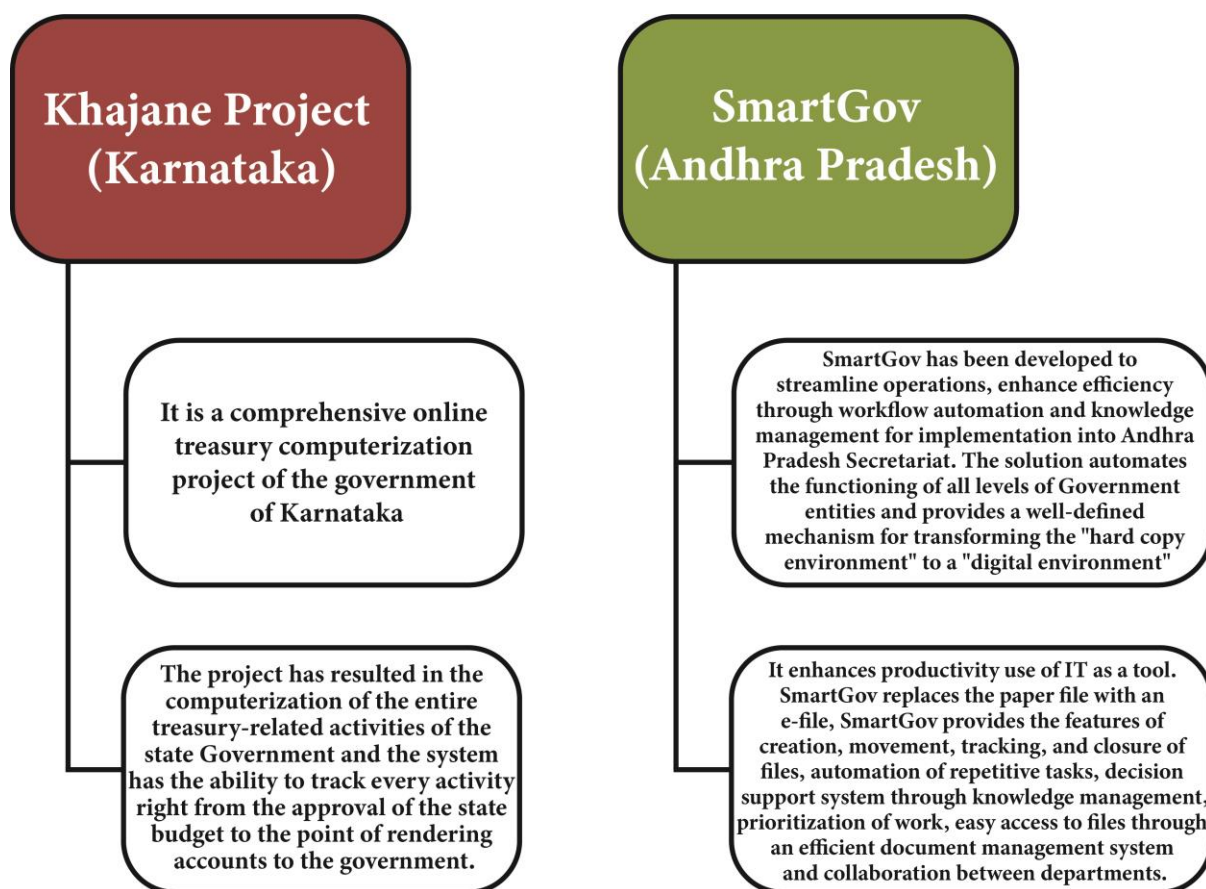
- Computerisation of Land Records (Department of Land Resources, Government of India)
- Bhoomi Project in Karnataka: Online Delivery of Land Records
- Gyandoot (Madhya Pradesh)
- Lokvani Project in Uttar Pradesh
- Project FRIENDS in Kerala
- e-Mitra Project in Rajasthan
- eSeva (Andhra Pradesh)
- Revenue Administration through Computerized Energy (RACE) Billing Project, Bihar
- Admission to Professional Colleges - Common Entrance Test (CET)

### 11.8.2 Government to Business Initiatives (G2B)

- e-Procurement project in Andhra Pradesh And Gujarat.
- MCA 21 portal- The ministry of corporate affairs began the implementation of MCA21 mission mode project under National e-Governance plan in 2006. It is in its second phase of implementation, with Infosys being nodal agency, for the period of 2013 to July 2021. It is one of the 27 mission mode projects of the national e governance plan which aims at providing easy and secure **access to all registry related services provided by the ministry of corporate affairs** to corporate and other stakeholders.



### 11.8.3 Government to Government Initiatives (G2G)



## 11.9 Analysis of the Several E- Government Initiatives and Lessons Learnt

<p><b>Political support at the highest level</b> is a sine qua non for successful implementation of e-Governance initiatives.</p>	<p>Major e-Governance projects bear fruit only when application of IT is preceded by <b>process re-engineering</b>.</p>	<p>Successful projects require an empowered leader with a dedicated team who can conceptualise and implement e-Governance projects with the help of officials at all levels and technological solution providers.</p>
<p>Initiatives which save the citizens' time, money and effort are able to succeed even when back-end computerization is not done. However, these successes are generally limited to cases where payment of bills for public/private utilities is involved but for complete transformation of governance there has to be an end-to-end ICT enablement coupled with process re-engineering.</p>	<p><b>In rural areas, issues of connectivity and electricity</b> supply are of paramount importance</p>	<p>In case of complex projects, all components need to be identified and analysed at the outset, followed by meticulous planning and project implementation.</p>

## 11.10 Core Principles for Success of E- Governance

<p><b>Clarity of purpose-</b> there should be a clear understanding of the purpose to be achieved through e governance as well as the objectives sought.</p>	<p><b>Environment building-</b> There is need to change the mind-set of all the stakeholders involved, i.e. politicians, government officials and civil society at large. This would require a <b>strong will to change</b> among various stakeholders in the governance system</p>	<p><b>E governance as an integral part of reforms in governance-</b> e-Governance cannot be separate from governance as a whole. Further, it cannot be taken as an adjunct of governance. It has to be an integral part of the governance structure and processes. Thus, every government organization or entity, every government programme or policy and every law and regulation would have to integrate e-Governance modules within itself rather than brought-in as an afterthought or introduced as an adjunct.</p>
<p><b>E Preparedness and Step Wise approach-</b> Introduced in the whole country at one go it should be an integral part of reforms in Governance and each organisation needs to inculcate E governance systems with organisational culture in a seamless way. However, different organisations are not, presently, at the same level of preparedness. There has to be a stepwise approach to e governance so that outcomes are maximized and citizens can reap maximum benefits from it.</p>	<p><b>Disciplined Way Of Working-e-Governance</b> requires a disciplined and systematic way of working in organizations. Most technologies pre-suppose a set of rational behaviour on the part of users. This element needs to be emphasized during the capacity building as well as in the life cycle of the project.</p>	<p><b>Close monitoring-</b>close monitoring of e-Governance projects is necessary in both the pilot phase as well as during the actual working of the up-scaled project. This helps in early detection of problems and hence facilitates prompt corrective action.</p>
<p><b>E- Governance - Continuing Process</b> - e-Governance represents a paradigm shift in the field of governance reforms. Bringing it about would have to be a continuing process which would require many adjustments. It has been well said that e-Governance is a <b>journey and not a destination.</b></p>	<p><b>Developing Secure, fail safe And Disaster Recovery System-</b> Given the scale of potential e-Governance applications in the country and the prospective mammoth flow of data involved, the technological architecture on which such applications are mounted would need to be made not only secure but also fail-safe. Mechanisms would have to be incorporated which would put the systems in the 'safe</p>	<p><b>Sustainability-</b> Reforms are always harder to implement and sustain, but once they take root, they deliver the best results. Sustainability could be addressed in many ways – some initiatives may require designing in a way that they are financially sustainable. Others may be driven by administrative objectives or simplicity of use. Saving of time and money may be the driving force in case of some projects. All these are objectives, which on their own merit, justify the continuance of any particular initiative. If projects have been able to achieve any of these</p>

	<p>mode' in times of crisis. Unless security features are properly implemented, electronic transactions are more prone to fraud and abuse than traditional paper-based transactions. As governments move toward providing the full range of government services online with the capability to conduct sensitive transactions, it needs to be ensured that these transactions are secure and the privacy of citizens is not compromised. Over and above, these systems would also need to be insulated from the possibility of cyber-attacks, hacking etc.</p>	<p>objectives, their sustainability should not be allowed to be jeopardized on some other grounds.</p>
<p><b>Horizontal Applicability-</b> Coordinating mechanism is needed to <b>prevent cases of reinventing the wheel.</b> Different States across India face similar types of challenges. Past experience has shown that a number of States have undertaken e-Governance projects to address similar concerns. To make e-Governance more cost effective and successful, successes need to be <b>adopted across States</b> and organizations thereby minimizing costly repetitions and in many cases failures.</p>	<p><b>Development of local language interface-</b> is India is a multilingual country governance initiative needs to take into account customised language preferences for the people and develop citizen interfaces in the respective local language.</p>	

### 11.11 Implementing E-Governance Reforms

It Is Widely Recognised That Governance Initiatives Have **To Be Implemented Across Various Departments and organisations with a wide spectrum of activities and variety of levels of readiness for e- governance.**

Achieving the desired results would, therefore, **require the fullest political backing**, a determined and resolute approach by all organizations and departments of Government as well as active and constructive **participation by the public.** It would require providing institutional and physical infrastructure for taking e-Governance initiatives across our cultural and regional diversities; more importantly it would require the creation of an environment that would encourage the adoption of ICT. Thus, apart from the technical requirement, success of e-Governance initiatives would depend on capacity building and creating awareness within government and outside it.

It is to be noted that open APJ Abdul Kalam former President of India in a visionary in the field of governance has summarised the basic challenge before the country in implementation of e-governance very aptly: -

**"e-Governance has to be citizen friendly. Delivery of services to citizens is considered a primary function of the government. In a democratic nation of over one billion people like India, e-Governance should enable seamless access to information and seamless flow of information across the state and central government in the federal set up. No country has so far implemented an e-Governance system for one billion people. It is a big challenge before us"**

## 11.12 Recommendations of Administrative Reforms Commission for Successful Implementation of E-Governance Model

1. **Building a Congenial Environment:** - Building a congenial environment is a sine qua non for successful implementation of e-Governance initiatives; This should be achieved by:
  - Creating and displaying a **will to change** within the government
  - Providing political support at the highest level
  - Incentivising e-Governance and **overcoming the resistance to change** within government
  - Creating awareness in the public with a view to generating a demand for change.
2. **Government organizations /departments at Union and State Government levels need to identify e-Governance initiatives which could be undertaken within their functional domain, keeping the needs of the citizens in mind. Such initiatives may be categorized as follows:**
  - Initiatives which would provide timely and useful information to the citizens.
  - Initiatives which would not require the creation of a database for providing useful services to the citizens.
  - This may include initiatives where databases may be created prospectively without waiting for the updation of historical data.
  - Initiatives which allow for making elementary online transactions including payment for services.
  - Initiatives which require verification of information/ data submitted online.
  - Initiatives which require creation and integration of complex databases.
  - Instead of implementing all such initiatives at one go, these should be **implemented after prioritizing them on the basis of ease of implementation**, which would generally follow the categories mentioned above in that order.
3. **Business Process Re-engineering:**
  - For every function a government organisation performs and every service or information it is required to provide, there should be a step by step analysis of each process to ensure its rationality and simplicity.
  - Such analysis should incorporate the viewpoints of all stakeholders, while maintaining the citizen-centricity of the exercise.
  - After identifying **steps which are redundant or which require simplification**, and which are adaptable to e-Governance, the provisions of the law, rules, regulations, instructions, codes, manuals etc. which form their basis should also be identified.
  - Following this exercise, governmental forms, processes and structures should be re-designed to make them adaptable to e-Governance, backed by procedural, institutional and legal changes
4. **Capacity building and Awareness:**
  - Capacity building efforts must attend to both the organizational capacity building as well as the professional and skills upgradation of individuals associated with the implementation of e-Governance projects.
  - Each government organization must conduct a capacity assessment which should form the basis for training their personnel. Such capacity assessment may be carried out by the State Department of Information Technology in case of State Governments, and the Union

Department of Information Technology in the Centre. Organisations should prepare a roadmap for enhancing the capabilities of both their employees and the organization.

- A network of training institutions needs to be created in the States with the Administrative Training Institutes at the apex.
- The Administrative Training Institutes in various States should take up capacity building programmes in e-Governance, by establishing strong e-Governance wings. ATIs need to be strengthened under the NeGP.
- State Governments should operationalise the Capacity Building Roadmap (CBRMs), under the overall guidance and support of DIT, Government of India. Lessons learnt from previous successful e-Governance initiatives should be incorporated in training programmes.

#### 5. Developing Technology Solution:

- **Develop a national e-Governance 'enterprise architecture' framework** as has been done in some countries.
- Promote the use of 'enterprise architecture' in the successful implementation of e-Governance initiatives; this would require building capacity of top level managers in all government organizations.

#### 6. Implementing Complex E-Governance projects:

- All organizations should carry out a **periodic independent evaluation** of the information available on their websites from the citizens perspective and then redesign their websites on the basis of the feedback obtained.
- Each government organization should prepare a time-bound plan for providing transactional information through their websites. To begin with, this could be done by **updating the websites at regular intervals, while at the same time, re-engineering the back-end processes** and putting them on computer networks. Ultimately, all the back-end processes should be computerized.
- Complex e-Governance projects should be planned and implemented like any major project having several parts / components for which Project Management capability should be developed in-house.
- Implementation of e-Governance projects would involve a detailed 'project management' exercise which would consist of the following activities:
  - Breaking up entire e-Governance projects into components / activities
  - Planning each activity in detail
  - Allocating resources, both human and financial
  - Commencement of activities as per the plan and continuous tracking
  - Need-based mid-course correction.
- While implementing transformational programmes like the NeGP, it is essential to recognise the importance of a **structured approach to Change Management** the people side of transformation. It is necessary for Government agencies, especially the nodal Ministries and the Administrative Reforms and IT Departments, to design appropriate Change Management Strategies and Plans to accompany the e-Governance

#### 7. Monitoring and Evaluation:

- Monitoring of e-Governance projects should be done by the implementing organization during implementation in the manner in which project monitoring is done for large infrastructure projects. Even after the project has been implemented, constant monitoring would be required to ensure that each component is functioning as per the design.
- Evaluation of success or failure of e-Governance projects may be done by independent agencies on the basis of parameters fixed beforehand.

#### 8. Institutional Mechanism For Sharing of Resources/Information:

- The **Departments of Information Technology (DIT)** at the Union and State Government levels should **provide institutional support to other departments and organizations in implementation of e-Governance projects** identified and conceptualized by them.
- The DIT should focus on the following:
  - Conducting an e-preparedness audit for each organization

- Enforcing standardization
- Assisting in coordination when e-Governance projects transcend an organisation's functional domain
- Carrying out evaluation of e-Governance projects
- Acting as a repository of best practices and encouraging horizontal replication of successful projects
- Helping in selection of technological solutions.
- The **Second Schedule to the Government of India Allocation of Business Rules, 1961** may be suitably amended to incorporate these elements with regard to the subject matter of 'e-Governance'.

#### 9. Public-Private Partnership:

- Several components of e-Governance projects lend themselves to the Public-Private Partnership (PPP) mode. In all such cases (PPP) should be the preferred mode.
- The private partner should be selected through a transparent process. The roles and responsibilities of government as well as the private partner should be clearly laid down in the initial stage itself, leaving no room for any ambiguity.

#### 10. Protecting Critical Information Infrastructure:

There is a need to develop a critical information infrastructure assets protection strategy. This should be supplemented with improved analysis and warning capabilities as well as improved information sharing on threats and vulnerabilities

### 11.13 National E-Governance Plan

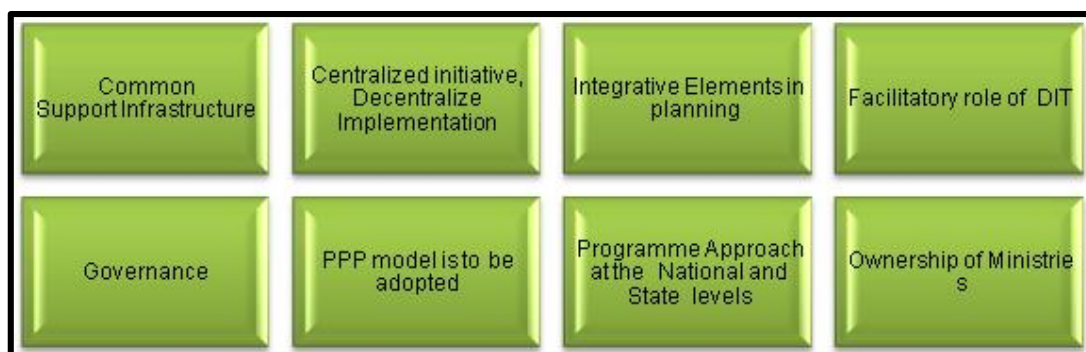
During the 1980s and early 1990s, initial attempts towards e-Governance were made with a focus on networking government departments and developing in-house government applications in the areas of defence, economic monitoring, planning and the deployment of IT to manage data-intensive functions related to elections, census, tax administration etc. These applications **focused on automation of internal government functions** rather than on improving service delivery to citizens.

Over the past decade or so, there have been **islands of e-Governance initiatives** in the country at the national, state, district and even block-level. Some of them have been highly successful and are suitable for replication. It was increasingly perceived that if e-Governance was to be speeded up across the various arms and levels of Government a programme approach would need to be adopted, which must be guided by a common vision, strategy and approach. It was with this background, that the **National e-Governance Plan (NeGP)** was formulated for implementation across the country. The NeGP has been formulated by the Department of Information Technology (DIT) and Department of Administrative Reforms and Public Grievances (DAR and PG). The Union Government approved the NeGP, which **comprises 27 Mission Mode Projects (MMPs) and 10 components** on May 18, 2006. The NeGP aims at improving delivery of Government services to citizens and businesses with the following vision: **"Make all Government services accessible to the common man in his locality, through common service delivery outlets and ensure efficiency, transparency and reliability of such services at affordable costs to realise the basic needs of the common man."**

#### Implementation, Approach and Methodology of National E Governance Programme:

Implementation of e-Governance is a highly complex process **requiring provisioning of hardware and software, networking, process re-engineering and change management.**

Based on lessons learnt from the past and the experience from successful e-Governance applications, the approach and methodology adopted for NeGP **contains the following elements:**



To sustain the projects under NeGP, there is also need to create the right governance and institutional mechanisms, set up core infrastructure, formulate key policies, standards and the legal framework for adoption and to channelize private sector technical and financial resources into the National e-Governance efforts. For this purpose, certain key components have also been identified for implementation which cut across and support various projects

- Core Policies
- Core Infrastructure (SWAN, NICNET, SDCs, etc.)
- Support Infrastructure (CSCs, etc.)
- Research and Development
- Human Resource Development and Training
- Awareness and Assessment
- Organization structures.

#### Analysis of National E Governance Plan

- The Institutional Arrangements at both National and State levels highlight the need to ensure that the Implementation of projects at National and State levels by the Union and State Government departments are consistent with a broad policy and adhere to common standards. This requires empowered institutional arrangements to oversee, drive and manage implementation.
- Although the **State Data Centres** form one of the core components of the plan, there is **absence of any fixed time frame** for its implementation has resulted in delays. Apart from implementation delays, institutional hurdles have also been cropping up. For example, there has been a tendency in some State departments to set up their own data centre which would give them control over the data and its disaster management and recovery. The **Implementation of plan related to State Data centres should lay in the hands of NIC, due to data and security concerns.**
- The State Wide Area Network is aimed at establishing in all States/UTs, wide area networks, from the Headquarter of each State/UT to the Blocks. These networks would serve in providing Government to Citizens and Governments to Business services, especially for the various Mission Mode Projects contemplated under the National e-Governance Plan. There were issues of **delays in Implementation** and completion of the projects. Also the States/UTs are faced with **problems of availability of basic telecom infrastructure at the block level.**

#### Recommendations of Administrative Reforms Commission:

State Data Centres (SDCs) should be <b>maintained by Government agencies such as NIC as it involves handling of sovereign data.</b> Further, all data centres at the State level should be subsumed in the SDCs.	The implementation of SDCs, SwANs and Common Service Centres (CSC) should be coordinated to prevent significant time-lag between their operationalisation. Last <b>mile connectivity issues involved in operationalisation of CSCs should also be addressed in a time-bound manner.</b>	<b>Gram Panchayats should be involved in monitoring the operation of the Common Services Centres</b> in the first four years of their operation when they are receiving revenue support from the government for providing 'Government to Citizen' services. They should proactively engage in making citizens aware of the services provided through the CSCs and encourage them to make use of them
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State Governments should make available a large bouquet of G2C services through the CSCs.	The Mission Mode Project on Gram Panchayats should be finalized and implemented in a time-bound manner.	State Governments should first provide a clear mandate for governance reforms that must precede the e-Governance initiatives. This would involve, if necessary, <b>changing procedures and even structures and statutes.</b> Therefore as a first step, these issues need to be analysed, decision points identified and political approval taken.
The Secretaries of the concerned departments should be entrusted with the responsibility of project implementation in unambiguous terms. They should be provided with the requisite authority and resources for project implementation.	Thereafter, the business process re-engineering and capacity building exercise should be completed by the concerned department within a maximum period of one year. The IT component of these projects should not be funded until this step is completed.	The <b>Annual Performance Appraisal Report (APR) of public servants entrusted with the responsibility of project implementation under NeGP should have a separate entry for evaluation of their performance</b> in this regard.
Surveys and measurements need to be carried out in a mission mode utilizing modern technology to arrive at a correct picture of land holdings and land parcels and rectification of outdated maps.	This needs to be accompanied by an analysis of the existing mechanism for updating land records - which varies from State to State - to be supplanted by an improved and strengthened mechanism which ensures that all future transactions in titles are immediately reflected in the land records. Such a system should be able to detect changes in titles through various means - namely, succession, will, partition, gift, survivorship etc and update records accordingly.	The dispute resolution mechanism with regard to land titles needs to be strengthened in order to be compatible with the demands made on it.  In case of urban areas, a similar exercise needs to be undertaken especially since measurements and surveys have not been done in many of such areas and even record of titles is not available in most cities.

## 11.14 Legal Framework for E-Governance

**The Information Technology Act, 2000** was enacted to "provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal code, the Indian Evidence Act, 1872, the bankers' books Evidence Act, 1891 and Reserve bank of India Act, 1934 and for matters connected therewith or incidental thereto."

Thus, the **focus of this Act is on electronic commerce and electronic records.** The Act contains **provisions on digital signatures and authentication of electronic records, legal recognition of digital signatures** and electronic records, retention of electronic records, attribution, acknowledgement and dispatch of electronic records, security of electronic records, regulation of



certifying Authorities, **Cyber Regulation Appellate Tribunal** etc. To facilitate the implementation of e-Governance projects at various levels across the country, a more holistic legal framework is required.

**India does not yet have a separate enabling legal framework for e-governance.** The scope of the National E Governance Plan is quite wide, covering almost all aspects of governance ranging from service delivery and provision of information to business process re-engineering within the different levels of government and its institutions. Hence, it is of utmost importance that such a gigantic task as well as associated E Governance Initiatives are implemented, monitored and regulated through a legal framework so that its vision becomes a reality.

#### 11.14.1 Legal Framework in India: Recommendations of Administrative Reforms Commission

<p>A clear road map with a set of milestones should be outlined by the Government of India with the ultimate objective of transforming the citizen-government interaction at all levels to the e-Governance mode by 2020. This may be enshrined in a legal framework keeping in consideration the mammoth dimension of the task, the levels of required coordination between the Union and State Governments and the diverse field situations in which it would be implemented.</p>	<p><b>The legal framework should, inter alia, include provisions regarding:</b></p> <ul style="list-style-type: none"> <li>• Definition of e-Governance, its objectives and role in the Indian context;</li> <li>• <b>Parliamentary oversight mechanism;</b></li> <li>• Mechanism for coordination between government organizations at Union and State levels</li> <li>• Role, functions and responsibilities of government organizations with regard to e-Governance initiatives, especially business process re-engineering</li> <li>• Financial arrangements;</li> <li>• Specifying the requirements of a strategic control framework for e-Government projects dealing with the statutory and sovereign functions of government.</li> </ul>	<p>This legislation should have an overarching framework and be able to provide flexibility to organizations.</p>
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### 11.15 Knowledge Management

Knowledge Management (KM), is defined as “**a discipline that promotes an integrated approach to identifying, capturing, evaluating, retrieving and sharing enterprise information assets.**”

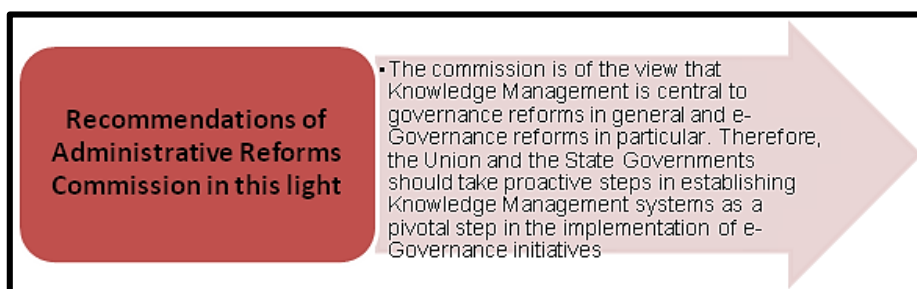
Earlier e-Governance was considered as mere application of ICT tools to the governance processes, but, as has been emphasized in this Report, a **successful e-Governance** intervention requires a holistic approach as it **encompasses domain knowledge, process reform management, resources management, project management and change management.** In each one of these, Knowledge Management (KM) is an important component. The process of knowledge management involves systematically and continuously transferring knowledge from individuals and teams who generate them, to the brain of organisation for the benefit of the entire organisation.

**Generally, knowledge management comprises of the following steps in any organisation;**

- Identification of the knowledge assets within the organisation
- Development of the knowledge assets thus identified.
- Knowledge capture and preservation.
- Utilisation and sharing of knowledge.

It has been witnessed in India that both at the level of Union and State governments the intervention of knowledge management initiatives has been seen although in a sporadic manner. This could be seen by the fact that these efforts have been started because of interest of some government officials or due to a push from technological/consultation companies to sell their products or services.

## Recommendations of Administrative Reforms Commission in this light:



### 11.16 Conclusion

The Commission had concluded that in any governance initiative the focus should be on governance reform with technological tools provided by Information Technology being utilised to bring about fundamental changes in processes of government.

India's e governance experience shows **plenty of pilot projects with varying rates of success** but having the common characteristic that the majority of these pilot projects are **not replicated widely for scale up**. Hence it becomes essential to learn from such experiences and each pilot project should be taken up to its logical end. In order to achieve this emphasis has to be laid on **reforms in government procedures** are structures and systems which must take **precedence over mere technological solutions**.

It is to be noted that **success** of any governance initiative lies in how efficiently it has enhanced **people's participation** in government functioning, providing Information Communication Technology access, bringing Government and services it offers close to people promoting **accountability, transparency and responsiveness** in government functioning, to ensure that government works **effectively in a cost benefit manner**. These are sine-qua-non for successful democracy and good governance.

# CITIZEN CENTRIC ADMINISTRATION: THE HEART OF GOVERNANCE

12

12.1 Introduction	12.2 Concept of Citizen Centric Administration
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12.11 Grievance Redressal Mechanism	12.12 Consumer Protection
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12.15 Conclusion	

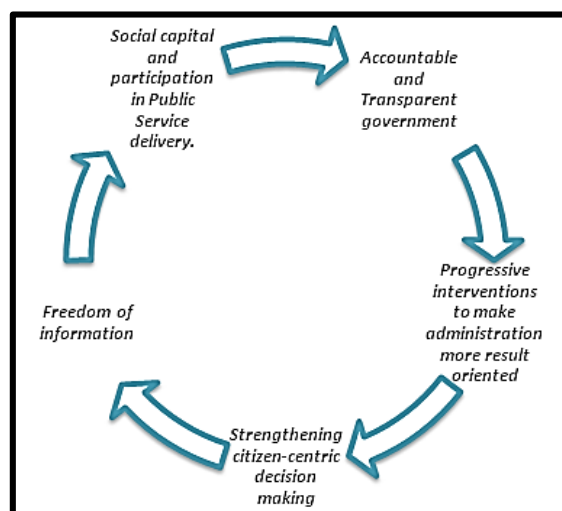
## 12.1 Introduction

"A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work. He is the purpose of it. He is not an outsider in our business. He is part of it."

-MAHATMA GANDHI

Governance in order to be citizen centric **should be participative and transparent**. It should be effective, efficient and responsive to the citizens. Furthermore, an **ethos of serving the citizens** should permeate all government organizations. Last but not the least, government organisations should be accountable to the people. As one of the **primary functions of the State is to promote the welfare of its citizens**, an evaluation of the **functioning** of the institutions of governance will ultimately have to be **based on the satisfaction they provide to the common man**. In this regard, prominence would need to be attached to the voice of the citizens themselves.

The commission has examined issues related to Citizen centric administration concerning the following aspects:



There have been a large number of **reform measures**, some at the macro level and others at the micro level which have sought to **bring administration closer to the people**. These include

- Enacting laws giving certain rights to people,
- Setting up of new institutional mechanisms to redress citizens' grievances,
- Improving accessibility to citizens by setting up units closer to people,
- Simplifying procedures to reduce bureaucratic delays,
- Using technology to improve internal efficiency,
- Rewarding government employees who perform well
- Improving discipline within the organization,
- Reducing regulatory control
- Holding public contact programmes etc.

Some of the initiatives taken on citizen centric reforms are based on the **recommendations of several committee is like Santhanam committee** which laid down setup of Central vigilance Commission, recommendation of **first Administrative Reforms Commission** which suggested establishment of a Lokpal and lokayukta for every state, formulation of citizens charter, governance reforms, computerised previous redressal mechanism which led to setting up of public grievance redressal and monitoring system, Right to Information effect.

## 12.2 Concept of Citizen Centric Administration

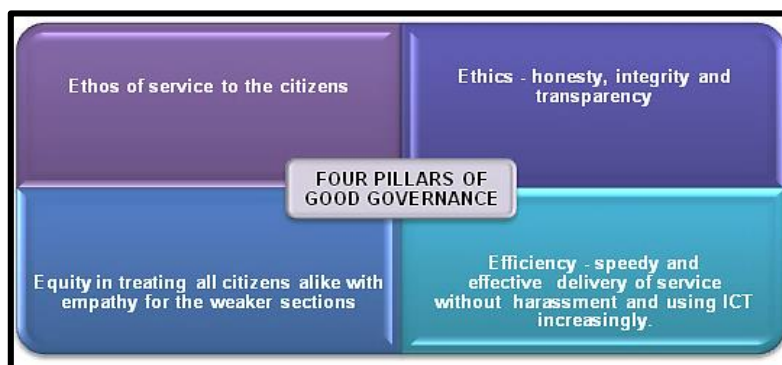
The concept of good governance is not new. **Kautilya in his treatise Arthashastra** elaborated the **traits of the king** of a well governed State thus: **“in the happiness of his subjects lies his happiness, in their welfare his welfare, whatever pleases himself, he does not consider as good, but whatever pleases his subjects he considers as good”**. **Mahatma Gandhi had propounded the concept of ‘Su-raj’**.

**Good governance has the following eight attributes which link it to its citizens:**

Accountable	Transparent	Consensus Oriented	Participatory
Rule Of Law	Equitable and Inclusive	Effective and Efficient	Responsive

Good governance aims at providing an environment in which all citizens irrespective of class, caste and gender can develop to their full potential. In addition, good governance also aims at providing public services effectively, efficiently and equitably to the citizens.

**The 4 pillars on which the edifice of good governance rests, in essence are:**



It is to be noted that **citizens are at the core of good governance** and hence there is an inexplicable link between good governance and citizen centric administration.

In this light it is important to mention that the **five year plans had also emphasize** that Government should cover the following dimensions:

- The central feature of good governance in a democratic country like India is constitutionally protected right to elect government at various levels in a fair manner with **effective participation of all sections of society**
- Government at all levels should be accountable and transparent. Moreover there should be a closing between accountability and elimination of corruption which is mostly seen as a major deficiency in governance. Transparency is also critical to ensure accountability and genuine participation.
- The government must be effective and efficient in **delivering socio-economic services** which require constant monitoring and attention and designing programs.
- Governments at the **local level can only function efficiently if they are empowered to do so**. This is particularly relevant for Panchayati Raj institutions that currently suffer from deficiency of funds, functions and functionaries.
- Overarching requirement of good governance is **rule of law** which is relevant not only for relations between individuals and government but also for relations between individuals or businesses.
- Modern economies and society depend upon complex interaction between private entities and this interaction can be efficiently performed only in laws and legal rights have clarity and legal remedies for enforcing these rights are swift.
- Last but not the least, in order to ensure good governance, the entire system must function in a fair and inclusive manner. It is essential that **disadvantaged groups** like scheduled caste, scheduled tribes, minorities, women and disabled must feel that they are having **equal rights and share in the benefits**.

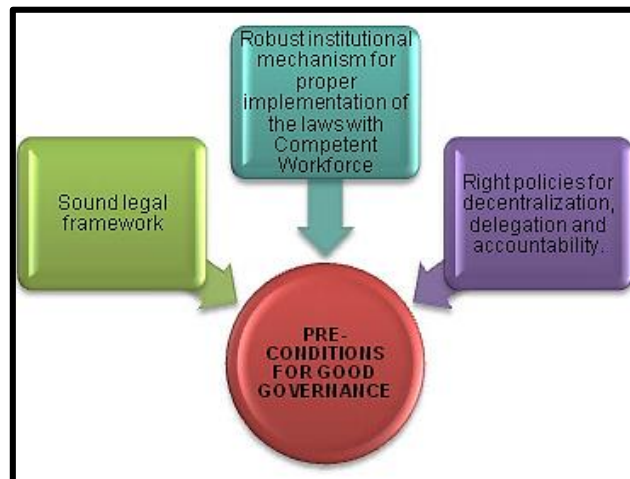
### 12.3 Perceptions about Governance

As stated earlier, public administration in India is generally **perceived to be unresponsive, insensitive and corrupt**. A common complaint is **excessive red tapism and the long time taken to get even routine work done**.

### 12.4 Barriers to Good Governance

<b>Lack of Accountability</b>	A common reason usually cited for inefficiency in governance is the <b>inability within the system to hold the Civil Services accountable for their actions</b> . Seldom are disciplinary proceedings initiated against delinquent government servants and imposition of penalties is even more rare. This is primarily because at most levels <b>authority is divorced from accountability</b> leading to a system of realistic and plausible alibis. <b>Cumbersome disciplinary procedures</b> have added to the general apathy towards discipline in Government.
<b>Red Tapism</b>	Bureaucracies are <b>expected to adhere to rules and procedures</b> which are, of course, important for good governance. However, at times, these rules and procedures are ab initio ill-conceived and cumbersome and, therefore, do not serve their purpose. Also, government servants sometimes become overly preoccupied with rules and procedures and view these <b>as an end in themselves</b> .
<b>Attitudinal Problems in Civil Servants</b>	There is a growing concern that the Civil Services and administration in general, have become <b>wooden, inflexible, self-perpetuating and inward looking</b> . Consequently, their attitude is one of <b>indifference and insensitivity to the needs of citizens</b> . This is, coupled with the enormous <b>asymmetry in the wielding of power at all levels</b> , has further aggravated the situation
<b>Low Level of Awareness of Rights and Duties</b>	Inadequate awareness about their rights <b>prevents citizens from holding erring government servants to account</b> . Similarly, low levels of compliance of Rules by the citizens also acts as an impediment to good governance; when citizens do not adhere to their duties they infringe on the freedom and rights of other citizens. Thus, awareness of rights and adherence to duties are two sides of the same coin.
<b>Ineffective implementation of rules and laws</b>	There is a large body of laws in the country, maintaining public order and safety, maintaining sanitation and hygiene, protecting rights of citizens, giving special protection to the vulnerable sections etc. Effective implementation of these laws creates an environment which would improve the welfare of all citizens and at the same time, encourage each citizen to contribute his best towards the development of society. On the other hand, <b>weak implementation can cause a great deal of hardship to citizens and even erode the faith of the citizenry in the government machinery</b> .

## 12.5 Pre Conditions for Good Governance



### 1. Sound Legal Framework:

A dynamic society requires constant updating of existing laws as also enactment of new laws to meet emergent needs and challenges so that the welfare, protection and development needs of citizens is fully met. In fact, the **Law Commission** has inter alia been **given the responsibility to examine existing laws to ensure their relevance to present day needs and requirements.**

### 2. Robust Institutional Mechanism:

In order to establish good governance it is necessary to have a healthy institutional mechanism that can **uphold human dignity and rule of law** by effectively protecting citizens' rights.

### 3. Decentralization, Delegation and Accountability:

The **principle of subsidiarity** stipulates: functions shall be carried out closest to citizens at the smallest unit of governance possible and delegated upwards only when the local unit cannot perform the task. The **citizen delegates those functions he cannot perform, to the community**, functions that the community cannot discharge are passed on to local governments in the smallest tiers, and so on, from smaller to larger tiers, from local government to the State Governments, and from the States to the Union. In this scheme, the citizens and the community are the centre of governance.

### 4. Competent and Dedicated Workforce:

A sound Institutional system requires that the personnel administration is very effective and dedicated to fulfill the requirements of citizen centric administration.

### 5. Transparency:

Transparency and Right to Information are an essential precondition for good governance. Access to information **empowers the citizens to demand** and get information about public policies and programmes, thus making the government more accountable and helps to **strengthen participatory democracy and citizen centric governance.** It enables citizens to keep themselves informed about the policies of the government, the rights that they have and what they should expect as service from the government.

### 6. Adoption of Modern Technology:

The Commission has emphasized that in e-Governance projects, the focus has to be on governance reforms keeping the citizens at the centre stage and using the technological tools made available by the IT revolution to transform the interaction between the citizens and government.

**7. Accountability:**

Accountability means answerability i.e. questions asked of public officials have to be answered by them.

**8. Evaluation and Monitoring:**

The success of the laws, policies and guidelines which are implemented by a large number of field organizations depend on their effective administration. This necessitates constant monitoring and evaluation.

**9. Grievance Redressal Mechanism:**

Meeting the expectations of the citizens is a challenging task for any Government. Sometimes, the task is compounded due to internal inefficiencies while at other times, despite the best efforts of the public agency, external constraints prevent them from meeting the expectations of the citizens. Addressing the grievances of those citizens whose expectations are not fulfilled is **primarily the task of the Government agency** concerned even though external accountability mechanisms, often having limited scope, do exist. There has to be internal grievance redressal mechanisms that public agencies and Government should develop so that citizens do not have to resort to costly alternatives such as judicial interventions, to seek redressal of their grievances.

**10. Active Citizen Participation:**

At the local community level, citizens as stakeholders can directly participate in decision making. It was pointed out that besides institutions such as the Gram Sabha, citizens participation can be promoted by identifying, for example, identifiable stakeholders in the delivery of specific public services.

**11. Simplification of processes:**

It has been noted by the Administrative Reforms Commission that in order to make governance more seamless is mood and simple there is a necessity to make procedures more healthy, simple and conducive for the citizens to understand it easily.

**12.6 Core Principles of Making Governance Citizen-Centric**

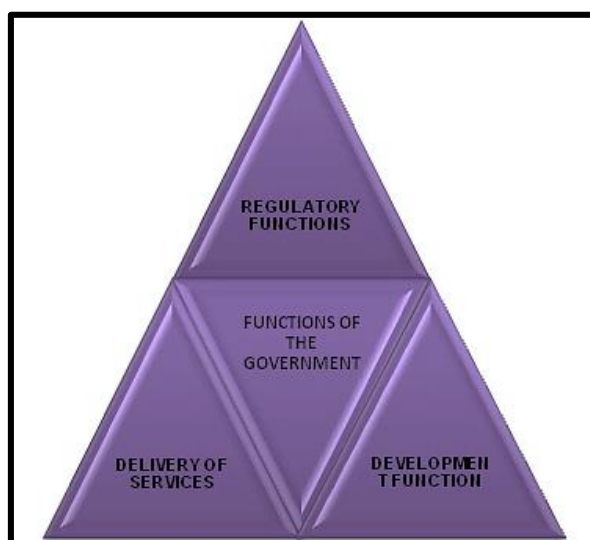
**Recommendations of Administrative Reforms Commission in This Context:**

<b>Zero Tolerance Strategy:</b> All public agencies should adopt a zero tolerance strategy <b>towards crime</b> , in order to create a climate of compliance with laws leading to maintenance of public order. This strategy should be institutionalized in the various public agencies by creating appropriate statistical databases, backed up by modern technology, to monitor the level and trends of offences and link these to a system of incentives and	<b>Making Institutions Vibrant, Accountable and Responsive:</b> Rule of Law requires institutions, which are adequately empowered, properly structured and have the right quality of personnel and resources at their disposal for effective implementation.	<b>Active Citizen Participation:</b> Improving delivery mechanism by decentralization with greater citizens and stakeholder involvements as well as encouraging participative governance by empowering local self-governments.	<b>Transparency:</b> Transparency in decision making, disclosure of standards of delivery and openness in the everyday functioning of the administration are the hallmarks of a citizen centric approach.
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<p>penalties for the officials working in these agencies. It should be combined with initiatives to involve the community in crime prevention measures.</p>			
<p><b>Civil services Reforms:</b></p> <p>Civil servants man various institutions of Government. Their attitude, competence, efficiency and approach to governance determines the experience that a citizen has with government</p>	<p><b>Ethics In Governance:</b></p> <p>Ethics is a set of standards that society places on itself and which helps guide behaviors, choices and actions. Corruption and the abuse of office is an important manifestation of the failure of ethics. Ethics in governance, however, has a much wider import than what happens in the different arms of the government. An across the board effort is needed to fight deviations from ethical norms. Such an effort needs to include corporate ethics and ethics in business; there is a need for ethics in every profession, voluntary organization and civil society structures as these entities are now vitally involved in the process of governance. Finally, there should be ethics in citizen behaviour because such behaviour impinges directly on ethics in government and administration.</p>	<p><b>Process Reforms:</b></p> <p>It is important that the appropriate processes are put in place to ensure that they serve the citizens effectively and efficiently. These include well designed citizens' charters with in-built penalties for non-adherence to commitments made, independent, empowered and effective anti-corruption agencies and innovative tools to involve citizens in government's functioning</p>	<p><b>Periodic and Independent Evaluation of the Quality of Governance:</b></p> <p>It has been aptly said that what is not monitored, never gets done. This underscores the need to periodically evaluate the quality of governance at all levels. This evaluation can be done internally as well as by external independent agencies</p>

## 12.7 Functions of the Government



The Recommendations of the Administrative Reforms Commission are:

Regulatory Functions	Service Delivery Functions	Developmental Functions
<p><b>Regulation only where necessary:</b> It has been argued that India is an <b>over-regulated country</b>, but many of the regulations are not implemented in the right earnest.</p> <p><b>Regulation to be effective:</b> One of the consequences of a large number of regulations has been their poor enforcement. Social legislations are classic examples of this.</p> <p><b>Self-regulation:</b> it is the best form of regulation, this principle of voluntary compliance can be extended to various fields like Tax, building bye-laws, public health regulations etc.</p> <p><b>Regulatory procedures to be simple, transparent and citizen friendly:</b> The Commission in its Report on 'Ethics in Governance' has dealt with a series of systemic reforms to minimize the scope for</p>	<ul style="list-style-type: none"> <li>• There is a need for a shift in emphasis in the crucial service delivery sectors of education and health <b>from centralized control to decentralized action</b>, from accountability to the State department to accountability to the local communities and from employment guarantee to service guarantee.</li> <li>• It is necessary that all schools are made functionally self-sufficient, as much as basic facilities and classroom requirements are provided in all urban schools within the next two years.</li> <li>• The municipalities, especially the larger ones, should seek the help of NGOs, the corporate sector and individual volunteers for assistance in running schools. Indeed, it would be useful to initiate a voluntary service element in our social sector to improve service delivery.</li> <li>• The trend in urban areas to shift towards private healthcare needs to be seen as an opportunity by the city authorities to concentrate on public health as distinct from clinical services, and on</li> </ul>	<ul style="list-style-type: none"> <li>• The <b>principle of subsidiarity</b> should be followed while deciding on the implementation machinery for any programme.</li> <li>• <b>Citizens should be actively involved</b> in all stages of these programmes i.e. planning, implementation and monitoring.</li> <li>• <b>Mandatory social audit</b> should be carried out for all programmes.</li> <li>• Impact assessment should be carried out for all programmes at periodic intervals.</li> </ul>

<p>corruption.</p>	<p>preventive and not only curative aspects of health care.</p> <ul style="list-style-type: none"> <li>• Institution specific standards should be prescribed for schools and hospitals and <b>third party assessments</b> carried out to monitor performance in service delivery.</li> <li>• <b>Performance based incentives</b> should be prescribed at all levels by braking salary ceilings to guarantee service outcomes and linking permanence in service to performance.</li> <li>• Recruitment for hospitals and schools should be made to an institution/society, moving away from non-accountable State level recruitment.</li> <li>• <b>Local bodies should ensure convergence among health systems, sanitation facilities and drinking water facilities.</b> Primary level public health institutions in urban areas should be managed by the urban local bodies.</li> <li>• For all services provided by local governments there is a need to develop a set of performance indicators. The concerned Ministry should lay down broad guidelines for this purpose. Therefore, the State Governments could lay down norms for this purpose.</li> <li>• The concerned Ministry should maintain a State-wise database about the performance of various service delivery systems. Similarly, the State should have a database for such services covering all municipal bodies.</li> </ul>	
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## 12.8 Citizen's Charter

A Citizens' Charter is a set of commitments made by an organization regarding the standards of service which it delivers. A Citizens' Charter is a public statement that defines the entitlements of citizens to a specific service, the standards of the service, the conditions to be met by users, and the remedies available to the latter in case of non-compliance of standards.

### Essential Components of Citizen Charter:

- Vision and Mission Statement of the organization: This gives the outcomes desired and the broad strategy to achieve these goals and outcomes.
- State clearly what subjects it deals with and the service areas it broadly covers: This helps the users to understand the type of services they can expect from a particular service provider.
- The responsibilities of the citizens in the context of the charter.

### 12.8.1 Evaluation of Citizen's Charter

The Citizens' Charter, when **introduced in the early 1990's**, represented a landmark shift in the delivery of public services. The emphasis of the Citizens' Charter is on **citizens as customers of public services**. The Citizens' Charter scheme in its present form was first launched in 1991 in the UK. The Charter concept empowers the citizens in demanding committed standards of service. Thus, the basic thrust of Citizens' Charter is to make public services citizen centric by ensuring that these services are demand driven rather than supply driven.

**In this context, the six principles of the Citizens' Charter movement as originally framed were:**

Quality: improving the quality of services	Choice for the users wherever possible	Standards: specifying what to expect within a timeframe
Value for the taxpayers' money	Accountability of the service provider (individual as well as Organization)	Transparency in rules, procedures, schemes and grievance redressal.

**But there were certain general deficiencies which have been found in Citizen Charter framework:**

- Poor design and content
- Lack of public awareness
- Non updation of Charter
- Inadequate Groundwork
- End-users and NGOs are not consulted when Charters are drafted.
- The needs of senior citizens and the disabled are not considered when drafting Charters

## 12.8.2 Recommendations of Administrative Reforms Commission to make Citizens' Charter Effective

The Charters should clearly **spell out the remedy/ penalty/ compensation in case there is a default** in meeting the standards spelt out in the Charter. It emphasized that it is *better to have a few promises which can be kept than a long list of lofty but impractical aspirations.*

<p><b>Internal Restructuring Should precede Charter Formulation:</b> complete analysis of the existing systems and processes within the organization and, if need be, these should to be recast and new initiatives adopted.</p>	<p><b>One Size fits all Should Not be Followed:</b> This challenge becomes even more complex as the <b>capabilities and resources that governments and departments need to implement Citizens' Charters vary</b> significantly across the country. Added to these are differing local conditions. The highly uneven distribution of Citizens' Charters across States is clear evidence of this ground reality.</p>	<p><b>Extensive Consultations:</b> Citizens' Charters should be formulated after extensive consultations within the organization followed by a meaningful dialogue with civil society. Inputs from experts should also be considered at this stage.</p>
<p><b>Firm commitments to be made:</b> Citizens' Charters <b>must be precise</b> and make firm commitments of service delivery standards to the citizens/consumers in quantifiable terms wherever possible.</p>	<p><b>Grievance Redressal:</b> There should be an effective and accessible grievance redressal mechanism available to citizens. Moreover, wherever there is a default in the service delivery by the organization, citizens must also have recourse to a grievances redressal mechanism.</p>	<p><b>Periodic Evaluation:</b> Every Organisation should conduct periodic Evaluation and Monitoring of its Citizen Charter, whether it is in-house or Independent. The result of such evaluations must be used to improve upon the Charter. This is necessary because a <b>Citizens' Charter is a dynamic document which must keep pace with the changing needs</b> of the citizens as well as the changes in underlying processes and technology. A periodic review of Citizens' Charter thus becomes an imperative.</p>
<p><b>Benchmarking End User Feedback:</b> Systematic monitoring and review of Citizens' Charters is necessary even after they are approved and placed in the public domain. Performance and accountability tend to suffer when officials are not held responsible for the quality of a Charter's design and implementation</p>	<p><b>Accountability-</b> All of the above point to the need to make the heads of agencies or other designated senior officials accountable for their respective Citizens' Charters. The monitoring mechanism should fix specific responsibility in all cases where there is a default in adhering to the Citizens' Charter.</p>	<p><b>Include Civil Society in the process:</b> Organizations need to recognize and support the efforts of civil society groups in preparation of the Characters, their dissemination and also facilitating information disclosures.</p>

There is a **need for citizens and staff to be consulted at every stage of formulation** of the Charter and there is a **need for orientation of staff about the salient features and goals of the Charter**. The Committee also recommends that the Charters so formulated by each of the Ministries/ Department/ State Governments/UTs should be **widely publicized** through print/electronic media and displayed at conspicuous places in the organization or establishment. The Committee is of the view that Charter should be precise and as far as possible **simple and spoken language should be used**.

### SEVOTTAM MODEL

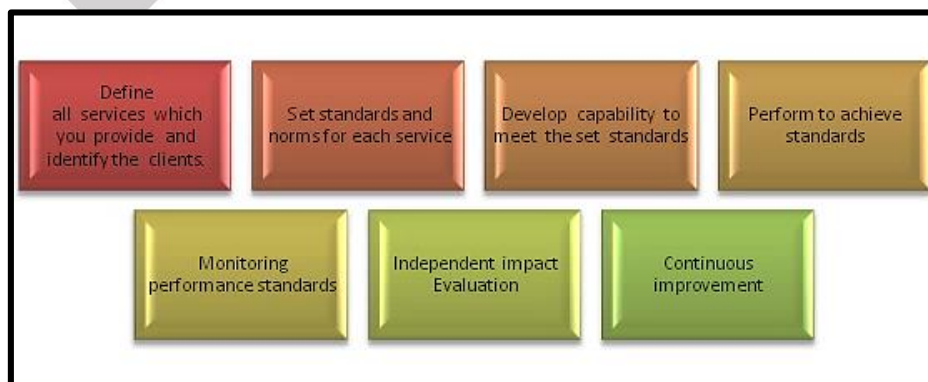
Sevottam is a Service Delivery Excellence Model which provides an assessment improvement framework to bring about excellence in public service delivery. The need for a tool like Sevottam arose from the fact that **Citizens' Charters by themselves could not achieve the desired results in improving the quality of public services**. Thus, it was felt that unless there is a mechanism to assess the outcomes of various measures, the reform initiatives would not yield the desired results. The Sevottam model **works as an evaluation mechanism** to assess the quality of internal processes and their impact on the quality of service delivery.

#### Three Variants of SEVOTTAM Model:

- The first component of the model requires **effective Charter implementation** thereby opening up a channel for receiving citizens' inputs into the way in which organizations determine service delivery requirements. Citizens' Charters publicly declare the information on citizens' entitlements thereby making citizens better informed and hence empowering them to demand better services.
- The second component of the model, '**Public Grievance Redress**' requires a good grievance redressal system operating in a manner that leaves the citizen more satisfied with how the organization responds to complaints/ grievances, irrespective of the final decision.
- The third component '**Excellence in Service Delivery**', postulates that an organization can have an excellent performance in service delivery only if it is efficiently managing well the key ingredients for good service delivery and building its own capacity to continuously improve service delivery.

#### The Administrative Reforms Commission has recommended a 7-Step Model for Citizen Centric Administration:

This model draws from the **principles of the IS 15700: 2005**, the Sevottam model and the **Customer Service Excellence Model of the UK**. Each organization should follow a step by step approach which would help it **in becoming increasingly more citizen centric**. The top management has the dual responsibility of setting standards for itself as well as guiding the subordinate offices in setting their own standards. Besides, all supervisory levels should ensure that the standards set by the subordinate offices are realistic and are in synergy with the broad organizational goals. Thus, though each office would have the autonomy to set standards, these would have to be in consonance with the organizational policies.



## 12.9 Citizen's Participation in Administration

Governance comprises the mechanisms, processes and institutions through which collective decisions are made and implemented, citizens' groups and communities pursue their vision, articulate their interests, exercise their legal rights, meet their obligations and mediate their differences.(UNDP 1997).

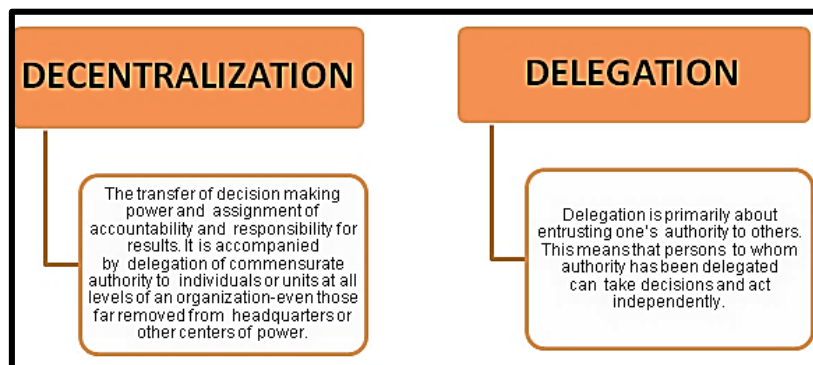
**It is widely accepted that active citizens' participation can contribute to Good Governance in the following ways:**

- It enables citizens to **demand accountability** and helps to make the government more responsive, efficient and effective.
- It helps to make government programmes and services more effective and sustainable.
- It enables the **poor and marginalized to influence public policy** and service delivery to improve their lives.
- It helps to promote healthy, grassroots democracy.

**Recommendations of Administrative Reforms Commission to Enhance Citizen's Participation in Governance:**

<p>A comprehensive review of policy and practice in each department/public agency: An assessment should first be made of existing mechanisms for citizens' participation in governance within each agency/department in order to develop sustainable and effective mechanisms for the same.</p>	<p>Modifying administrative procedures where necessary: It would have to be ensured that the procedures, budgets, and schedules for policy and programme development create adequate "windows" for citizens' involvement along with a transparent and accountable decision-making process.</p>	<p>Entrustment of the function of institutionalizing citizens' participation in governance to a senior level officer: A senior officer reporting to the head of the agency would need to be tasked with this function with adequate resources and authority so that the issue gets the required priority on a sustainable basis.</p>
<p>Performance management reviews to incorporate effectiveness in ensuring citizens' participation in governance: The performance management reviews of senior officers may incorporate their role in encouraging citizens' participation in governance.</p>	<p>Ensuring the full participation of women should be a specific aim of citizen centric administration and this should be reflected in various policies and programmes, including citizens' charters and grievances redressal mechanisms.</p>	<p>Government may constitute an expert committee to identify the areas where special provisions for the physically challenged should be made mandatory. These areas could be reviewed and expanded every five years.</p> <p>Government should adopt a more proactive approach for detection and registration of the physically challenged persons.</p>

## 12.10 Decentralization and Delegation



### Benefits of Delegation:

Saves time	Develops People	Grooms and motivates a successor.	Provides more time to superiors for constructive review, or deliberation in the interests of progress.
Saves hours of unnecessary work	Increases productivity.	Provides invaluable training to associates and employees.	Provides an enriched level of satisfaction as well as greater sense of worth.

### Barriers to Effective Delegation:



### Recommendations of Administrative Reforms Commission for Effective Delegation:

- Based on the **principle of subsidiarity**, each government organization should carry out an exercise to assess whether adequate delegation of authority has been done. In doing so, it should be clearly enunciated that the **top levels of the organization** should essentially **focus on policy making** functions and the **field level functionaries** should **focus on operational aspects**.
- The extent to which delegated powers are used or is allowed to be used, should be two of the elements while appraising an officer's overall performance.



## 12.11 Grievance Redressal Mechanism

Grievance' has been **defined** as indignation or resentment arising out of a feeling of being wronged.

The Government of India, State Governments as well as various organizations under them has set up grievance redressal mechanisms to look into the complaints of citizens. Besides, there are other **institutional mechanisms like the CVC, and the Lokayuktas** which have the mandate to look into the complaints of corruption and abuse of office by public servants. Many organizations, for example, the Reserve Bank of India, have set up **Ombudsman** to look into grievances.

Institutions such the National and State Human Rights Commissions, National and State Women's Commissions, the National Commission for Scheduled Castes, and the National Commission for Scheduled Tribes also look into the complaints from the public in their prescribed areas. Thus, the grievance redressal mechanism is an integral part of any governance system.

Grievance Redressal at National Level	Grievance Redressal Mechanism at State Level	Grievance Redressal Mechanism at District Level
<p>Grievances from the public are received at various points in different Ministries/ Departments in the Government of India. However, there are primarily two designated nodal agencies in the Union Government handling these grievances. These agencies are:</p> <ul style="list-style-type: none"> <li>• <b>Department of Administrative Reforms and Public Grievances</b>, Ministry of Personnel, Public Grievances and Pensions.</li> <li>• <b>Directorate of Public Grievances</b>, Cabinet Secretariat.</li> </ul>	<p>State Governments have also evolved mechanisms for redressing public grievances. <b>The Chief Ministers' office generally has a public grievance cell</b> which receives complaints from citizens, forwards these to the concerned departments and follows them up. Some Chief Ministers hold regular public hearings and also use the electronic media for hearing and responding to public grievances. In some States, Ministers and senior officers visit districts and even villages accompanied by officers and hear and resolve grievances of Citizens.</p>	<p>The <b>District Magistrate is normally designated as the District Public Grievance Officer</b>. He/she monitors the disposal of various complaints received by the public. In some States, the Zila Panchayats have also constituted their own public grievance mechanism.</p>

### Analysis of Grievance Redressal Mechanism:

The **Department of Administrative Reforms and Public Grievances** got a study conducted to analyse the public grievance redressal and monitoring system in the Union Ministries and Departments (IIPA, 2008). Some of the **findings** are as follows:

- There is considerable **variation across organizations** in respect of the number of grievances received, disposed of and pending in various organizations as also the extent of institutionalization of the redress process.
- In order to facilitate interface with the public, Ministries and Departments have been advised to **observe one day in the week** as a meeting less day. It was revealed that most organizations are **not even aware of these instructions**.
- Ministries and Departments have been advised to **set up social audit panels** for examining areas of public interface. The study brings out that such panels have **not been constituted**.
- Public Grievance Cells often suffer from **shortage of staff and resources**. Moreover, these cells have **not been adequately empowered**. Several Ministries/Departments do not detect or note public grievances appearing in newspapers for suo-moto redressal actions despite clear instructions on the subject.
- **No efforts are made to hold satisfaction surveys** to ascertain the outcome of measures taken by the organization to redress grievances.
- From analysis of several models of Grievance Redressal Mechanism it has been found that the **internal grievance redressal mechanism has not functioned well**.

### Recommendations of Administrative Reforms Commission:

There is a need for a strong and effective <b>internal grievance redressal mechanism</b> in each organization.	The Union and State Governments should issue directions asking all public authorities to <b>designate public grievance officers</b> on the lines of the Public Information Officers under the RTI Act. These officers should be of adequate seniority and should be delegated commensurate authority.	All grievance petitions received should be satisfactorily disposed of by these officers <b>within thirty days</b> . Non-adherence to the time limit should invite financial penalties.
Each organization should designate an <b>appellate authority</b> and devolve adequate powers upon them including the power to impose fines on the defaulting officers.	Government organizations should analyse the complaints received and identify the areas wherein interventions would be required so as to eliminate the underlying causes that lead to public grievances. This exercise should be carried out at regular intervals.	

## 12.12 Consumer Protection

The Consumer Protection Act was passed in 1986 to protect the interests of the consumers. The objective of this law is **to provide a simple, fast and inexpensive mechanism to the citizens to redress their grievances** in specified cases. The Act envisages **three-tier quasi-judicial machinery** at the National, State and District levels.

- **National Consumer Disputes Redressal Commission** known as “National Commission”
- State Consumer Disputes Redressal Commission known as “State Commission” and
- District Consumer Disputes Redressal Forum- known as “District Forum”. The Act also provides for establishment of **Consumer Protection Councils at the Union, State and District levels**, whose main objectives are to promote and protect the rights of consumers.

### Other Provisions Related to Consumer Protection;

- Prevention of Food Adulteration Act, 1954.
- Essential Commodities Act and Rules there under.
- The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985.
- Rules and Regulations and Bye Laws under the Municipal Acts of the States.
- The Drugs and Cosmetics Act, 1940, the Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954,
- Narcotic Drugs and Psychotropic Substances Act, 1985, the Medicinal and Toilet Preparations (Excise Duties) Act, 1956, the Drugs (Prices Control) Order, 1995 (under the Essential Commodities Act).
- Mandatory Certification Scheme of Bureau of Indian Standards under various laws.
- The Cinematograph Act, 1952.

### Recommendations of Administrative Reforms Commission for Consumer Protection:

Lok Adalats would be effective in settling many consumer disputes. It should be <b>stipulated by law that cases up to a particular value, say Rupees two lakhs, should first be referred to Lok Adalats.</b>	All Ministries/Departments need to examine the procedures regulating grant of licenses, permissions or registration including the underlying Acts, Rules, Notifications, etc. These should be recast with the following underlying principles: <ul style="list-style-type: none"> <li>• There should be an <b>upper time limit for grant of any license/permission/registration.</b></li> <li>• The law should provide for <b>penalties</b> if an application is not disposed of within the stipulated period.</li> <li>• Applications should be processed only on a ‘<b>First in First out Basis</b>’.</li> </ul>
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	<ul style="list-style-type: none"> <li>• All applications received and pending should be put on the licensing authority's website.</li> <li>• Selecting units for <b>surprise inspection should not be left to the discretion</b> of the inspecting officers.</li> <li>• Each office should devise an objective procedure to <b>randomly select units for inspection.</b></li> <li>• Exceptions can be made in case of receipt of genuine complaints against any unit.</li> <li>• The outcome of all inspections must be immediately put in the public domain.</li> <li>• There should be an annual audit of the licensing and inspection system each year by an independent agency.</li> <li>• All licensing authorities should evolve an accessible system for receipt of citizens' complaints.</li> </ul>
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### 12.13 Specialised Institutional Mechanism for Protection of Vulnerable

The basic premise behind making administration citizen-centric is to ensure that the benefits of good governance are available to all sections of society. Since some categories of citizens are more vulnerable than others, there is a need for institutions which redress grievances specific to them. In fact, the **Constitution itself provides for various socio-economic and political safeguards to certain disadvantaged sections of society.** These are guaranteed through enshrining of certain specific rights to such citizens and by laying down a number of 'Directive Principles of State Policy' for the State to act upon. Further, in case of two specific groups i.e. the Scheduled Castes and Scheduled Tribes, the Indian Constitution also provides for constituting Commissions to safeguard their interests. Apart from this, the Indian State has also constituted several other Commissions through statutes to safeguard the rights of different sections of society. Some of these Commissions are as follows:

- National Human Rights Commission
- National Commission for Women
- National Commission for Protection of Child Rights
- National Backward Classes Commission
- National Minorities Commission
- National Consumer Disputes Redressal Commission

#### Issues:

1. **Coordination and Avoidance of Overlap in the Functioning of the Commission:** Suggestions have been made, from time to time, to **merge all Commissions into a comprehensive Human Rights Commission** with separate Divisions for Scheduled Castes, Scheduled Tribes, Women and Children. The Commission has considered this suggestion. While it recognizes that there are major **issues of overlap and potential conflict** which would need to be addressed, the suggestion for merging of the Commissions, particularly in larger States, is impracticable and **would fail to adequately address the special problems of different disadvantaged groups.**
2. **More Focussed Approach:** A large number of complaints are received by these Commissions which are regularly disposed of by them by providing some relief to the victims. A good citizen centric governance system should ensure that occasions for such complaints do not arise.
3. **Parliamentary Oversight:** These institutions are handicapped because of the very large number of complaints received, their limited capacity to deal with these complaints and also due to the **absence of adequate field staff.** Apart from these capacity related handicaps, the ARC also felt that as these Commissions are mandated **only to make recommendations** in their Reports which are to be laid before Parliament or the State Legislatures or both, their effectiveness depends on the fate of such recommendations i.e. on their final implementation.

## Recommendations of Administrative Reforms Commission:

<p>A <b>common format for making complaints</b> before various statutory Commissions should be devised in consultation with each other. This format should capture the details of the victims and complainants in such a way that it facilitates matching of data across different Commissions. In case of complaints filed without the use of the common format, the necessary fields may be filled up at the time of registration of cases itself by the Commission receiving the complaint.</p>	<p>The SMART Way Forward', each statutory Commission should <b>create an electronic database</b> prospectively and each database should be networked with each other to facilitate comparison of data.</p>	<p>The Human Rights Commission should lay down norms to deal with complaints by the most appropriate Commission. The basic principle could be that the dominant grievance in a complaint should lead to its handling by the appropriate Commission. Nodal officers may be appointed in each Commission to identify and coordinate action over such cases. Internal mechanisms should be evolved within each statutory Commission to facilitate the handling of such cases in a coordinated manner.</p>
<p>The Union and State Governments should take proactive steps in dealing with serious offences like custodial deaths/rapes etc., on priority so that their occurrence diminishes over the years. Help of NHRC may be taken to prepare an action plan for this purpose.</p>	<p><b>In the smaller States, a single 'multi-role' Commission may be constituted</b> which would carry out the specific functions of all the constitutional and statutory Commissions at the State level.</p>	<p>A <b>separate Standing Committee of Parliament</b> may be constituted to look into Annual Reports submitted by these statutory Commission.</p>

### 12.14 Simplification of Internal Procedure

It is seen that the working of most government organisations is based on the **weberian principle of decision making** that is governed by rules and regulation to maintain objectivity and uniformity of functions. These **rules and regulations** as well as procedures have been formulated after long consultations and deliberations with many processes **still continuing from the colonial period**.

As the society's needs and aspirations have a dynamic character and they keep on changing substantially over the years; it is necessary to **modify old rules** and procedures through exhaustive and in-depth examination of the procedures by keeping in mind citizens' concerns.

**Recommendations of Administrative Reforms Commission in This regard are as follows:**

#### Business Process Re-engineering

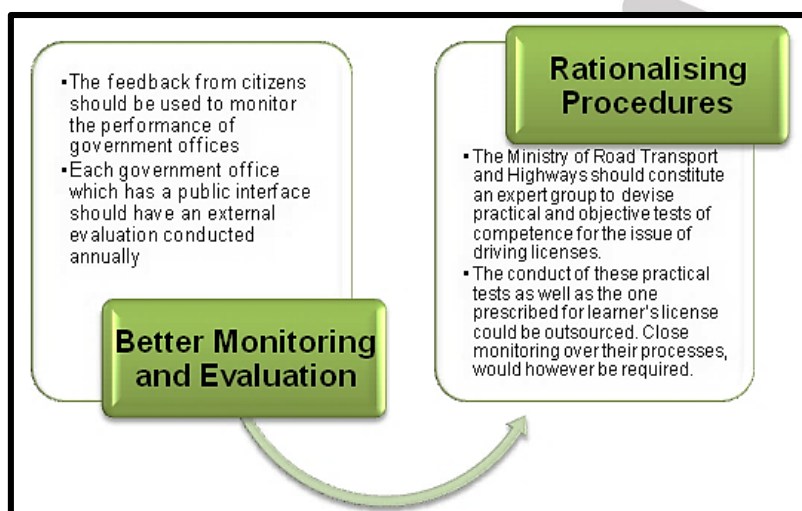
<p>For every function a government organization performs and every service or information it is required to provide, there should be a step-by-step analysis of each process to <b>ensure its rationality and simplicity</b>.</p>	<p>Such analysis should incorporate the <b>viewpoints of all stakeholders</b>, while maintaining the citizen centricity of the exercise.</p>
<p>After identifying steps which are <b>redundant</b> or which require <b>simplification</b>, and which are adaptable to e-Governance, the provisions of the law, rules, regulations, instructions, codes, and manuals etc. which form their basis should also be identified.</p>	<p>Following this exercise, governmental forms, processes and structures should be re-designed to make them adaptable to e-Governance, backed by procedural, institutional and legal changes.</p>

### Simplification of Internal Procedure

All Ministries/Departments should **prepare a roadmap for carrying out a process simplification exercise**. This should involve changes in Rules, Regulations and Laws wherever necessary. The entire exercise should be completed **within two years**. Similarly, the Ministries/Departments should instruct all organizations under their supervision to carry out this task. State Governments should also be advised accordingly.

**This elaborate exercise would involve the following steps for any organizations:**

- Constitution of an in-house core team of persons well versed with internal procedures.
- Engaging external experts, if necessary.
- Getting feedback from citizens.
- Analyzing all processes from the point of necessity, simplicity, rationality and citizen centricity.
- Redesigning processes and forms.
- Doing a pilot study and getting it evaluated.
- Once the pilot stabilizes, analyzing the changes required in the rules/ statutes.
- Implementing the change.
- Creating an incentive mechanism for sustaining the change.



### Registration of Births and Deaths

<p>The emphasis under the Registration of Births and Deaths Act should shift from compliance to prescribed procedures to <b>achieving 100% registration</b>.</p>	<p>Registrars would need to adopt a more proactive approach, and it would be necessary to cast a duty upon them to register each case of birth and death within their jurisdiction <b>irrespective of the fact whether a formal application has been received by them</b>. The Registration could be done based on information from any source or even suo-motu by the Registrar.</p>	<p>Sufficient number of public functionaries should be designated as registrars so that each one is assigned a manageable jurisdiction.</p>
<p>Each Registrar would need to be empowered under the law to seek and obtain information from any person. For this purpose, the law should provide that the Registrar shall have the power to issue notice seeking information from any person, regarding births and deaths and that person shall be bound to provide such information.</p>	<p>In order to make the process of imposition of fitness quick and deterrent, the powers to levy fines should be given to the District Registrar.</p>	<p>There should be <b>no fees for delayed registration</b>. It should be provided that in case of delayed registration, a more elaborate enquiry would be required. The onus for conducting the enquiry should be on the Competent Authority.</p>

### Building Licenses and Completion Certificate:

Simplified procedures for grant of building permits on the basis of <b>self-certification by owners / registered architects</b> should be adopted by all State Governments and local bodies.	
Similar simplification of procedures should be done in the issuance of completion certificates by local bodies. In case of completed buildings, 100% verification after the issue of completion certificates on the basis of self-certification would be necessary within a specified period of 90 days. <b>The Rules should provide heavy penalties, including demolition, for violation of conditions as well as for negligence or collusion, if any, on the part of the prescribed verifying authority.</b>	The capacity building of the enforcement wings of the local bodies should also be done alongside these initiatives to ensure compliance with local by-laws. The help of local residents' associations may be enlisted for this purpose.

### 12.15 Conclusion

Citizen centricity is the essence of any vibrant democracy and is inextricably linked to good governance. Good governance basically means creating an environment in which all classes of citizens can develop to their fullest potential. It also means provision of public services in an efficient and equitable manner to citizens. Based on the principles enshrined in the Constitution, India has developed an elaborate legal and institutional framework for ensuring good governance to its citizens.

The strategies highlighted in this Report by the Commission, can be conceptualized as demand side strategies and supply side strategies. While the **demand side strategies are geared to giving citizens' groups a greater role in governance, the supply side strategies aim to reorient government organizations to make them more efficient, effective and participative.**

# ORGANISATIONAL STRUCTURE OF GOVERNMENT OF INDIA

13

13.1 Introduction	13.2 Lessons from International Experience
13.3 Steps taken Since Independence	13.4 Current Challenges
13.5 Link Between Governance and Growth	13.6 Existing Structure of Government of India
13.7 Core Principles of Reforming The Government	13.8 Recommendations of Administrative Reforms Commission towards Restructuring of Government
13.9 Creating Effective Regulatory Framework	13.10 Conclusion

## 13.1 Introduction

Most of the structures existing in the government are based on the **Weberian model of division of work** i.e. a well-defined **hierarchy, adherence to rules and, by and large, impersonal functioning**. These organizational structures are more **suited to command and control functions** and less so when it comes to developmental, promotional and facilitative functions of the State.

India's **position on various key human development and economic parameters remains well below desired levels**. These structures now need to be **redesigned** in order to make our governance apparatus an instrument of service to the people as well as a **tool to achieve national objectives in the fields of social and economic development**.

Challenges of **Public administration in India**:

- To maintain peace and harmony,
- To alleviate deep poverty,
- To sustain a healthy and inclusive economic growth,
- To ensure social justice and
- To achieve an ethical, efficient, transparent and participative governance.

The magnitude of these challenges is evident from India's ranking on various parameters like **Corruption Perception Index, Ease of Doing Business, Human Development Report, Index of Economic Freedom** etc.

The sort of public administration needed to escalate the growth rate may not necessarily be the one that tackles deep poverty, seeks to remove inequality, tackles corruption, fights criminalization of politics, or ensures speedy justice. **It is unlikely that a single design of the administrative machinery will fill all bills**. One needs to be bold and innovative in **designing special purpose instrumentalities**, some of which may apparently be inconsistent with one another. For instance, **further deregulation** may be required to foster economic growth, and the State may need to **withdraw from some of the commercial activities** that it is currently engaged in. At the same time, the State may need to devise measures to more **effectively regulate certain sectors while pumping more money to improve the infrastructure, alleviate poverty and remove inequalities**. Some deregulation can reduce corruption, but other regulations may have to be put into place to fight corruption.

## 13.2 Lessons from International Experience

Political Commitment	Rightsizing the Government Structures	Agencification	Dismantling Monopolies: bringing Competition in Public Service Delivery	Decentralization, Delegation and Devolution
Strengthening Accountability	Process Simplification	Public-Private Partnership	Performance Management System	E-Governance Adoption
Empowering The Citizen Customer	Policy Evaluation and Regulatory Impact Assessment	Good Governance Index	Promotion and Diffusion of Good Governance Practices	Benchmarking for Continuous Improvement

## 13.3 Steps taken Since Independence

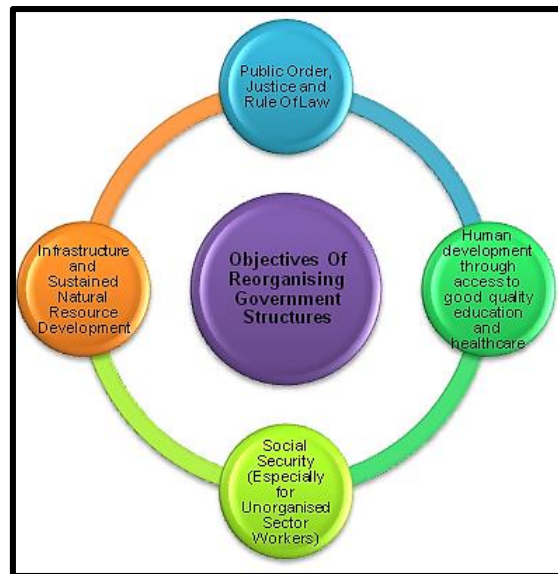
The **73rd and the 74th** Constitutional Amendments which aimed to empower the local bodies, the **97th** Constitutional Amendment which limited the size of the Council of Ministers, the new Value Added Tax regime and the **Right to Information Act** etc. These indicate that our *political system is responding to the growing challenges of governance.*

## 13.4 Current Challenges

The reasonably swift and efficient response of our administration to a series of major natural calamities e.g. the Tsunami in December 2004, and the earthquake in Jammu and Kashmir-demonstrates that **in times of crisis we are able to marshal our resources effectively.** All these and competent election management show that we have an impressive administrative infrastructure and it **responds well when objectives are clearly defined, resources are made available and accountability is strictly enforced.**

However, there is **increasing lawlessness** in several pockets of the country, and armed groups are resorting to violence with impunity for sectarian or ideological reasons. **The bureaucracy is generally seen to be tardy, inefficient, and unresponsive.** **Corruption** is all pervasive, eating into the vitals of our system, undermining economic growth, distorting competition, and disproportionately hurting the poor and marginalized citizens. **Criminalization of politics** continues unchecked, with money and muscle power playing a large role in elections. In general, there is high degree of volatility in society on account of poor implementation of laws and programmes and poor delivery of public services leading to unfulfilled expectations.





### 13.5 Link between Governance and Growth

The **policy structure for high growth rate**, equity, and rising quality of life for the people of emerging market economies, especially those that are disadvantaged, would **include liberalization and democratization, a vibrant private sector, a strong but well managed developmental and poverty alleviation thrust by the State plus good governance**. Good governance has been an effective tool for efficient and pro people governance, as it encompasses within itself a wide range of mechanisms that go on to make development which is participative, socially inclusive and involves the **last man standing in sharing the fruits of growth**.

### 13.6 Existing Structure of Government of India

The constitution has provided an elaborate framework for the governance system in India.

- The Executive Power of the Union vests in the President and is exercised by him either directly or through officers subordinate to him in accordance with the constitution (**Article 53**).
- **Article 74** provides that there shall be a council of Ministers with the Prime Minister as the Head to aid and advise the President who shall, in the exercise of these functions, act in accordance with such advice.
- **Article 75** provides that the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.
- **Article 77** provides for the conduct of Government Business:
  - All executive actions of the Government of India shall be expressed to be taken in the name of the President.
  - Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.
  - The President shall make rules for the more convenient transaction of the business of the Government of India, and for allocation among Ministers of the said business.
- There are certain Rules that provide for **appointment of ad-hoc committees of Ministers for investigating and reporting to the cabinet**, and, if so authorized, for taking decisions on such matters. The Rules also stipulate that it shall be the responsibility of the Departmental secretary, who shall be the administrative head thereof, to ensure observance of these Rules in the Department.
- There are specific departments which are normally headed by a secretary to the Government of India who acts as the administrative head of the department and principal adviser of the Minister on all matters of policy and administration within the department.

- A department is responsible for formulation of policies of the government in relation to business allocated to it and also for the execution and review of those policies.
- Each Department may have one or more attached or subordinate offices which guide policy and give direction to them.
- Besides, the attached and subordinate offices there are a large number of organizations which carry out different functions assigned to them.

Strengths Of Existing Structures	Weakness Of Existing Structures
<ul style="list-style-type: none"> <li>• It is a time tested system where strict adherence to rules and norms have ensured stability both during crisis as well as normal time.</li> <li>• Current structure staffed by permanent civil servants has provided continuity and stability during transfer of power from one elected government to others</li> <li>• well laid out rules and procedures have upheld neutrality of civil services and prevented politicization of government services</li> <li>• The framework of Government of India has promoted a staffing pattern having a link between policy making and effective implementation</li> <li>• Public servants working in Government of India as well as its attached and subordinate officers have developed an National Outlook transcending parochial boundaries</li> </ul>	<ul style="list-style-type: none"> <li>• Has been and you in faces on routine functions which leads to a lack of focus on policy analysis and policy making functions.</li> <li>• Proliferation of Ministries in all departments has led to weak integration and coordination among them.</li> <li>• The Government of India has an extended vertical structure which leads to examination of issues at many levels frequently causing delays in decision making on one hand and lack of accountability on other.</li> <li>• Negative attribute of multilayer structure has been a tendency towards risk avoidance and reverse delegation in decision making</li> <li>• Rigid hierarchical structure rules out team work that is very necessary in the present context.</li> </ul>

### 13.7 Core Principles of Reforming the Government

A major and basic restructuring is essential to combat the evils of fragmentation, narrow departmentalism, concentration of powers and micro-management at the higher levels which leads to inordinate delays and lack of accountability.

**The Administrative Reforms Commission recommends that the following Core principles should govern the restructuring of the Government of India:**

<p><b>The union government should primary focus on the following areas:</b></p> <ul style="list-style-type: none"> <li>• Defence, International relations, national security, justice and rule of law.</li> <li>• Human development through access to good quality education and healthcare to every citizen</li> <li>• Infrastructure and sustainable natural resource development</li> <li>• Social security and social justice</li> <li>• Macro-economic management and national economic planning</li> <li>• National policies with respect to other sectors.</li> </ul>	<p><b>The principle of subsidiarity should be followed to decentralise functions to state and local Governments.</b></p>	<p>Subjects which are closely interrelated should be dealt with together: In any organization, functional division is inevitable but it should not be at the cost of individual functionaries.</p>
<p><b>Separation of policy making functions from execution</b> in which higher echelons concentrate more on strategic decisions and policy making whereas the lower echelons focus on operational decisions and implementation of policies.</p> <p>In the context of Government, this would</p>	<p>Effective coordination between different departments and units in implementation of policies and programmes at all</p>	<p>The conventional approach in the Government of India has been to adopt uniform vertical hierarchies (as prescribed in the Manual for Office Procedure). There is a <b>need to shift to flatter organizations with greater</b></p>

require the Ministries to give greater emphasis to the policy making functions while <b>delegating the implementation functions to the operational units</b> or independent organizations / agencies.	levels.	<b>emphasis on teamwork.</b>
The present multi-layered organizational structure with fragmented decision making leads to a culture of alibis for nonperformance. The tendency to have a large number of on file consultations, often unnecessary, lead to diffused accountability. A clearer demarcation of organizational responsibilities would also have helped in developing a performance management system for individual functionaries.	There has to be appropriate delegation in order to fulfil the principle of subsidiarity and bring governance closer to citizens.	Government organizations have tended to become top heavy coupled with fragmentation and lack of authority, manpower and resources at the operational levels that have a direct bearing on citizens' lives. <b>Rationalization of Government staff pattern</b> is necessary, commensurate with the requirements of the citizens.

### 13.8 Recommendations of Administrative Reforms Commission towards Restructuring of Government

#### 1. Rationalising Functions of the Government: -

- The Government of India should primarily focus on the **core functions** mentioned above.
- Moreover, the Government at all levels should be **guided by the principle of subsidiarity**.
- There is a need to carry out a detailed analysis of the functions/activities in each Ministry/ Department .This should be followed by restructuring which may include decentralization/ delegation or hiving off activities.

#### 2. Rationalization of the size of the government: -

While an **oversized government may prove to be a burden on the exchequer apart from breeding inefficiency, an understaffed government may fail to deliver.**

#### 3. Reorganising The Ministries/Departments: -

- The concept of a Ministry would have to be redefined. A Ministry would mean a group of departments whose functions and subjects are closely related and is assigned to a First or Coordinating Minister for the purpose of providing overall leadership and coordination. This concept of a Ministry and the Coordinating (or First) Minister may be explicitly laid down in the Allocation of Business Rules. Adequate delegation among the Ministers would have to be laid down in the Transaction of Business Rules. As a consequence of this, rationalization of Secretary Level posts wherever required may also need to be carried out.
- Individual departments or any combination of these could be headed by the Coordinating (or First) Minister, other Cabinet Minister(s)/Minister(s) of State.

#### 4. Recasting The Allocation of Business Rules: -

- There is a need to **recast the Allocation of Business Rules to make them more focussed on the goals and outcomes** of each Ministry/Department in order to shift the emphasis from a detailed listing of activities /subjects of each Ministry /Department to a broader perspective.
- The Allocation of Business Rules should first **provide a Statement of the mission of the department followed by a list of subjects and functions.**
- There is a need to bring greater uniformity in the description of the roles and functions of various Ministries/Departments.

- Ministries/Departments should **maintain a master list of all laws** pertaining to the subjects dealt with in that Ministry/Department instead of mentioning them in the Allocation of Business Rules. The underlying principle should be stated in the Rules that all laws relating to the subjects and functions allocated to a Ministry/Department would fall under its purview.
  - Instead of naming the individual PSUs and autonomous organizations under each Ministry, the Rules should merely have a generic entry to the effect that all PSUs and Autonomous Organizations whose functioning is directly related to subject(s) of the concerned Ministry would be under its jurisdiction. However, in cases where activities of a PSU or an autonomous organization relates to more than one Ministry/ Department, then it may be advisable to list out such PSUs under a particular Ministry/ Department.
- 5. Ministries/Departments to Primarily Focus On Policy Analysis:**
- In order to make them binding, the general principles to govern the extent of delegation from Departments to their attached and subordinate offices (executive agencies) may be **incorporated in the Transaction of Business Rules**. These principles may stipulate that the Ministries/Departments should **concentrate** on the following:
    - Policy analysis, planning, policy making and strategic decisions
    - Budgeting and Parliamentary work
    - Monitoring of implementation through systems and procedures
    - Appointments of key personnel
    - Coordination
    - Evaluation
  - Attached and **subordinate offices should serve as the executive agencies** of the ministries and concentrate on the implementation of Government policies and programmes.
- 6. Policy Evaluation:**
- Each Department should introduce a system of policy evaluation to be carried out at the end of prescribed periods. All relevant policies should be updated in the light of the findings of such evaluations.
- 7. Effective Executive Agencies:**
- Each Union Government Ministry should scrutinize the functions/activities of the ministry to confirm whether these activities/functions are critical to the mission of the Department and can only be carried out by government agencies.
  - Each agency, whether a new body or an existing departmental undertaking/ agency /board/special purpose body etc. that is to function as an executive agency, must be autonomous or semi-autonomous and professionally managed under a mandate. Such executive agencies could be structured as a department, board, commission, company, society etc.
  - The **right balance between autonomy and accountability needs to be struck** while designing the institutional framework of executive agencies. This could be achieved **through well designed performance agreements, Memorandum of Understanding (MOU), contracts etc.** However, preparing and enforcing such performance contracts requires considerable upgradation of capacity in the concerned government departments.
- 8. Internal Reorganisation of Ministries: -**
- A department in the Government of India has a **vertical hierarchical structure** with the Secretary as the administrative head and several levels comprising Special Secretary/ Additional Secretary, Joint Secretary, Director/ Deputy Secretary, Under Secretary and Section Officer/Desk Officer. **A hierarchical multilevel structure has certain strengths but several weaknesses.** While such a system enables a vertical division of labour with extensive supervision and checks and balances at different levels, it also causes delays due to sequential examination, dilutes rather than enhances accountability, prevents an interdisciplinary approach towards solving problems and kills creativity. For routine regulatory matters such as issue of licenses/permissions etc., such a rigid hierarchical structure with prescribed workflows and adequate delegation may be

appropriate, but for functions like policy formulation, managing change, crafting a holistic approach on inter-disciplinary matters, problem solving etc. It does not give optimum results and in fact could be counterproductive.

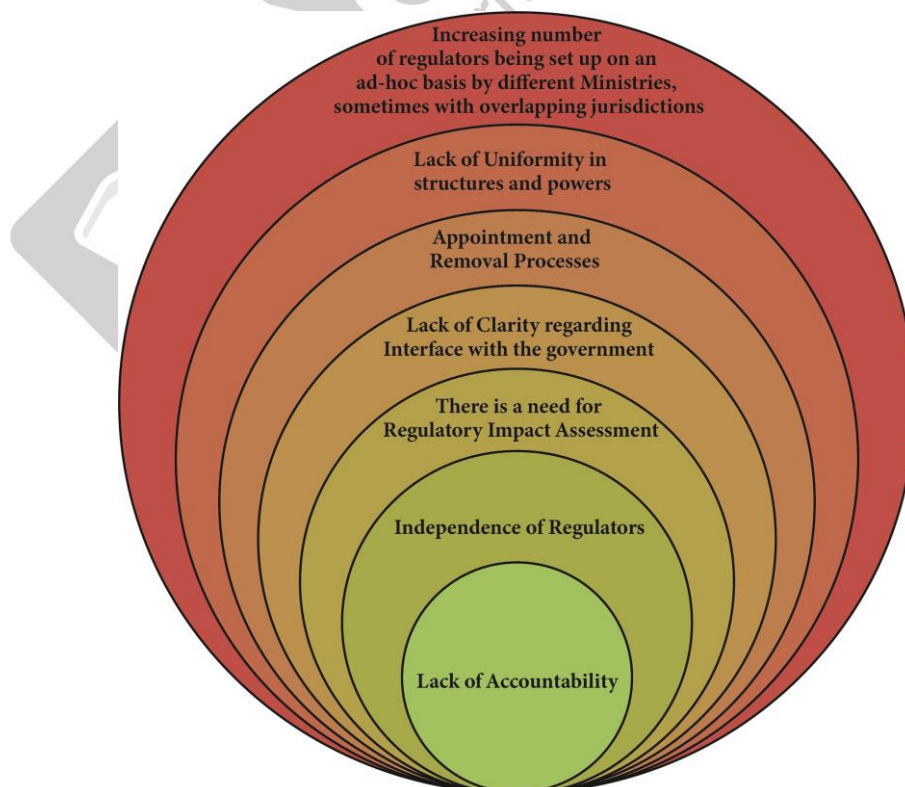
#### 9. Simplification of Government Processes: -

- Each Department should lay down a detailed scheme of delegation at all levels so that the decision making takes place at the most appropriate level. It should be laid down in the Manual of Office Procedure that every Ministry should prescribe a detailed scheme of delegation for its officers.
- This delegation should be arrived at on the basis of an analysis of the activities and functions of the Ministry/ Department and the type of decisions that these entail which should be dovetailed with the decision making units identified in that Department.
- **The scheme of delegation should be updated periodically and should also be audited at regular intervals.**
- The audit should ensure that the delegated authority is actually exercised by the delegatee.
- The scheme of delegation should be placed in the public domain.
- **The number of levels through which a file passes for a decision should not exceed three.**

### 13.9 Creating Effective Regulatory Framework

The government is created to secure the inalienable rights of all citizens i.e., the right to life, liberty and the pursuit of happiness. **If everyone were to be allowed to pursue complete freedom for doing whatever he wants and to pursue his happiness, then it may lead to a situation where rights and freedom of other persons are affected.** This necessitates the regulatory role of the government. The state enacts laws which impose restrictions on the activities of citizens, in the larger interest of society. In order to enforce these laws, the state creates a large number of organizations which are charged with the implementation of these laws. However, attaining optimum regulation is a challenging task, as a **balance has to be achieved between individual's freedom and society's interest.**

#### Issues with Current Regulatory Framework in India:



## Recommendations of Administrative Reforms Commission for Effective Regulatory Functions:

<p>Setting up of a Regulator should be preceded by a detailed review to decide whether the policy regime in the concerned sector is such that a Regulator would be better placed to deliver the policy objectives of the department concerned.</p>	<p>In addition to the statutory framework which underpins the interface between the government and the regulator, each Ministry/Department should evolve a 'Management Statement' outlining the objectives and roles of each regulator and the guidelines governing their interaction with the government.</p>	<p>There is a need for greater <b>uniformity in the terms of appointment, tenure and removal of various regulatory authorities</b> considering these have been set up with broadly similar objectives and functions and should enjoy the same degree of autonomy. The initial process of <b>appointment of Chairman and Board Members should be transparent, credible and fair.</b></p>
<p>The appointment of the Chairman and Board Members for all such regulatory authorities should be done by the Union/State Governments after an initial screening and recommendation of a panel of names by a Selection Committee. The composition of the Selection Committee should be defined in the respective Acts and may broadly follow the pattern laid down in the Electricity Regulatory Commission Act.</p>	<p><b>The tenure of the Chairmen and Board Members could also be made uniform preferably three years or 65 years of age whichever is earlier.</b></p> <p>Legal provisions regarding removal of Board Members should be made uniform while at the same time ensuring sufficient safeguards against arbitrary removal.</p>	<p><b>Parliamentary oversight</b> of regulators should be ensured through the respective <b>Departmentally Related Standing Parliamentary Committees.</b></p>
<p>A body of reputed outside experts should propose guidelines for <b>periodic evaluation</b> of the independent Regulators. Based on these guidelines, the government in consultation with the respective Departmentally related Standing Committee of the Parliament should fix the principles on which the Regulators should be evaluated. The annual reports of the regulators should include a report on their performance in the context of these principles. This report should be referred to the respective Parliamentary Committee for discussion.</p>	<p>Each statute creating a Regulator should include a provision for an impact assessment periodically by an external agency. Once the objective of creating a level playing field is achieved, the intervention of the Regulators could be reduced in a phased manner ultimately leading either to their abolition or to convergence with other Regulators.</p>	<p>There is a need to achieve greater uniformity in the structure of Regulators. The existing coordination mechanisms such as the Committee of Secretaries/ Cabinet Committees, assisted by Secretary (Coordination) could easily ensure that the institutional framework for all Regulators follow, by and large, a uniform pattern.</p>

### World bank's Recommendations for Improving Governance Capacity

There should be a **two part strategy** for increasing the effectiveness of the State.

- Part one requires **narrowing the gap between the demands on a State and its capabilities to meet these demands**, through greater selectivity in the State's priorities. The State should **concentrate on the priorities and offload the rest to the civil society and the private sector.**
- Part two requires an **increase in the capability of the State to manage collective actions efficiently** by recharging public institutions.

**Matching the State's role to its capability implies the following:**

- (a) **Redefining of priorities for State action:** Five main tasks lie at the core of every government's mission. Without these, sustainable, shared, poverty reducing development may be impossible. These fundamentals are:
- (i) Establishment of a **foundation of law** and prevention of lawlessness;
  - (ii) **Macro-economic stability** (low inflation, containment of adverse balance of payments, etc.) and a non distortionary policy environment;
  - (iii) Investment in basic **social services like health and education and infrastructure** (energy, transportation, communications, postal services, etc.);
  - (iv) **Protection of the vulnerable segments** of society such as women and ethnic minorities.
  - (v) **Protection of the environment** through harnessing public opinion, flexible regulation, strengthening of self-regulation mechanisms and creating financial incentives for environment friendly activities.
- (b) **Creation of alternative providers of infrastructure, social services, etc.** For instance, instead of the State assuming the entire burden of **providing health insurance or unemployment benefits**, business, labour, and community groups can be co-opted in sharing the burden. Outsourcing can be devised to increase competition and innovation. **Unnecessary regulations can be eliminated** to release creative market forces. **Privatization** offers important possibilities for reducing the burden on the state. However, the way privatization is managed is as important as its content, and this means 'transparency' in the privatization process, winning the acquiescence of the staff, broad-basing ownership in the privatized entity, and instituting an appropriate regulatory structure for the privatized activity.
- (c) In countries with weak **institutions that are unable to check arbitrary actions of the State** or its masters, self restricting rules that precisely specify the ambit of a policy, and make it irreversible or costly to reverse, can be harnessed. Another way of checking arbitrary State action is for the State to work with the corporate sector and other organized forces for pursuing, say, an industrial policy, so that the latter is a product of consensus rather than administrative fiat.

### 13.10 Conclusion

There is a growing need to redefine the role of various Ministries/Departments in order to meet new and emerging challenges of governance which necessitate a much greater degree of collaboration and coordination among them.

The reorganization needs to be driven by the **necessary political will at the highest level and monitored regularly by the Cabinet Secretariat**. Some of the suggestions may look radical but it needs to be recognized that implementing these, even in a phased manner, may be critical to achieving an effective transparent, coherent and efficient governance structure.

# STRENGTHENING FINANCIAL MANAGEMENT

14

14.1 Introduction	14.2 Public Financial Management: Core Concepts and Principles
14.3 Budgeting (Concepts and Principles)	14.4 Recommendations Made by Administrative Reforms Commission for Sound Financial Management System
14.5 Financial Management at the State Level	14.6 Conclusion

## 14.1 Introduction

Resource generation, resource allocation and resource utilization are the essential components of a public financial management system. Efficient and effective expenditure management calls for expenditure planning, allocation of resources according to policy priorities and good financial operational management and control. Good financial operational management focuses on **minimizing cost per unit of output**, achieving outcome for which these outputs are intended and enhancing the value for money spent making, having **meticulous accounting systems and creation of robust internal and external accountability mechanisms**.

## 14.2 Public Financial Management: Core Concepts and Principles

Public finance management includes resource mobilization, prioritization of programmes, the budgetary process, efficient management of resources and exercising controls. Rising aspirations of people are placing more demands on financial resources. At the same time, the emphasis of the citizenry is on value for money, thus making public finance management increasingly vital.

**For a long time**, financial management in developing countries was **viewed as a process** that enabled central agencies like the Ministry/Department of Finance **to keep spending agencies under control** through continuous review and specification of inputs and verification of documents, submitted for payment. As an extension of this approach, financial management was **viewed as being restricted to budget implementation, administration of payment systems, accounting and reporting in the states of funds received and spent**.

**Reforms in financial management have concentrated** on taxation reforms, the use of government budget as a vehicle for economic development, through improved budget classification system, accounting system reforms etc. cost-benefit analysis techniques were also applied. **From the 1970s, the need for containment of fiscal deficits** through tightened fiscal management, pre-occupied the economists. **In the 1980s, the management approach** came to be prevalent which included a **corporate type** of financial management within an overall framework of accountability.

The overall assessment is that the system of financial management in developing countries has generally been **slow in adapting itself to changing requirements**. Basically, there has been a **segmented approach to reforms**.



Thus, reforming the public finance system would entail several measures:

<p><b>Improving the collection of revenue is critical.</b> No country can be run properly without revenue. Moreover, tax can help to establish a government's authority.</p>	<p><b>Debt and cash must be managed efficiently.</b> In particular, sound principles for deficit funding should be established, efficiencies sought and proper risk management procedures introduced. <b>Proper management of the government's borrowing program will reduce the cost of funding.</b></p>
<p>Effective planning and allocation of resources is key and the government should develop and <b>institutionalise planning processes at all levels</b> of government. The budgeting process must be transparent and inclusive. There should be <b>focus on outputs rather than on mere expenditure</b> and related inputs, with strong accounting and reporting procedures. The office of the accountant-general must be properly resourced and funded to fulfil this function.</p>	<p>A well -functioning PFM system must have clear rules on <b>transparency and reporting</b>, as well as enforceable <b>sanctions for failure</b>.</p>

### 14.3 Budgeting (Concepts and Principles)

<p><b>Line Item Budget</b> - A budget in which the <b>individual financial statement items are grouped by cost centers or departments</b>. It shows the comparison between the financial data for the past accounting or budgeting periods and estimated figures for the current or a future period. In a line-item system, expenditures for the budgeted period are listed according to objects of expenditure, or line-items. <b>These line items include detailed ceilings on the amount a unit would spend on salaries, travelling allowances, office expenses, etc.</b> The focus is on ensuring that the agencies or units do not exceed the ceilings prescribed. A central authority or the Ministry of Finance keeps a watch on the spending of various units to ensure that the ceilings are not violated.</p>	<p><b>Performance Budget</b> - a performance budget <b>reflects the goal/objectives of the organization</b> and spells out performance targets. These targets are sought to be achieved through a strategy(s). Unit costs are associated with the strategy and allocations are accordingly made for achievement of the objectives. A Performance Budget <b>gives an indication of how the funds spent are expected to give outputs</b> and ultimately the outcomes. However, performance budgeting has a <b>limitation</b>, it is not easy to arrive at <b>standard unit costs especially in social programmes which require a multi-pronged approach</b>.</p>
<p><b>Zero Based Budget</b>- As the name suggests, <b>every budgeting cycle starts from scratch</b>. Unlike the earlier systems where only incremental changes were made in the allocation, under zero-based budgeting every activity is evaluated each time a budget is made and <b>only if it is established that the activity is necessary, are funds allocated to it</b>. The basic purpose of ZBB is phasing out of programmes/ activities which do not have relevance anymore. However, because of the efforts involved in preparing a zero based budget and institutional resistance related to personnel issues, <b>no government ever implemented a full zero-based budget</b>, but in modified forms the basic principles of ZBB are often used.</p>	<p><b>Programme budgeting</b>: The basic building block of the system was <b>classification of expenditure into programmes</b>, which meant objective oriented classification so that <b>programmes with common objectives are considered together</b>.</p> <p><b>Programme and Performance Budget System (PPBS)</b> went much beyond the core elements of programme budgeting and was much more than the budgeting system. It aimed at an integrated expenditure management system, in which systematic policy and expenditure planning would be developed and closely integrated with the budget. Thus, it was too ambitious in scope.</p>

### 14.3.1 Weaknesses in the Current Budgetary Process



Many of the weaknesses in budgeting reflect the failure to address linkages between the various functions of budgeting.

The following factors contribute to budget systems and processes that create a disabling environment for performance in the public sector, both by commission and by omission:

- Almost exclusive focus on inputs, with performance judged largely in terms of spending no more, or less, than appropriated in the budget.
- Input focus takes a short term approach to budget decision making; failure to adequately take account of longer term costs (potential and real), and biases in the choice of policy instruments (e.g., between capital and current spending and between spending, doing, and regulation) because of the short term horizon.
- A **bottom up approach to budgeting** that means that even if the ultimate stance of fiscal policy was appropriate.
- Cabinet decision making focused on distributing the gains from fiscal drag across new spending proposals.
- Cabinet and/or central agencies extensively involved in micro decision making on all aspects of funding for ongoing policy.
- Across the board cuts, including during budget execution.
- Weak decision making and last minute cuts cause unpredictability of funding for existing government policy; this is highlighted to the centre by central budget agencies on the alert to identify and rake back fortuitous savings;
- Strong incentives to spend everything in the budget early in the year and as quickly as possible, since the current year's spending is the starting point for the annual budget haggle and the fear of across the board cuts during execution.
- Existing policy itself (as opposed to its funding) subject to very little scrutiny from one year to the next. **(This and previous point epitomize the worst dimension of incremental budgeting)**
- Poor linkages between policy and resources at the centre, between the center and line agencies, and within line agencies because of incremental budgeting.
- A lack of clarity as to purpose and task and therefore poor information on the performance of policies, programmes and services, and their cost because of poor linkages.
- The linking together (in association with the point above) within government departments of policy advising, regulation, service delivery and funding and an aversion to user charging.

### 14.3.2 Core Principles to be Followed While Formulating the Budget

<p><b>Reforms in the Financial Management System are part of overall governance reforms:</b> Governance reforms to bring about <b>improved transparency, greater accountability, streamlining the structure of the Government, elimination of corruption</b>, and fiscal and environment sustainability have to be backed by reforms in the financial management system in order to deliver the desired results.</p>	<p><b>Sound financial management is the responsibility of all government departments/agencies:</b> Maintaining financial prudence, discipline and accountability, while at the same time, ensuring prompt and efficient utilization of resources towards achieving organizational goals is the responsibility of all government agencies/ organizations and not only of the Finance wing/Finance Ministry.</p>
<p><b>Medium-term plan/budget frameworks and aligning plan budgets and accounts:</b> Medium-term plan/budget frameworks attempt to bridge the gap between the short-term time horizon of annual budgets with the medium-term objectives of the schemes and programmes of government. Even when there are medium-term frameworks like five-year development plans, there is a need for aligning the annual budgets explicitly with the plans and with the accounting mechanisms so that there is a clear 'line of sight' between the medium term development plan and the annual budget exercise.</p>	<p><b>Prudent economic assumptions:</b> The economic assumptions that underline the budget have to be prudent and accurate in order to ensure that the budgetary estimates do not go haywire. The tendency to be overly optimistic has to be avoided.</p>
<p><b>Transparency and simplicity:</b> The budget documents should be simple and easy to comprehend and be available in the public domain. Also the procedures involved in operating the budget and release of funds should be simple. Suitable financial management information systems need to be developed in order to ensure that all transactions are captured and ultimately made available for public scrutiny.</p>	<p><b>Top-down budgeting techniques:</b> There is a need to shift from the traditional bottom up approach to budgeting to a top-down framework where the desired outcomes should point to the resources required which should be allocated thereafter at the macro level sector-wise. This in turn would lead to focus on outputs and outcomes rather than on inputs and processes.</p>
<p><b>Relaxing central input controls:</b> Government agencies need to be given greater operational autonomy and flexibility by consolidating budget items and decentralization of administrative and financial powers.</p>	<p><b>Adopting modern financial management practices:</b> Modern financial management tools like <b>accrual accounting, information technology</b>, financial information systems etc. need to be used to improve decision making and accountability. However, care needs to be exercised to ensure that a congenial environment is created and adequate capacity is developed before adopting new practices.</p>
<p><b>Budgeting to be realistic:</b> Unless the projections made in the budget are reasonably accurate, the budgetary exercise loses credibility</p>	<p><b>Focus on results:</b> Accountability in government needs to shift from compliance with rules and procedures to achievement of results. This is all the more necessary with relaxed central input controls. There should be <b>emphasis on 'value for money'</b>.</p>

### 14.3.3 Challenges with the Present Budgetary System and Implementation

**1. Unrealistic Budget Estimates:**

The Report of the CAG on union Government Accounts 2007-08 mentions that **unspent** provisions in a grant or appropriation indicate **either poor budgeting or shortfall in performance or both**.

**2. Delay in implementation of projects:**

Resources are being **spread thinly** with only token provisions in some cases, often leading to inordinate delays in execution of projects.

**3. Skewed Expenditure Pattern:**

The expenditure pattern is skewed, with a **major portion getting spent in the last quarter** of the financial year, especially in the last month.

**4. Inadequate adherence to the multi-year perspective and missing 'line of sight' between plan and budget:**

Though the Five year Plan provides the basis for multi-year perspective, often ad hoc deviations from it distort the long term plan objectives. The Plan schemes get dispersed into line items in the budget estimates and there is no consolidation afterwards, both in the estimates and the final accounts. There is a **need for alignment between the plan, budgets and accounts**.

**5. No correlation between expenditure and actual implementation:**

The expenditure figures do not reflect actual expenditure made towards receipt of goods and services.

**6. Mis statement Of Financial Position:**

**Parking of funds by implementing agencies, outside the government accounts** portrays an incorrect picture of the financial position of government. This also means that the Government's financial position is not known with reasonable accuracy at any given point of time.

**7. Ad-Hoc Project Announcement:**

Indiscriminate announcement of projects/ schemes **not included in the plan/budget** is regularly made, often without proper consideration and detailing.

**8. Other Issues:**

Emphasis on **compliance with procedures rather than on outcomes** and irrational plan/non-plan distinction leads to inefficiency in resource utilization.

### 14.4 Recommendations made by Administrative Reforms Commission for Sound Financial Management System

**Budget Estimates:**

- The assumptions made while formulating estimates must be realistic. At the end of each year the reasons for **the gap between the 'estimates' and 'actuals' must be ascertained and efforts made to minimize them**. These assumptions should also be subject to audit.
- The method of formulation of the annual budget by getting details from different organizations/units/ agencies and fitting them into a predetermined aggregate amount leads to unrealistic budget estimates. This method should be given up along with the method of budgeting on the basis of analysis of trends. This should be **replaced by a top-down method** by indicating aggregate limits to expenditure to each organization/agency.

### **Project Implementation:**

- **Projects and schemes should be included in the budget only after detailed consideration.** The norms for formulating the budget should be strictly adhered to in order to **avoid making token provisions and spreading resources thinly** over a large number of projects/schemes.
- The **practice of announcing projects and schemes on an ad-hoc basis** and on important National Days, and during visits of dignitaries functionaries to States needs to be stopped. Projects/schemes which are considered absolutely essential may be considered in the annual plans or at the time of mid-term appraisal.

### **Regarding the process of Outcome Budget:**

- It has been realised that this is a complex process and a number of steps are involved before it can be attempted with any degree of usefulness. **A beginning may be made with proper preparation and training in case of the Flagship Schemes and certain national priorities.**

### **Plan and Non-plan Expenditure:**

The **plan versus non-plan distinction in expenditures needs to be abolished** keeping in view its impact on budget development and public service delivery. The Departments should have the flexibility in formulating their budgets with prior indication of resource availability.

### **Centrally Sponsored Schemes:**

- As in the case of funds from the State Budget, a provision/system should be mandatory for autonomous bodies and NGOs to capture their expenditure that can be identified to the particular Centrally Sponsored Schemes and the type of expenditure.
- A system may be put in place to track the amount in transit to the end use through accounts /subsidiary accounts rather than through registers.

### **Managing The Flow of Financial Information: -**

The **Controller General of Accounts**, in consultation with the Comptroller and Auditor General, should **lay down the principles for implementing the system of flow of sanctions /approvals** from the Union Ministries/Departments to implementing agencies in the States to facilitate release of funds at the time of payment. After taking into account the available technology and infrastructure for electronic flow of information and funds, especially under the National E-Governance Plan, and putting in place a new Chart of Accounts, the scheme should be implemented in a time bound manner.

### **Financial Information System:**

Honouring the spirit of the Right to Information, a robust financial information system should make **accessible to the public real time data** on government expenditure at all levels and should be available in the public domain.

### **Capacity Building:**

The Commission is of the view that major reforms in financial management can only be undertaken if capacity of **both individuals and institutions** is improved. For this to happen, a proper programme of training needs to be devised and implemented in a time bound manner.

### **Internal Control and Audit:**

- An **Office of the Chief Internal Auditor (CIA)** should be established to select Ministries/departments to carry out the functions related to internal audit. Its independence, duties, functions, mechanism of coordination with the CAG etc. should be provided by a statute. CIAs should be directly responsible to the Secretary of the Department.
- In the initial stages, personnel may be inducted from existing accounts cadres. Norms for recruitment and utilizing private sector expertise in select tasks may also be devised.

- Capacity building needs for proper functioning of this Office should be identified in advance.
- The modalities for ensuring non-duplication of work vis-à-vis the CAG should be formalized. This should be aimed at assisting the C&AG in concentrating on carrying out specialized audit/tasks.
- Standards for internal audit should be prescribed by the Office of the CAG.
- The Accounting functions should be completely separated from Internal Audit.
- The functioning and effectiveness of this new system may be examined after allowing a suitable period of operation. Based on the results of this examination, such offices may also be instituted in other Ministries/ departments/organisations.
- **An Audit Committee should be constituted in each Ministry/Department.** It should consist of a Chairperson and two members to be appointed by the Minister in charge of that Ministry/Department. The Chairperson should be a person of eminence in public life. The two **members should be from outside the government.** The Audit Committee should look after matters related to both internal and external audit including implementation of their recommendations and report annually to the respective departmentally related Standing Committee of Parliament.

#### External Audit and Parliamentary Control: -

- There is a need for better understanding and synergy between the audit and auditees for enhanced public accountability and consequently better audit impact.
- There should be balanced reporting by the audit. Audit reports should not focus on criticism alone but contain a fair assessment or evaluation, which would mean that good performance is also acknowledged.
- There is a need for increasing interaction as well as coordination between the executive and the audit, including at senior levels. These should include regular and meaningful meetings where important issues could be discussed and conclusions reached on what needs to be done arising out of the recommendations made by the audit.
- There should also be quarterly communication from the Accountant General to Administrative Secretaries informing them about significant points and areas of improvement noted by Audit during their inspections.

### 14.5 Financial Management at the State Level

- The same reason that made the Union Government implement the scheme of Integrated Financial Adviser for assisting administrative ministries in planning, programming and budgeting should now be the reason for State Governments to introduce the system of Financial Advisor in various departments, where the Advisors would be the representatives of the Finance Department. This should be **coupled with greater delegation of financial powers to the Departments.** But all these need to be preceded by capacity building of the Departments in financial administration.
- State Governments should **shift to multi-year budgeting** and give the estimates of revenue and expenditure for a **period of four years** in addition to the year which the budget pertains. This should be done on a roll on basis. This will enable better estimation of the fund requirements of on going schemes, programmes and projects. It will also ensure realistic budgeting.
- There is a need to have economic assumptions which are prudent and realistic in order to formulate budget estimates which are accurate and not overly optimistic. At the end of every financial year, the **gap between the estimates and the actuals should be analysed so that the underlying economic assumptions could be suitably calibrated for the future.**
- Similar to the Central Level, there is a need to avoid Ad-hoc announcement of projects at the State Level.
- A monthly expenditure plan at the State Level to keep a check on skewed expenditure patterns.

## 14.6 Conclusion

Maintaining financial discipline and prudence while simultaneously ensuring prompt and efficient utilization of resources to achieve the goals of different government agencies has to be the underlying theme for all government agencies. Towards this end, **accountability needs to shift from compliance with procedures to a much greater focus on results and outcomes.** Modern financial management tools like information technology and financial information system (FIS) need to be used to improve accountability combined with accurate budgeting and realistic economic assumptions.



# STATE AND DISTRICT ADMINISTRATION

15

15.1 Introduction	15.2 State Administration
15.3 District Administration	15.4 Administration of the Union Territories
15.5 North-East States (Governance Issues)	15.6 Managing State Finances

## 15.1 Introduction

The Administration at the State level is the cutting edge of the public administration system in the country. Be it the issue of **ration or electoral identity cards, procurement of foodgrains, implementation of employment guarantee schemes, supply of drinking water, mutation of land records, functioning of primary schools and healthcare centres or control of epidemics** in the countryside, it is the instrumentalities of the State and District administration with which citizens have to interact.

There are laid down rules and procedures for every aspect of the government's functioning and its interaction with the common man but, **due to weaknesses of the bureaucracy, growing complexities of administration and absence of commitment** and responsiveness, a wide gap has emerged between 'Government' and 'Governance'.

## 15.2 State Administration

The Constitution of India gives a special role and responsibility to the State Governments **for preserving public order and ensuring the welfare of citizens**. The **Seventh Schedule** which clearly demarcates the legislative and functional domain of the Union and the States, highlights the critical role envisaged for State Governments in fulfilling the aspirations set out in the Directive Principles of State Policy.

### 15.2.1 Reform Areas Focussed In this Report

- Size of the Council of Ministers
- Rationalizing the number of Secretariat Departments
- Separate Focus on Policy Making and Implementation
- Executive Agencies
- Internal restructuring of the State Government Departments
- State Civil Services Law
- Appointment and security of tenure at senior levels in the State Government
- State Public Service Commission



### 15.2.2 Recommendations by Administrative Reforms Commission to Reform State Administrative

<p><b>Council of Ministers</b></p>	<ul style="list-style-type: none"> <li>• The size of the Council of Ministers in the States needs to be <b>reduced further</b> considering the needs of an efficient government. For this purpose the maximum size of the Council of Ministers may be fixed in a range between <b>10% to 15 % of the strength of their Legislative Assemblies</b>.</li> <li>• In the larger States (where membership of the Assembly is more than 200), maximum percentage should be 10% where as in the medium (where the strength of the Assembly is between 80 and 200) and the smaller States (where the strength of the Assembly is below 80) it may be 12% and 15% respectively.</li> <li>• It may be ensured that the maximum number of Ministers permissible for the medium sized States should not exceed the number prescribed for a large sized State having 200 legislators and similarly, the maximum number of Ministers permissible for the smaller States should not exceed the number prescribed for a medium sized State having 80 Legislators. <b>There may not be any prescribed minimum</b></li> </ul>
<p><b>Rationalizing Secretarial Departments</b></p>	<ul style="list-style-type: none"> <li>• The number of Secretariat <b>Departments in the States should be further rationalized</b> on the following basis: <ul style="list-style-type: none"> <li>○ The existing departments covering interrelated subjects, activities and functions should be merged;</li> <li>○ Need for synergy between the activities of various departments.</li> <li>○ <b>Devolution of a large number of functions to the PRIs.</b></li> <li>○ The role of Secretaries to be redefined and to be divested of non-essential responsibilities and executive work and larger delegation of power to the executive departments/agencies</li> <li>○ Need for streamlining the decision making process.</li> </ul> </li> </ul>
<p><b>Executive Agencies</b></p>	<ul style="list-style-type: none"> <li>• The State Governments should scrutinize the functions/ activities of each department to confirm whether these activities/functions are critical to the mission of the department and can only be carried out by government agencies.</li> <li>• Only those functions/activities that have to be carried out by the government should be carried out directly by the departments. Other functions/activities should be carried out by Executive Agencies of the department.</li> <li>• Each Executive Agency, whether a new body or an existing departmental undertaking/agency/board/ special purpose body, etc. that is converted into an Executive Agency, must be semi-autonomous and professionally managed under a mandate. Such executive agencies could be structured as a department, board, commission, company, society, etc.</li> <li>• There is a need for a right balance between autonomy and accountability while designing the Institutional framework for executive agencies.</li> </ul>
<p><b>Internal Restructuring of State Secretariat</b></p>	<p>Internal reorganization, process re-engineering, simplification of government processes and recasting the Manual of Office Procedures.</p>
<p><b>Civil Service Law</b></p>	<p>The Commission has proposed Civil Service Laws having the following features: -</p> <ul style="list-style-type: none"> <li>• Civil Service Values <ul style="list-style-type: none"> <li>○ Absolute integrity at all times</li> <li>○ Impartiality and non-partisanship</li> <li>○ Objectivity</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Dedication to public service • Empathy towards weaker sections.</li> <li>• Code of Ethics <ul style="list-style-type: none"> <li>○ <b>Integrity:</b> Civil servants should be guided solely by public interest in their official decision making and not by any financial or other consideration either in respect of themselves, their families or their friends.</li> <li>○ <b>Impartiality:</b> Civil servants in carrying out their official work, including functions like procurement, recruitment, delivery of services etc, should take decisions based on merit and free from any partisan consideration.</li> <li>○ <b>Commitment to public service:</b> Civil servants should deliver services in a fair, effective, impartial and courteous manner.</li> <li>○ <b>Open accountability:</b> Civil servants are accountable for their decisions and actions and should be willing to subject themselves to appropriate scrutiny for this purpose.</li> <li>○ <b>Devotion to duty:</b> Civil servants should maintain absolute and unstinting devotion towards their duties and responsibilities at all times.</li> <li>○ <b>Exemplary behaviour:</b> Civil servants should treat all members of the public with respect and courtesy and at all times should behave in a manner that upholds the rich traditions of the civil services.</li> </ul> </li> </ul>
<b>Appointment and Security of Tenure</b>	<ul style="list-style-type: none"> <li>• There is a need to introduce methods which would impart greater credibility to the appointments process, it should be <b>impartial and merit based.</b></li> <li>• It should also appear as to be so in the eyes of the stakeholders and the public. Selection of officers having <b>unimpeachable conduct, integrity and professional competence</b> is an essential requirement of good governance</li> </ul>
<b>State Public Service Commission</b>	<ul style="list-style-type: none"> <li>• In making the appointments to a State PSC the Governor should <b>consult the chairman of the UPSC</b> and the Chairman of the State PSC.</li> <li>• <b>At least one member of the State PSC should belong to a different State.</b></li> <li>• The minimum academic qualification for membership of a Commission should be a university degree.</li> <li>• A member selected from among government officers should have held office under a State Government or the Union Government for at least ten years; and should have occupied the position of a Head of Department or Secretary to Government in a State or a comparable position in an institution of higher education.</li> <li>• Members selected from non-official should have practiced at least for ten years in any of the recognised professions like teaching, law, medicine, engineering, science accountancy or administration.</li> <li>• The PSC should handle only recruitment of candidates for higher level posts under the State Government (Class I and Class II positions of various State cadres)</li> <li>• Advising government on senior level promotions through the DPC and Recruitment and promotions to teaching posts in government Colleges and fully funded units of the Universities.</li> <li>• With regard to the appointment of junior level functionaries of the State Government, the role of the State PSC should be to lay down broad norms and standards. The recruiting organisations concerned.</li> <li>• Steps should be taken to ensure that persons of high standing, intellectual ability and reputation are selected as Chairman/Members of the State Public Service Commissions.</li> </ul>

	<ul style="list-style-type: none"> <li>• A limit should also be imposed on the strength of its membership.</li> <li>• There is a need to evolve national consensus among States on the issues of appointment of Chairman/ Members and limit on the membership of the Commission, through discussions/ deliberations at the Inter-State Council.</li> </ul>
<b>Separate Focus on Policy Making and Implementation</b>	<ul style="list-style-type: none"> <li>• At the heart of preparing policy proposals should be due consideration of future implications, estimating the costs of competing policy options within a disciplined framework of aggregate expenditures, ensuring horizontal coordination where policies are spread across a number of departments where delivery mechanisms are similarly divided between different parts of the government, and introduction of policy evaluation systems.</li> </ul>

## 15.3 District Administration

Till the 1960s, when programmes of rural development were at a nascent stage, the **Collector's job seemed to be carefully organized** with land reforms, revenue collection, law and order, food and civil supplies, welfare and relief/rehabilitation being the principal areas of his responsibility. The **needs of the people were limited**, their interaction with the government was infrequent and the bureaucratic set up seemed to be dedicated. Under these circumstances, **the office of the Collector was a strong and effective institution**. In the years that followed, a **large number of new projects/schemes were initiated by various departments of the Government, with the Collector as the notional head** of the District Monitoring Committee. Apart from making a formal review in monthly/ quarterly coordination meetings, the Collector had a somewhat limited role in such matters. Towards the **beginning of the 1980s**, the development of rural areas got a further thrust and the government **initiated a large number of Centrally Sponsored/State sector schemes** in agriculture, rural development, primary education and healthcare. Though separate instruments were created for their execution, the Collector, in most of the cases, was given the overall supervisory charge of the programmes in the districts. **The Collector and his administration were expected to be omniscient and omnipotent**; capable of providing solutions to all the problems. But after the **introduction of the Panchayati Raj system** in the country (post 1993), most of the **development functions have been taken away from the Collector's domain**, although the State Governments feel it convenient to use this institution to exercise control over the PRIs. But the Collector will continue to be responsible for a multiplicity of tasks at the district level such as improving human capabilities, creating physical infrastructure, improving economic opportunities for marginalized sections of society and facing challenges posed by disasters. He will have a **new role that is the role of a coordinator, facilitator** and a person who is responsible for intersectoral coordination of various activities that characterize the work of our grassroots administration. He is the functionary who would **provide overall leadership in the district** in the task of nation building. Hence, the Collector would remain a key figure in the scheme of administration at the field level.

### 15.3.1 Recommendations of Administrative Reforms commission with respect to District Administration

- **Surveys** and measurements need to be carried out in a mission mode utilizing modern technology to arrive at a correct picture of **land holdings and land parcels and rectification of outdated maps**.
- This needs to be accompanied by an analysis of the existing mechanism for updating land records, which varies from State to state, to be supplanted by an improved and strengthened mechanism which **ensures that all future transactions in titles are immediately reflected in the land records**. Such a system should be able to detect changes in titles through various means - namely, succession, will, partition, gift, survivorship etc. and update records accordingly.
- The dispute resolution mechanism with regard to land titles needs to be strengthened in order to be compatible with the demands made on it.

- In case of urban areas, a similar exercise needs to be undertaken especially since measurements and surveys have not been done in many of such areas and even record of titles is not available in most cities.
- There is need to **realign the functions of the Deputy Commissioners/ District Collector** so that he concentrates on the **core functions such as land and revenue Administration, maintenance of law and order, disaster management, public distribution and civil supplies, excise, elections, transport, census, protocol, general administration, treasury management** and Coordination with various agencies/ departments.
- There is a need to strengthen the compliance machinery at the district level to enforce provisions of the RTI Act and to reduce the element of delay and subjectivity in the functioning of the lower level formations of the government. This should be done by **creating a special RTI Cell in the office of the Collector**, whose functions should be reviewed by the Collector at regular periodicity.
- Officers may be posted as District Magistrates early in their career, but in complex and **problem prone districts** an IAS officer should be **posted as DM only on completion of 10-12 years of service**.
- Steps should be taken to ensure that the Collector plays an effective coordination role in activities and programmes of other departments at District level.
- There should be an integrated governing structure at the district level in the form of the "**District Council**" **with representation from both urban and rural areas**. The Council will act as the "District Government".
- The **District Collector** should have a dual role in this government structure. He should work as the **Chief Officer of the District Council** and should be fully accountable to the District Council on all local matters.
- The District Officer would also be fully accountable to the State Government on all regulatory/other matters not delegated to the District Government.
- District/sub-district offices, whose activities/functions coincide with the activities and functions transferred by the State Government to the PRIs/ ULBs need not exist as separate entities at the district and sub-district levels. Functions funds and functionaries of such offices should be transferred to the appropriate local government institutions.
- Line departments such as the Departments of Water Resources and PWD (Roads) or the Department of Health engaged in execution of State-wide projects need to maintain their separate offices at the district/sub-district level. On important issues, they will need to coordinate with the District Collector. They will also need to coordinate with the District Council to the extent their activities impinge on the powers and functions of the Council.
- The line departments and their Agency Heads should provide technical support and guidance to the District Councils in planning and monitoring implementation.

## 15.4 Administration of the Union Territories

The administration of the Union Territories is governed by provisions described in **Part VIII of the Constitution (Articles 239 to 241)**. In recognition of the similarity of location and issues involved, the UTs may be **considered under three groups**, namely:



*Note: - Recently, with the enactment of Jammu and Kashmir Reorganisation Act(2019) The State of Jammu and Kashmir was bifurcated into two Union Territories: - JAMMU AND KASHMIR (with a Legislative Assembly) and LADAKH (without Legislative Assembly)*

### 15.4.1 National Capital Territory- Delhi (NCT- DELHI)

Due to its strategic location, Delhi has been a seat of power of several empires in its long history; the earliest architectural relics date back to the Maurya period (300 B.C.). After Independence, a major change came about: Delhi became the seat of the Union Government in a federal polity. The evolution of administration in Delhi has been conditioned by the fact that Delhi remains the seat of both the Union Government and the local government.

#### Delhi Metropolitan Council

Public opinion grew for providing a democratic set up for Delhi during the 1960s. In partial fulfilment of this demand, the **Delhi Administration Act, 1966** was enacted.

The Act provided for a deliberative body called the Metropolitan Council having recommendatory powers. The **Council was headed by a Lt. Governor** as the Administrator to be appointed by the President of India under Article 239 of the Constitution. There was an Executive Council consisting of one Chief Executive Councillor and three Executive Councillors.

#### Present Form of Delhi Assembly

Parliament passed the Constitution (Amendment) Act in 1991, which inserted Articles **239 AA and 239 AB** in the Constitution providing, inter alia, for a Legislative Assembly for Delhi. A comprehensive legislation passed by Parliament called "**The Government of National Capital Territory of Delhi Act, 1991**", supplemented the Constitutional provisions relating to the Legislative Assembly and the Council of Ministers and matters related thereto. The strength of the Assembly was to be 70, all chosen by direct election from as many constituencies. At present 13 of the seats are reserved for Scheduled Caste candidates. The Constitution also lays down that the **strength of the Council of Ministers shall not be more than ten percent of the total number of members in the Assembly i.e. seven.**

Role of the Government of NCT in Municipal Affairs - Its Relationship with the Municipal Corporation of Delhi (MCD): - The MCD is the largest municipal authority within the jurisdiction of the National Capital Territory of Delhi. Out of a total area of 1483 sq.km. an area of approximately 1400 sq.km. fall within the jurisdiction of the MCD with an estimated 97% of the population of Delhi residing in the MCD area. The remaining areas are covered in almost equal proportion between the NDMC and the Delhi Cantonment Board.

#### Role of Government of NCT-DELHI in Law and Order: -

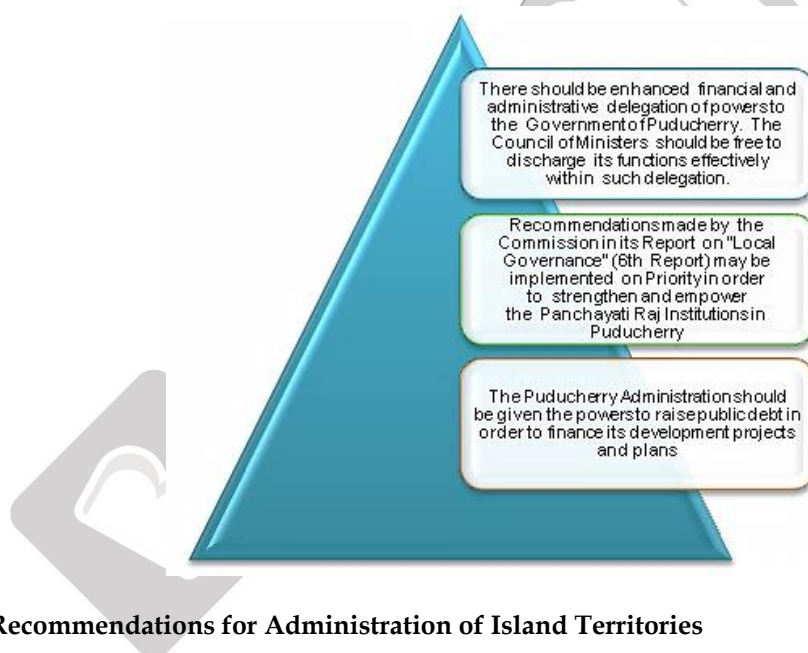
The constitutional scheme for Governance of national capital territory provides that the **subject of police and law and order is being administered by the Ministry of home affairs** Government of India through the lieutenant-governor. These objects have not been given to the Delhi government which has no say in police Administration and maintenance of law and order within the capital city.

However, it has been witnessed that democratic elected governments are often held responsible by the citizens for any lapses in law and order. There is **no doubt that security is a critical area of governance and union government must retain full control over law and order** machinery of the country's capital but at the **same time the requirement of having a police force under the control of local administration to enforce and number of local and special laws lying within its domain cannot be ignored.**

### 15.4.1.1 Recommendations of Administrative Reforms Commission for National Capital Territory – DELHI

<p>The MCD, including appointment of the Commissioner and other functionaries, should <b>lie in the domain of the Government of the National Capital Territory (GNCT)</b>. However, the appointment of the Commissioner should be made by the GNCT in consultation with the Union Government.</p>	<p>In order that the Union Government retains its overarching role over delivery of municipal services in the National Capital Territory, some provisions of the existing Act should remain unchanged.</p>
<p>The Union Government may retain control over the broader aspects of security and law and order whereas <b>traffic, local policing and enforcement of the special laws could be handed over to the Delhi Government</b>. In the long run some of these functions could be transferred to the Municipal Corporation.</p>	<p>This will involve major restructuring of the present Delhi Police establishment, it may thus be advisable to constitute a Task Force with representatives of both the Union and the Delhi Government to study the matter in depth and suggest appropriate restructuring through legislative and administrative measures.</p>

### 15.4.2 Recommendations With Reference to Administration of Puducherry



### 15.4.3 Recommendations for Administration of Island Territories

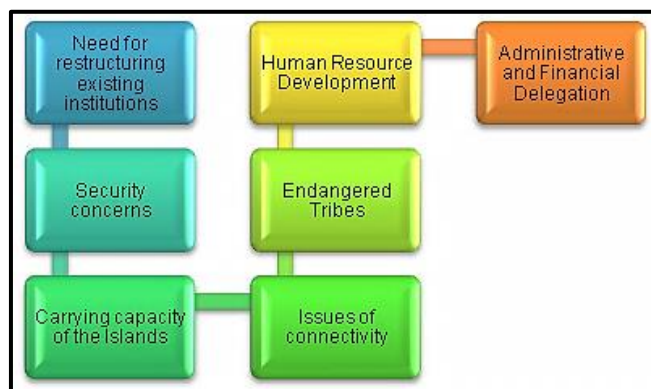
#### Andaman and Nicobar Islands

The territory of the Andaman and Nicobar Islands comprises a group of 572 islands, islets and rocks lying in the south-eastern part of the Bay of Bengal. It has a total geographical area of 8249 sq. kms. and 38 of its islands are inhabited. There are **three districts namely, North and Middle Andaman, Nicobar and South Andamans**.

Most of the people are from the mainland, particularly West Bengal, Andhra Pradesh, Tamil Nadu, etc. giving the territory the sobriquet "Little India". Andamans is also home to **indigenous tribes**, four of which are Negritos, namely the **Great Andamanese, Onge, Jarawa and Sentinalese** who live in forests in the Andaman group of islands and two are Mongoloid tribes, namely the **Nicobarese and**

**Shompens** living in the Nicobar Islands. Some of these tribes are on the verge of extinction and some, particularly the Sentinalese, are still hostile. Their prime mode of livelihood is hunting and fishing.

**Key Administration and Development Issues:**



<p>The Union Government should constitute an <b>Advisory Council to the Administrator</b> of Andaman and Nicobar Islands consisting of the local Member of Parliament, the Chief Secretary, Chairpersons of the Zila Parishad and Municipal Council and senior representatives from the Ministries of Home Affairs, Tribal Affairs, Environment, Forests and Defence and the Planning Commission to advise him on all important matters of administration.</p>	<p>The Union Government should enhance the financial powers of the UT administration by notifying delegation. This should be revised once in five years. Within such delegated powers, the UT Administration must be given full administrative and functional autonomy.</p>
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**Recommendations for Administration of Lakshadweep:**

<p>The Union Government should constitute an Advisory Council to the Administrator of Lakshadweep consisting of the local Member of Parliament, Chairman of the Zila Parishad and representatives of the Ministries of Home Affairs, Tribal Affairs, Environment and Forests and Defence and the Planning Commission to advise him on all important matters of administration.</p>	<p>The multi-disciplinary task force under the Chairmanship of the Deputy Chairman, Planning Commission, recommended it be set up for the Lakshadweep Islands.</p> <p><b>Note: - The erstwhile Planning Commission has been replaced by NITI AAYOG in the Year 2015</b></p>
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**15.5 North-East States (Governance Issues)**

**Socio-Economic and Cultural Features of North East India:**

<p><b>Regional Peculiarities:</b></p> <ul style="list-style-type: none"> <li>• The hallmark of the eight political units is the diversity on account of terrain, climate, ethnicity, culture, institution, land system, language, food habits, and dresses and so on.</li> <li>• These States have evolved in different</li> </ul>	<p><b>Physiographic Profile:</b></p> <ul style="list-style-type: none"> <li>• The region is divided into discrete plains encompassed within hills (&gt;70%).</li> <li>• Hills are generally rugged and vast areas are inaccessible</li> <li>• Relief varies from less than 50 m to more than 5000 m above mean sea level and falls in high seismic zone</li> <li>• Four physiographic divisions - Active Flood Plains, Flood-Free Plains and Valleys, Low Hill Areas (100 to 1000 m amsl) and High Hill Areas (&gt;1000</li> </ul>	<p><b>Social Composition:</b></p> <ul style="list-style-type: none"> <li>• It is home to over 140 major tribes out of 573 in the country besides nontribal with diverse ethnic origin and cultural diversity (2001 Census).</li> <li>• The ST population (2001 Census) is 12.41% of India's ST total. It is 26.93% of NER's total</li> </ul>
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<p>times and function under different provisions of the Constitution.</p> <ul style="list-style-type: none"> <li>The regional identity of eight states as NER is a concept based on extreme intra-regional diversity.</li> </ul>	<p>m).</p> <ul style="list-style-type: none"> <li>Soil is mostly acidic which adversely affects both animal and crop productivity</li> <li>Climate is characterized by heavy precipitation (226mm to 602mm) during the four monsoon months (June to September)</li> <li>Located in the threshold of sub-tropics and has six agro-climatic zones.</li> </ul>	<p>population.</p> <ul style="list-style-type: none"> <li>SC population is 1.49% of India's total.</li> <li>It is 6.40% of NER's total population.</li> </ul>
<p><b>Local Governance System:</b></p> <ul style="list-style-type: none"> <li>The modern and traditional system of governance co-exist in the region.</li> <li>The age old traditional but unrecognized local bodies exist and function (ex. Kebang among the Adis in Arunachal Pradesh, Mei among the Karbis of Assam, Khullakpa among the Kaboi in Manipur, Durbar Shong among the Khasis and Jaintias in Meghalaya etc.)</li> </ul>	<p><b>Land Tenure System:</b></p> <p>Two broad types of land tenure systems operate in the region:</p> <ul style="list-style-type: none"> <li>Revenue administration under government operates in the plains and valleys of Assam, Tripura, Manipur and in the hilly state of Sikkim and</li> <li>Customary land tenure system under Village level authority operates in the hilly states of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland and in the hilly parts of Assam, Manipur and Tripura.</li> <li>Land is held almost by all.</li> <li>Landless people are negligible in number.</li> <li>Distribution is largely egalitarian rooted in the principle of community way of living and sharing.</li> <li>Operational availability of land is a small fraction of total availability in the hills.</li> </ul>	<p><b>Demographic Profile:</b></p> <ul style="list-style-type: none"> <li>Total population is 388.58 lakh and is around 4% of India's.</li> <li>Mizoram is highly urbanized followed by Manipur</li> <li>All the hill states have a dispersed population with lowest density in Arunachal Pradesh (13).</li> <li>Sex ratio is higher as against all India level</li> <li>Literacy rate is marginally higher compared to all India level</li> <li>Female literacy is higher in all the states as against all India levels except in Arunachal Pradesh.</li> </ul>

**The region was in a better economic condition a century ago.** The vast river systems and small rivulets were a means of livelihood for a majority of the population in the valleys and the plains. Global trade was conducted through the sea-route, a network of inland waterways, and land transportation through roads and railways. In fact, the railway network between Dibrugarh and Chittagong constructed by the British in the late nineteenth century was one of their earliest projects in India. The natural transportation route through East Bengal not only reduced the physical distance but also provided emotional integration among people of this region. The rapid spread of tea plantations in India followed the establishment of the first tea garden in this region in 1835 and the export of the first consignment of tea to London in 1838. The discovery of oil in Makum and establishment of a refinery in Digboi in 1890 laid the foundation for the development of an undivided Assam.

The Partition in 1947 changed the socio-economic landscape of this region. It shared 4500 kms. of frontiers with 5 countries, - the People's Republic of China, Myanmar, Bangladesh (earlier East Pakistan), Bhutan and Tibet, whereas its **connection with the Indian mainland was through a slender 22 kms. Siliguri corridor**, also called the Gateway to the Northeast. This alteration in the geo-political environment **led to severe market disruption and socio-economic distancing** for the whole of the North Eastern Region and resulted in economic distortions, which have still not been fully overcome.



The quest for ethnic and regional identity, nationalism, and ideological motivations fomented a climate of insurgency in several parts of the Region. It has resulted in political fragmentation. This climate has found further support from a large number of factors such as, the slow pace of development, difficult terrain, dense forest cover, open borders with Myanmar and Bangladesh, failure to adopt sustained measures of conflict resolution and the approach of 'one size fits all'.

#### Natural Resource and Constraints:

##### Hydroelectric Power

The region has a high potential for generation of hydroelectric power despite this recognition, there is much to be done as hydro power generation requires mega investments. The Planning Commission has suggested an approach which has a two-pronged strategy; one is to have a focus on small/localized hydel and thermal stations for local needs and second to have high capacity hydel power units and thermal power projects with associated transmission lines for meeting the overall demands of the region and for selling the excess to the national Grid. Transmission, sub transmission and distribution system improvements have been identified as thrust areas for the Eleventh Plan.

##### Forest Fires

The forests of the North Eastern Region face unrelenting pressures from the increasing population and galloping development needs. It has resulted in alarming levels of degradation and deforestation. Over-exploitation due to the shortening cycle of shifting cultivation is one of the key factors behind it.

##### Natural Calamities

The entire North-East Region suffers heavily on account of floods and landslides. Damages caused by floods, which assume an alarming proportion, in the Brahmaputra and Barak Valleys of Assam, exert considerable strain on the economy not only of Assam but also of other North Eastern States. Besides working on temporary measures such as construction of embankments and spurs, taking long term measures such as erection of multi-purpose storage dams is the need of the hour.

##### Primary Sector Development

The NER is a category of its own kind. With about 8% of the country's area geographically, its contribution to the country's foodgrain production is just 1.5%.

##### Ethnic Conflicts

The Vision 2020 document in respect of the North Eastern Region has aptly noted that Insurgency and underdevelopment, especially unemployment, feed on each other. Poor governance, corruption and economic performance sustain conditions for insurgency and alienation. It has also come to the conclusion that insurgency continuously hampers the economic performance of the region, so rapid economic development will not be possible without a proper strategic and security policy by the Central Government.

It has also identified the minimal required free and unhindered mobility of goods and services (infrastructure) across the region as well as within the region, well-defined property rights, and law and order and security of life.

A good law and order situation is a necessary condition for a robust economic development. It is also necessary for good governance as insurgents seek to intimidate public servants and interfere in political processes. Public servants have been killed in the line of duty, and assassination attempts made on political figures.

## Issues with Respect to Sixth Schedule

When the Sixth Schedule arrangements were formulated in the North-East, **tribal customs reigned supreme in these areas**. During the early years of the Constitution, there was no thought of elections at the village or district level and hence there was nothing unusual in the Sixth Schedule not paying attention to the democratic aspect of village self governance. The idea of a two / three tier elected panchayat structure germinated only with the Balwant Rai Mehta Committee Report in 1957. **With various rural development schemes and programmes becoming village centric and with Panchayats (in non scheduled areas) increasingly becoming involved in implementation of such programmes, the issue of village governance in scheduled areas came to the fore.**

**Article 243M (1)** expressly *keeps the Sixth Schedule areas out of the purview of Part IX* of the Constitution (inserted through the 73rd amendment) as the organizational paradigm in this part is at radical variance with the system prevailing in the rest of the country. Their standalone existence **puts them perpetually at the mercy of the State Governments for budgetary support**. They find themselves at a **distance from Constitutional bodies such as the State Finance Commission or the State Election Commission**.

### 15.5.1 Recommendations of Administrative reforms commission for North East Region

<p>There is a need to continue political dialogue among various stakeholders. Steps should be taken to <b>upgrade the capacity and capability of the police forces</b> of the States so that they are able to uphold the law.</p>	<p>In order to <b>control cross border movement of insurgents</b>, in addition to other measures, <b>diplomatic efforts should be stepped up</b>.</p>	<p>The North-East Division of the Ministry of Home Affairs should be upgraded to a separate wing.</p>
<p>Autonomous Councils should be encouraged to pass suitable legislation for <b>establishment of elected bodies at the village level</b> with well defined powers and a transparent system of allocation of resources.</p>	<p>Suitable stipulations may be made in the procedure for release of grants to the Councils that a certain portion thereof will be disbursed only in the event of a Council passing and implementing the legislation.</p>	<p>While an autonomous District Council should be free to lay down a suitable framework for Village Councils under its jurisdiction, this freedom should be subject to certain general principles</p>
<p>Autonomous Districts /Councils in Sixth Schedule Areas should also be <b>covered by the State Finance Commission and the State Election Commission</b>.</p>	<p>The <b>Governors</b> of Assam, Tripura and Mizoram should be empowered to exercise <b>discretionary powers in respect of all the provisions pertaining to the Autonomous Councils</b> under the Sixth Schedule in consultation with the Council of Ministers and if necessary, in consultation with these Councils.</p> <p><b>A Constitutional amendment will be required for this purpose.</b></p>	<p>A high-level Review Committee headed by the Governor and consisting of representatives of both the State Government and the District Councils should be formed in each State to review the functioning of these bodies. This Committee should submit its report to the Union Government.</p>

<p>For tribal areas which lie outside the Sixth Schedule as well as the Seventy Third Constitutional Amendment the State Government should take steps to create specially at the district level bodies which should consist of both elected as well as traditionally selected representatives. The States which show initiative and take a lead in this matter should be given incentives.</p>	<p>The District Rural Development Authority of the district should work as a body accountable to this District Level Body.</p>	<p>The <b>North Eastern Council</b>, in consultation with the Universities and other educational institutions of the region, should draw up <b>programmes for coaching students for the Civil Services, and other competitive tests</b> such as the Combined Defence Services Examination and the Engineering/Medical Examinations</p> <p>North Eastern Council should establish an apex Regional Academy for Human Resource Development as an autonomous body with academic and executive flexibility. The mandate of the Academy may extend to the entire range of services under the government.</p> <p>The North-Eastern Council should be given the responsibility to undertake a review of various regional institutes under the Union Government/Ministries and come up with suitable recommendations for bringing improvements in their functioning whenever required. An officer/member of the NEC should be placed on the governing body of these institutions.</p>
<p>Immediate steps should be taken to constitute District cadres for all Groups 'C' and 'D' posts (Classes III and IV) for performance of all 'transferred functions' wherever such action has not been taken.</p>	<p>Recruitment to Groups 'A' and 'B' posts (Classes I and II) by the Autonomous District Councils or analogous bodies particularly to positions requiring technical/professional qualifications should ordinarily be left to the State level.</p>	<p><b>State Governments and the Autonomous District Councils should jointly draw up norms for arriving at the number of technical and professional posts</b> required in the tribal areas. Personnel for such posts should be made available on priority basis.</p> <p>Postings to the tribal areas should be for a fixed tenure and must be followed by, as far as practicable, to a posting at a place of the officer's choice.</p>

## 15.6 Managing State Finances

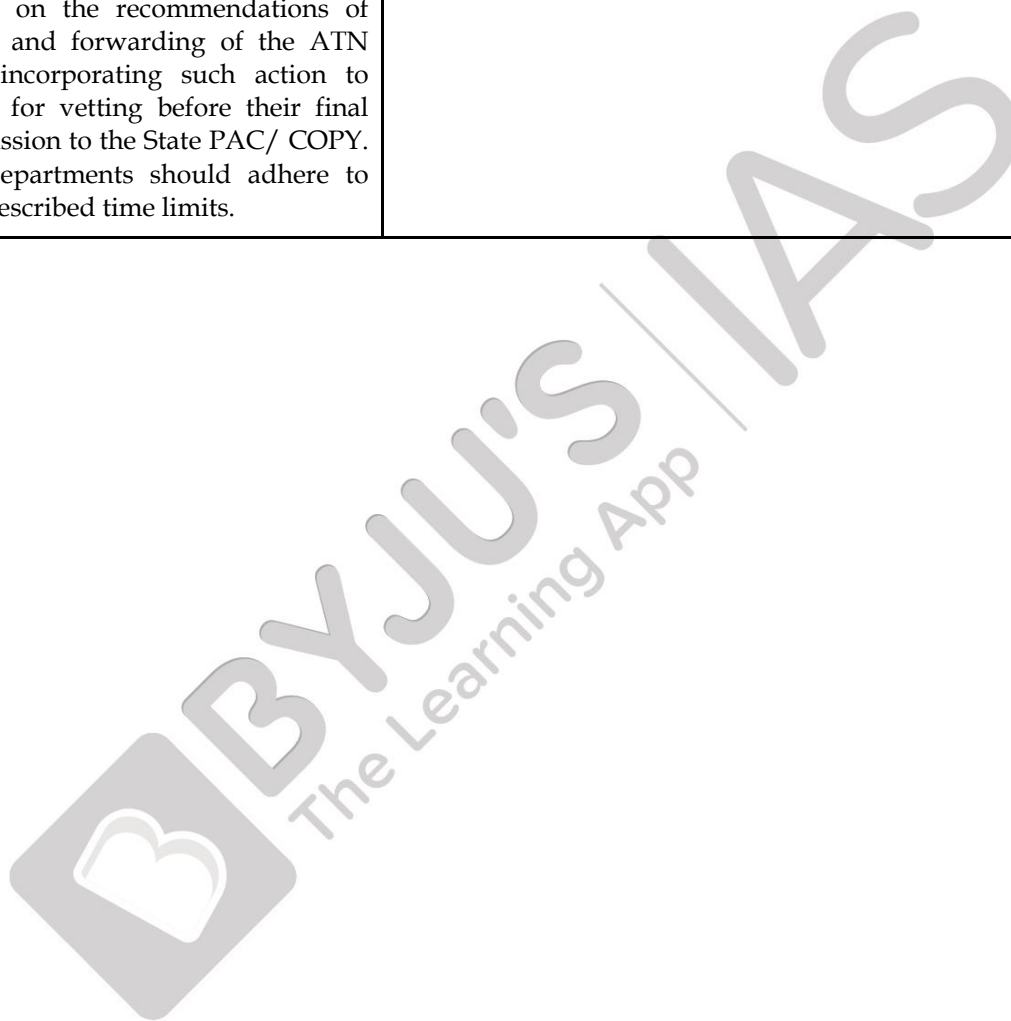
An effective financial management system is the cornerstone of good public administration. In our federal system, where the Constitution empowers the States to collect revenue and spend on public programmes, a prudent and effective financial management system in the States is a matter of vital concern for the country's polity and economy. Apart from implementing programmes and schemes undertaken through its own budget, a State plays a key role in implementing various Centrally Sponsored and Central Sector Schemes. The extent to which the overall economic development of the nation is dependent on the management of state finances is further borne out from the fact that **on an average, the States combined together get about 62-64% of the combined revenue receipts of the Union and States.**

The **core principles** that should form the foundation of a **sound Public Finance Management System** such as adopting prudent economic assumptions, aligning annual budgets with the medium term plan, relaxing central input controls, adoption of top-down budgeting principles, focusing on value for money and introducing transparency and simplicity in various procedures.

### Recommendations of Administrative Reforms Commission:

<p><b>Financial Delegation and Operational Flexibility</b> Based on the experience of the Union Government with regard to the IFA, States should take steps to introduce / strengthen the IFA system in the State administration.</p>	<p><b>Avoiding Fiscal Profligacy</b> The State Governments need to take steps to ensure that projects and programmes are included in the budget only after well-considered deliberations and processes. The <b>practice of announcing projects and schemes on an ad-hoc basis needs to be done away with.</b></p>
<p><b>Expenditure Management</b> The States should take priority steps to improve their expenditure profile by</p> <ul style="list-style-type: none"> <li>• Finalizing the detailed project reports of schemes in the preceding year and</li> <li>• Ensuring that the financial sanctions are given to the departments in the first two months of the current financial year.</li> </ul> <p>The States should <b>conduct a zero-base review of programmes</b> and schemes which are more than five years old and which involve large sums of public money. (Say over 50 crores)</p>	<p><b>Prudent Budget Formulation</b></p> <ul style="list-style-type: none"> <li>• There should be <b>prudent and realistic economic assumptions</b> in formulation of budget estimates. At the end of every financial year, the gap between the estimates and the actuals should be analysed so that the underlying economic assumptions could be suitably calibrated for the future.</li> <li>• There should be interaction between the State Government and stakeholders including industry associations, think tanks etc. in budget formulation. In order to make such consultations effective and meaningful, steps should be taken to:             <ul style="list-style-type: none"> <li>○ Provide information-access to citizens and</li> <li>○ Educate citizens and leaders of society on budget making and its implications.</li> </ul> </li> <li>• State Governments should <b>shift to multi-year budgeting</b> and give the estimates of revenue and expenditure <b>for a period of four years</b> in addition to the year which the budget pertains. This should be done on a roll-on basis.</li> <li>• The States should follow the practice of preparation and implementation of the MTFP.</li> <li>• In order to <b>remove prejudice against non-plan expenditure</b>, the State should take <b>steps to provide for maintenance of the asset</b> in the project cost itself and ensure its maintenance for at least five years after it is acquired. This action should go hand in hand with <b>recovery of adequate user charges.</b></li> </ul>

<p><b>Revenue Forecast and Need For Tax Research Unit</b></p> <p>The State Governments should initiate steps to set up dedicated cells within its Finance Department to provide input on the revenue forecast with the reasons thereof.</p>	<p><b>Internal Control</b></p> <p>The State Governments should take steps to set up <b>internal audit committees in each of its departments.</b></p>
<p><b>External Audit</b></p> <p>The State Governments should specify a time frame for the Departments for necessary follow up action on the recommendations of Audit and forwarding of the ATN after incorporating such action to Audit for vetting before their final submission to the State PAC/ COPY. All Departments should adhere to the prescribed time limits.</p>	<p><b>Projectisation and Approval</b></p> <p>In order to deploy public funds prudentially, with inbuilt financial closure, the States should take steps to strengthen their project formulation and appraisal capacity.</p>



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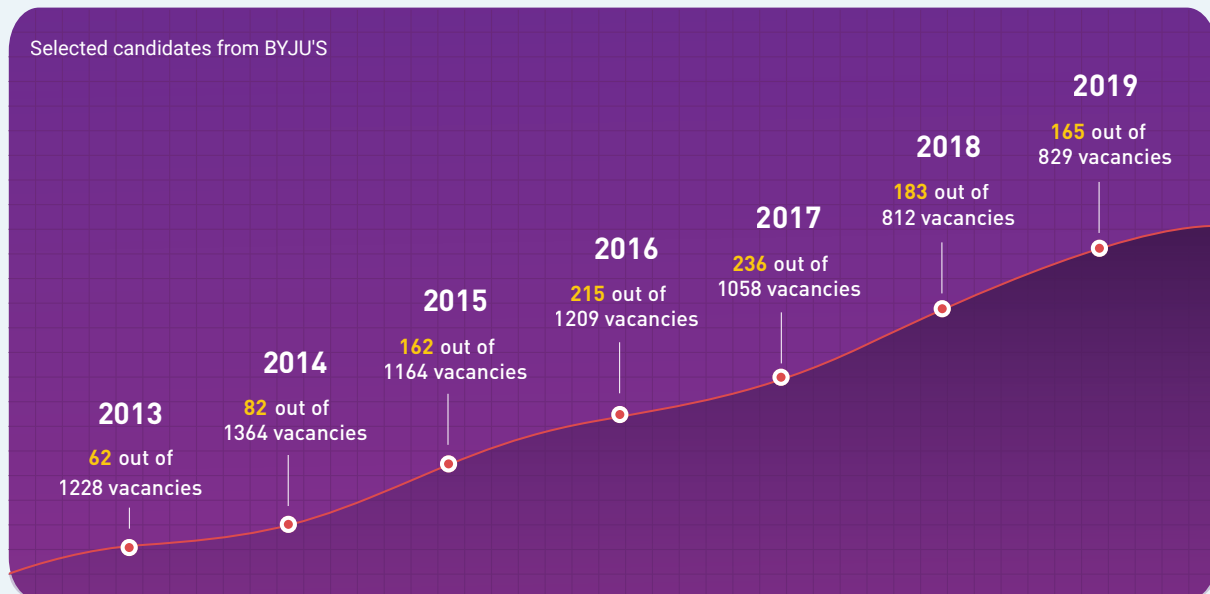
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