PUBLIC INSTITUTIONS IN INDIA

B.A. (PROGRAMME) POLITICAL SCIENCE

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READING NOTES

SYLLABUS

Public Institutions in India

CONTENTS

UNIT 1
STUDYING PUBLIC INSTITUTIONS

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Structure

1.1 LEARNING OBJECTIVES

- To learn about the need for public institutions in any country.

- How Public institutions play an important role in public policy making and implementation and what is their role in any country's development.

- How have different public institutions evolved in India with the country's unique yet complex socio-economic conditions?

- Problems associated with contemporary public institutions in India.

1.2   INTRODUCTION

Public institutions are the cornerstone of democratic societies and crucial entities for any country's political, constitutional, economic and social development. Every country has a set of public institutions which determines the nature of the political system and economy. India, being the world's largest democracy, has a complex and diverse set of public institutions. Since independence, India has had various categories of institutions which contributed to its development. Public institutions in India serve a variety of purposes, be it ensuring human rights, or regulating a specific domain or ensuring the economic accountability of government organizations. Apart from legislative, executive and judicial institutions, India has a multiplicity of governmental and non governmental, constitutional and non-constitutional, public and private, formal and informal institutions. In specific terms, public institutions are those institutions which are established for the sole purpose of serving the "public", for the welfare and ensuring justice.

Public Institutions around the world are transforming. Apart from the globalization effect, the new international digital economy, war and health crisis has changed the demands and role of public institutions. Thus these institutions are adjusting and adopting new sets of rules and undergoing visible changes. Institutions are part of various disciplinary studies such as Public Administration, Comparative politics, Development economics, Sociology and International Relations. It has been studied through different approaches and lenses. But the need to study the public institutions of the country in the 21st Century is now more than ever. The study of public institutions not only shed light on the characteristics and workings of these, but are also important to analyze important political happenings. Studying them also highlights how these institutions responded through the test of time and what changes did they accommodate to go through the challenges faced by them. In this chapter we will study the origin and evolution of public institutions in India, why it is important to study them and what are the major challenges these institutions are facing today and also suggest some way forward to correct its loopholes.

1.3 PUBLIC INSTITUTIONS: CONCEPTUAL UNDERSTANDING

Any entity founded or controlled by the federal government, state government, or a local government or municipality, including but not limited to institutes of higher education and related research institutions, is considered a public institution. It is an organization which is owned or operated by the government, in some cases non governmental organizations considered as public institutions too. "Public institutions" first and foremost relate to government at all levels and in all dimensions. They include local, state, and national governments, as well as the compact conventions and other arrangements that are made between governments. These institutions work together to ensure the smooth functioning of democratic and constitutional order of the country. Studying them enables us to comprehend how laws and public policies are enacted and enforced. Public institutions are crucial for upholding democratic governance, ensuring citizens' rights, and maintaining rule of law.

According to Douglas North (1991), " Institutions are the humanly devised constraints that structure political, economic and social interaction. They consist of both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights)." He adds that institutions are historical human creations which create order and reduce uncertainty. According to Powell and DiMaggio (1991), institutions do not emerge from human design but rather emerge from the particularities of specific historical and cultural contexts.

Many scholars studying the structures and mechanism of institutions consider it as "rules". Thus for them, any societal structure carrying the rules is some sort of institution. From this perspective North further states that "institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. In consequence they structure incentives in human exchange, whether political, social or economic". Another renowned scholar Peter Hall (conceived institutions in terms of rules of formal interaction. Institutions lead standard protocols for socialisation and relationship among different individuals. Thus institutions are established forms of rules, process, and procedures.

Public institutions are public in nature as they largely deal with the matters of public. But their distinct functions also makes them uniquely "public" in nature -

- Representation: Elected bodies or composition of public institutions represent the people and their interests, ensuring that the government remains accountable.

- Legislation: Legislative institutions create laws, which are essential for maintaining order and regulating society.

- Administration and Execution: Government institutions largely function to implement and execute public policies.

- Adjudication: The judicial institutions disputes, upholds the rule of law, and interprets the Constitution.

- Citizens' Welfare: Overall objective of public institutional functionaries is to provide utmost welfare to the larger public.

Public institutions through these above mentioned functions provide stability to the system of the state. Public institutions create and maintain an atmosphere in which most government related decisions are made. Within these institutions, decisions are also made on values and interests. Public institutions also follow some baseline discipline. It means that the members of these institutions behave in a defined way that reduces the cost of functions and uncertainty in the order. Hence it creates a channel between ordinary citizens to Government and various branches of administration which helps in filling the gap between citizens and government.

Why There is a Need to Study Public Institutions?

Public institutions are the bedrock of governance in any society. They include government bodies, administrative agencies, courts, and other organizations responsible for maintaining law, order, and the delivery of public services. The study of public institutions is crucial for a multitude of reasons, and it holds significant relevance in fields such as political science, public administration, law, and public policy. Public institutions of India are in charge of many facets of development, including infrastructure, economic planning, healthcare, and education. To comprehend how India's social and economic advancements, one must understand their functions. Study of Public institutions is also important to know the functioning of governance, democracy, how rule of law works, how policy is formulated and implemented and how institutions oversee different aspects of development progress.

As Aseema Sinha (2020) argues public institutions should be studied from the aspects of coordination, credibility and autonomy. She adds "the analysis of institutions

requires a clear analytical framework and careful metrics to assess design features, outcomes and types of dysfunction". She argues that to comprehend how institutions work and are effective, it is important to take into account the social and political agreements that shaped them throughout their formation.

Study of institutions is crucial to understand how institutions are organized, how they function, the effect of institutions on each other and on individuals. The three branches, Legislature, Executive and Judiciary have to be studied so that one can gain an insight into the decisions taken by these formal institutions. The necessity to research public institutions is obvious and compelling. Governance, power distribution, policy formulation, accountability, and successful leadership all rely on these institutions. Those who study the complexities of public institutions are more positioned to comprehend and affect their countries' political and administrative landscapes. As we face new challenges and possibilities, the study of public institutions is a must-do for anybody interested in determining the future of government and public policy.

1.3.1 Approaches to Study Public Institutions

Disciplines of Political Science, Public Administration and Comparative politics offers a broad scope for studying institutions. Different approaches are being offered to study and analyse institutions from different perspectives. These approaches explore various analytical frameworks and methodologies used to analyze these institutions and understand their significance in the broader political landscape. Some of the prominent approaches to study institutions are as follows:

1. Historical Approach

The historical approach to studying public institutions stresses the necessity of tracking organizations' historical growth and evolution throughout time. This method tries to unearth the historical background and events that affected the formation and operation of public institutions. Understanding the growth of the Indian Parliament or the United States Congress, for example, entails investigating the colonial heritage, constitutional disputes, and the influence of important events such as wars and social movements. Historical study sheds light on the beginnings of institutions, the intentions of their founders, and the variables that shaped their history. It also gives insight on historical developments and reforms, which can help influence current arguments regarding institutional design and reform.

2. Comparative Approach

Comparing various political systems, governments, or institutions to uncover similarities and differences is the comparative approach to the study of public institutions. Comparative politics is a subfield of political science that specializes in this approach. This approach allows us to examine how public institutions function in various contexts and under different circumstances. The comparison of institutions can be done across geographical locations, socio-political contexts and across time. However it is important to have a common vantage point or basic similarities among the institutions to begin with. For example, one might compare the parliamentary system of government in the United Kingdom with the presidential system in the United States to understand the impact of institutional design on political outcomes. By analyzing how institutions work in various circumstances, this method aids in discovering trends, best practices, and potential areas for improvement.

3. Functional Approach

The functional approach is concerned with the function and role of public institutions within a political system. It investigates how institutions carry out certain duties such as representation, legislation, administration, and adjudication. Researchers can examine the efficacy and efficiency of different institutions' functions by deconstructing their operations. For example, in the Indian context, the Election Commission is responsible for ensuring free and fair elections, and its operation may be evaluated using a functional lens to determine its effectiveness in this crucial role. This approach helps in understanding how institutions contribute to the stability and functionality of a political system.

4. Structural Approach

The structural approach to understanding public institutions focuses on their organization and design. It investigates the formal rules, methods, and connections that govern how they work. In the case of the judiciary, for example, this method would examine the court's hierarchical structure, the appointment and tenure of judges, and the allocation of powers among different levels of the judiciary. Analyzing institutions via a structural lens provides a thorough knowledge of how their design influences their functioning and capacity to fulfill their tasks successfully.

5. Behavioural Approach

The behavioral approach focuses on the actions, behaviors, and interactions of individuals within public institutions. This approach is based on the premise that institutions are made up of people, and their conduct may have a substantial influence on the overall success of the organization. Researchers examining institutions from a behavioral standpoint may investigate decision-making processes, communication patterns, and interpersonal dynamics among institution members. For example, the study of how lawmakers communicate, negotiate, and make decisions is fundamental to the behavioral approach in the setting of a legislative body. Understanding these dynamics can help us better understand the results of institutional processes and policies.

6. Institutionalism

Institutionalism is a broad theoretical perspective that stresses the importance of institutions in creating political outcomes. According to institutionalism, institutions have a substantial impact on individual behavior and society consequences. Institutionalism is divided into two types: historical institutionalism and rational choice institutionalism.

a. Historical Institutionalism

The historical development and path-dependent evolution of institutions, according to historical institutionalism, are critical in understanding their effect on modern politics. It highlights the significance of past actions and decisions in molding the present. This viewpoint implies that because of their historical legacies, institutions are difficult to modify. This approach is used by academics to examine how India's colonial past has shaped the form and operation of its public institutions.

b. Rational Choice Institutionalism

Rational choice institutionalism, focuses on the study of choices made by individual actors within the ambit of institutions. These choices are solely based on individuals' rationality and get affected by the constraints and opportunities provided by the institutions.

This approach argues that individuals inside institutions operate in their self-interest and make rational decisions based on the institutional framework's incentives and restrictions. For example- the conduct of MPs in the Indian Parliament may be examined via this lens, taking into account how institutional regulations and electoral

incentives impact their actions.

7. Public Choice Theory

Public choice theory is a subset of rational choice theory that focuses on the behavior of elected officials, bureaucrats, and voters. It believes that individuals, especially in public decision-making environments, act to maximize their utility. This theory aids in the analysis of political actors' behavior and the operation of public institutions by examining how various incentives, such as re-election possibilities, impact decision-making.

8. New Institutionalism

New institutionalism is a contemporary theoretical approach that integrates various aspects of institutionalism, rational choice theory, and sociology.It aims to comprehend how institutions are formed, how they impact behavior, and how they adapt and evolve over time. Students interested in how institutions respond to external pressures and challenges such as globalization, technological advancements, and changes in public values will find new institutionalism particularly useful. The new institutionalist approach can be traced back to the early to mid-1980s. Often regarded as two of the leading founders of the new institutionalism, American political scientist James G. March and Norwegian political scientist Johan P. Olsen published a highly influential piece, "The New Institutionalism: Organizational Factors in Political Life" (1984), followed by a book, Rediscovering Institutions: The Organizational Basis of Politics (1989). In Democratic Governance (1995), they argued for more institutional examination. However, scholars of this school consider 3 subset approaches: Historical institutionalism, Sociological institutionalism and Rational choice institutionalism as part of the new institutional school.

1.4   PUBLIC INSTITUTIONS IN INDIA

1.4.1   History and Evolution

The history and evolution of Indian public institutions represent a journey of adaptability, growth, resilience and change. From ancient democratic assemblies to modern digital governance efforts, these public institutions have proven crucial to India's socio political

development. As we are already familiar with India's rich and great civilization history where public institutions held very important positions in order to maintain political and social order.

In ancient texts like Rig veda and Arthashastra, mentions of concepts like 'sabha' or 'samiti', which indicates the presence of early democratic institutions. Additionally, the history of Mauryan Empire tells us that their administration are more efficient which were based on different public institutions such as local administration, police system, Espionage system, transport system and registration of births and deaths, foreigners, industries, trade, manufacture and sale of goods, sales tax collection were under the administration's control. Further, the Gupta empire refined the administrative and law practices. Polity, religion, society, economic life, literature, art, and architecture and technology were in the highest state of glory, thus this period is popularly known as 'a golden period' of Indian history. The legal structures developed during this period evidently marked the advancement of legality. Lawmakers defined a clear distinction between civil and criminal law for the first time. (R S Sharma, 1999)

The founding of the Sultanate signified the beginning of a new era in medieval Indian history. For over a century, it led to the political unification of northern India and parts of the Deccan. The Sultanate collapsed around the end of the 14th century, resulting in the rise of a number of kingdoms in various sections of the country. Some of these kingdoms, such as the Bahmani and Vijayanagar, rose to prominence. Trade and crafts were stimulated, and many new towns formed as trade and craft centers, giving prominence to numerous socio economic institutions.

The establishment of the Mughal Empire in India in 1526 AD is referred to as the end of the late medieval era and the beginning of the early modern era. The Mughal administration was the most systematic and long-lasting, and it has even survived to the present day. Despite the centralized structure of the empire, Akbar established administrative reforms such as the notion of a centralized revenue system and the formation of a diversified administrative bureaucracy. The bureaucracy was a very urban institution, where officials were principally responsible for maintaining law and order, protecting the king's interests against internal disturbances and revolts, defending and extending the Empire's borders, and collecting money and taxes. Public institutions in this period were centralized yet more modern and clearly defined in nature.

The advent of British colonial rule marked a significant milestone in the evolution of Indian public institutions. Many improvements occurred during the British era in the

fields of education, justice, police reforms, civil service reforms, and the establishment of various public institutions. Through the formation of administrative agencies such as the Indian Civil Service (ICS), the British developed a centralized administrative structure with a focus on tax collection and administration. The 1858 Government of India Act established parliamentary participation in the Indian government. The adoption of English education and legal systems altered the institutional structure even more. The creation of legislative councils and the progressive enlargement of the franchise were intended to incorporate Indian participation in decision-making. These endeavors, however, were limited, and true authority remained concentrated in the hands of colonial authorities. (Bipin Chandra, 2001)

After independence, the constitution established the rule of law and institution of democracy in India. The ideas of democracy, equality, and justice were incorporated in the Constitution, which provided an overall framework for the operation of public institutions. The parliamentary system of government was established, with a President as the ceremonial head of state and a Prime Minister as the head of government. The Indian Constitution also followed a federal system with powers disintegrated between the federal government and the states, promoting cooperative federalism. A wide range of public institutions necessary for democratic government were established and strengthened in India. Executive, judiciary and legislative institutions have been at the core of Indian democratic structure, whereas many other constitutional and non constitutional institutions assure the smooth functioning of rule of law and policies. (Granville Austin, 1966)

Since independence, many institutions such as the Finance Commission of India, the Election Commission of India, the Enforcement Directorate, and the National Human Rights Commission, have played critical roles in India's growth and are still working to make India more developed and inclusive. Public Sector Undertakings (PSUs) were created to promote economic development and overcome market flaws. Institutions such as the Reserve Bank of India (RBI) were critical in terms of monetary policy and financial stability. The Planning Commission, which has been renamed as NITI Aayog, has been critical in developing and executing Five-Year Plans. The 1991 economic liberalization heralded a paradigm shift in India's economic policy, resulting in the demise of the License Raj and the liberalization of the economy. Administrative improvements were also implemented during this time period. In present times, through digital undertakings and humanized services, public institutions are becoming pivotal in every

aspect of human lives. Thus these institutions are not only evolving according to the contextual changes, but also according to the needs of the country and its people.

1.4.2 Major Types of Public Institutions in India

The diverse set of public institutions in India reflects the complex nature of the country's democratic governance. There are no specific distinctions carved out in the constitution regarding the country's institution. However we can divide them according to the functions they have or the powers they derive from. There are mainly three branches of government: legislature, executive and judiciary. More than the separation of powers, there is a separation of functions among these three. Legislative institutions of the country perform the function of making and enacting the laws. Executive institutions implement the enacted laws and enforces the will of the state through policy implementation. The Indian judiciary, led by the Supreme Court at national level, is critical in preserving the rule of law and protecting citizens' rights. It interprets the law, handles disputes, and justice. The judicial institutions also examine the constitutionality of the passed laws. Apart from these branches, this section provides a comprehensive overview of major types public institutions in India, based on the authority and legality they derive from:

1. Constitutional Institutions: A constitutional institution or constitutional body is a government entity established by the provisions of a constitution. Because these institutions draw their powers, duties, and responsibilities directly from the constitution, which is more difficult to modify by legislative than sub-constitutional legislation, their position is more solid and independent than institutions formed by sub-constitutional laws. They are particularly listed in the Constitution, which means they have articles dedicated to them. Any changes to the functioning of any of these institutions would need a constitutional amendment. Entities such as the Finance Commission, the Union Public Service Commission (UPSC), the Election Commission, the Comptroller and Auditor General (CAG), National Commissions for SCs and STs, etc are examples of constitutional institutions.

2. Statutory Institutions: These are those institutions which are non-constitutional in nature as they do not find any mention in the Constitution. However they are created or get established by the act of the parliament. Statute is another term of law made by the legislature, thus any institution made by the passing of the

law in the parliament is called statutory institution. National Commission for Women, National Human Rights Commission, National Green Tribunal are few examples of statutory institutional bodies.

3. Regulatory institutions: These are independent governmental agencies formed by the government to define, enforce and regulate standards in a certain sector of activity or activities. They may or may not be under direct purview of the executive. Food safety and standard authority of India (FSSAI) and Board of control of cricket in India (BCCI) are examples of regulatory institutions in India.

4. Executive Institutions: These institutions work as an extension of the executive branch. They are neither mentioned in the constitution, nor established by an act of the parliament. They are established by executive resolution or action. However they can be converted into a statutory body if parliament enacted a new law or act for their establishment. For example The Unique Identification Authority of India (UIDAI) was turned into a statutory body under Aadhaar Act, 2016. NITI aayog, Central Bureau of Investigation and National Development Council are examples of executive institutions in India.

5. Quasi Judicial Institutions: These institutions are meant to be an extension of the judicial branch, yet they are different judicial bodies as their scope and field are limited compared to a court. These institutions can be formed as a tribunal for a specific domain, as an arbitrator or as a special body on a matter pending in court. Quasi judicial institutions can be seen working in the domains like financial market, public standards, land use and environment impact, employment law etc. National Humans Rights Commission, National Green Tribunal, Security and Exchange Board of India (SEBI) are few examples of quasi judicial institutions. It is important to note that these institutions can be established as statutory bodies by enacting a law in the parliament.

Apart from these formal institutions, there is a vast and complex network of non governmental and voluntary organizations in India. The role of NGOs and International organizations have been very crucial in providing socio economic justice. The civic sector consists of several voluntary groups, NGOs, pressure groups and citizens groups also a part of the public institutional system. These institutions have made our democracy robust and have provided timely interventions in different public and policy matters.

1.4.3 Role of Public Institutions in Policy and Overall Development

Public institutions are the cornerstones of government in any country, shaping policies and driving general growth. In India, public institutions design policies that define the country's growth path. These institutions have a diverse role in supporting a robust and active democracy, from economic stability to social growth and local government. The executive branch, the Prime Minister and the Council of Ministers, is responsible for transforming policies into actionable strategies and plans. Planning Commission, which was subsequently superseded by the National Institution for Transforming India (NITI Aayog), aid in policy formation and execution. NITI Aayog is the primary think tank of the country which has been working towards the planning of national development. It not only envisages development plans but also fosters cooperative federalism in the country. Additionally, The Reserve Bank of India (RBI) is at the forefront of economic growth, with major monetary policy impact. The RBI, which was established in 1935, develops and implements monetary policies to guarantee price stability, currency supply, and financial stability (RBI Act, 1934). The RBI's role in regulating and monitoring the banking industry is critical for maintaining a stable economic environment. The Goods and Services Tax (GST) Council, a collaborative federal entity, also plays an important role in taxes and fiscal policy. The council, which includes officials from the federal government and the states, strives to standardize indirect taxation across the country. Its actions have far-reaching consequences for enterprises and economic activity. (Goods and Services Tax Council Act, 2016). Whereas, by guaranteeing financial accountability and transparency, India's central auditing agency Comptroller and Auditor General (CAG) also contributes to economic progress. The CAG identifies inefficiencies and financial irregularities through audits, promoting sound financial management in government institutions. Through its annual audit reports, CAG surfaced the irregularity of funds and expenditure of concerned government departments, which has proven crucial for financial accountability of institutions.

Few referee and quasi judicial institutions have shown their crucial importance since the 1970s and 80s. Devesh Kapur (2005) illustrated how the Election Commission and Supreme Court have never been so politicized and have effectively been performing their functional duties since the 80s. Arvind Subramanian (2007) argued that new institutions like TRAI and SEBI have performed respectfully in the complex politicized field. He adds how UPSC has also been successful in maintaining trust in its purely merit based recruitment process for the country's topmost civil servants.

Civil society institutions showed significant results in early 2000, as they played an evident role in passing pivotal right based legislations. Right to Information (2005), MNREGA(2005), Right to Education (2009), Right to Food (2013), National Food Security Act (2013) are some of the right based legislations which are results of continuous efforts of civic sector institutions. (Devesh Kapur, Pratap Bhanu Mehta and Milan Vaishanav, 2017)

It is evident that several public institutions, whether constitutional or non constitutional, have been contributing to the country's development process. They not only foster economic growth but also ensure rights and justice for the common people. However the trajectory of these wide array of institutions have been linear and progressive. These institutions are facing some fundamental challenges which are threatening their existence and structure to the core.

1.4.4 Major Challenges for Public Institutions in India

India, now with the world's largest population is facing an evergoing scarcity of resources and funds. The booming population and their high aspirations have put immense pressure on country's all public institutions. The challenges faced by public institutions in India are diverse and complex, which reflects the intricacies of these institutions. A popular perception has been made that India is facing institutional decline as malpractices of corruption, red tapism, lack of accountability, and over politicization have grappled these institutions. However, scholars have argued that their performances (whether good or bad) have varied both across institutions and over time. (Kapur 2005, Subramaniam 2007). According to M. P Singh (2015), the top legislative institution of Parliament, has been adversely affected by the rise of coalition politics. Shortening sessions, time lost due to disruptions in proceedings by the opposition and violation of norms and precedents by the government, rampant absenteeism, actual hours of sitting as a percentage of available hours, phenomenon of weak legislative federalism via Rajya Sabha in the overall setting of parliamentary-federalism has challenged the parliamentary functioning (M P Singh, 2015). Talking about regulatory institutions, Navroz K. Dubash (2017) argues how these bodies are facing problems like weak financial autonomy, insufficient human resources, lack of legitimacy, which makes them ineffective for regulation.

In their edited volume 'Rethinking Public Institutions in India' (2017), Devesh Kapur, Pratap Bhanu Mehta and Milan Vaishnav have critically examined key public

institutions in India. While examining the performance and capacities of institutions, they have highlighted few salient challenges being faced across all institutions today. Let's take a comprehensive look at those institutional concerns:

1. Lack of personnel resources: The most basic difficulty Indian institutions are facing is the qualitative and quantitative crunch of personnel. Quantitatively, there is a huge shortage of working professionals and a large number of posts are vacant. Whereas qualitatively, there is a scarcity of adequately trained, skilled and technologically equipped personnels. The effectiveness of public institutions is contingent upon the competence and skills of their workforce. The insufficiency and misuse of funds and lack of administrative will are few of the reasons behind the ongoing concerns related to personnels.

2. Ambiguities: The legal and constitutional ambiguities are not new in India's federal and democratic structure, but scholars have argued that the negative consequences have grown up. For example, the confusions and legal ambiguities have encouraged states to become reluctant in devolving financial powers to the level of panchayati raj institutions. Ineffective devolution of powers often hinder the success of decentralized governance. The legal ambiguities meddle with the autonomy and authority of an institution, which further obstruct its scope of functioning.

3. Dilemmas in coordination: Indian public institutions often lack coordination and cooperation. Kapur (et. al.) argues that these institutions lack coordination on two dimensions - First, horizontal coordination between different government institutions. Second, vertical coordination between different levels or tiers of governance. Greater level of cooperation, coordination and regular communication is needed to tackle the country's contemporary multivariate challenges such as environmental degradation, cybercrime, health adversaries etc.

4. Accountability: The absence of accountability and transparency is a critical concern for public institutions. Citizens are frequently misinformed about public institutions' decision-making processes and financial transactions. The lack of clear methods can foster a culture of secrecy, undermining public trust. The Right to Information (RTI) Act of 2005, created in response to this difficulty, promotes openness and empowers individuals to request information (Right to Information Act, 2005). Regulatory and auditing bodies can play an important role in ensuring financial accountability of public institutions.

5. Political Interference: Political influence frequently poses obstacles to public institutions, jeopardizing their autonomy and ability to work impartially. Interference from political leaders and government, in appointments, transfers, and decision making negatively impact the functioning of institutions. This interference undermines the independence of institutions, such as the judiciary, Election Commission, and regulatory bodies, impacting their credibility and effectiveness. Additionally, political use of certain institutions also malign the image and purpose of that specific institutional body.

Apart from these common challenges, public institutions may also suffer some specific difficulties in their functioning. Addressing these issues would need a multifaceted strategy that includes structural changes, institutional improvements, commitment to ethical governance, behavioral and attitudinal changes. As India continues on its path to socioeconomic growth, resolving these issues will be critical to guaranteeing the efficacy and legitimacy of governmental institutions in molding the nation's future. And that will certainly help to cope up with new emerging aspirations and problems of people which requires a multi pronged, multifaceted and inclusive governance structure based on a human centric approach.

1.5 CONCLUSION

Public institutions are the soul of governance, where day to day interaction between public and institutions is common thus reforming and restructuring the institution based on 21st century demands and technological advancements is the need of the hour. Transition from secrecy to information, to achieve greater accountability, increasing the personnel capacities, fostering real decentralization and devolution of powers are some of the measures which can lead us to a more robust system of public institutions. Efficient delivery of services to public and strong grievances redressal system can be achieved through the greater penetration of technology and digital media. However these institutions should also keep cyber safety as one of the crucial elements in their functioning. Importance of any institution is not defined by its position but by its work culture which delivers positive outcomes. Gopal Guru (2020) while examining the challenging crisis of educational institutions in India, argues for the need of more open

spaces for critical engagements in educational spaces. He adds that it is the ethical duty of institutions to create cognitive and critical thinking capacities of people.

To summarize, studying public institutions is critical for understanding the operation and dynamics of government in any society. This chapter delved into the notion and importance of analyzing public institutions, examining several approaches to their examination. We analyzed the development and growth of public institutions in India, finding significant categories of institutions that play critical roles in the country's government. As we navigate through the complexities and challenges of public institutions, it becomes evident that their effectiveness is indispensable for the well-being and progress of a society.

1.6   GLOSSARY

1. **Quasi Judicial**- essentially judicial in character but not within the judicial power or function especially as constitutionally defined.

2. **Autonomy** - the quality or state of being self-governing.

3. **Decentralization**- the dispersion or distribution of functions and powers (away from the center).

4. **Legal Ambiguity**- Unclear or undefined laws

6. **Rational Choice**- Choice made from individual's reason

7. **Globalization-** the act or process of globalizing; the development of an increasingly integrated global economy marked especially by free trade, free flow of capital, and the tapping of cheaper foreign labor markets

8. **Personnel** - a body of persons usually employed (as in a factory or organization)

9. **Accountability** - an obligation or willingness to accept responsibility or to account for one's actions

10. **Statute**- a law enacted by the legislative branch of a government

11. **Adjudication** - to make an official decision about who is right in (a dispute) or to settle judicially

1.7   PRACTICE QUESTIONS

1. Define the concept of public institutions. Why is it necessary to study public institutions?

2. Analyze different approaches to study institutions. How do these approaches assist us in studying public institutions?

3. Trace the history and evolution of public institutions in India. How have these institutions helped in India's overall development?

4. Public institutions are the bedrock of 21st century India. Critically analyze the statement.

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1.9   SUGGESTED READINGS

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UNIT 2
FRAMING PUBLIC POLICY : NITI AAYOG

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Structure

2.1 LEARNING OBJECTIVES

In the Lesson Students will be able to understand:-

- Meaning of Niti Aayog, how its works
- Seven Pillars of Effective Governance by NITI Aayog

2.2   INTRODUCTION

Whether the form of governance is monarchical or aristocratic; whether it has been totalitarian or democratic; public policies have been formulated and implemented under almost all types of governance systems. Since the main objective of politics and administration is the achievement of good life and good governance, hence the study and analysis of the concept of public policy becomes even more important. Marshall DeMonk has defined policy as a consciously accepted code of conduct that guides administrative decisions. It is noteworthy that the process of policy-making has been an essential element of political and administrative activities. From this point of view, public policies are as old as governments. Thomas R. Dye, in his famous work Understanding Public Policy (1975), has defined public policy as those policies of the government which the government does or does not implement.

Paul H. Applebi, considering administration and policy as co-related, has said that "the essence of public administration is policy-making." Public policies are mainly developed by government structures and government officials, however, non-governmental organizations and structures also directly and indirectly influence the policy making process. In fact, public policies are basically government decisions which are actually the result of activities adopted by the government to fulfill some goals and objectives. To understand the nature of public policy, it is necessary to mention some of its main characteristics as per the context (Sushant Jha, 2015).

In India, development work and schemes have been implemented according to the five-year plans by the Planning Commission, this commission was established on 15 March 1950. With the changing economic and social environment, this change happened that in place of Planning Commission, a new institution "Niti Aayog" was created. NITI Aayog was formed on 01 January 2015 through a resolution of the Union Cabinet. It is the principal policy-related "think tank" of the Government of India, which provides directive and policy inputs. Apart from formulating long-term policies and programs for the Government of India, NITI Aayog also provides appropriate strategic and technical advice to the Center and the States and Union Territories. NITI Aayog serves as the best platform for the Government of India to bring states on a single platform to work together in the national interest and thus promote cooperative federalism (NITI Aayog Report, 2022). At present Honorable Prime Minister Narendra Modi is the Chairman and the Vice Chairman is Mr. Suman

Berry. (Niti Aayog Report, 2022-2023) The formal end to the governance of the Planning Commission was announced by Prime Minister Modi from the ramparts of the historic Red Fort in Delhi on 15 August 2014, India's 67th Independence Anniversary, and along with the announcement of its replacement with other institutions. January 2015 "Niti Aayog" has laid the foundation of a new indigenous ideological revolution by creating the National Institute of Transforming India.

2.3 BACKGROUND OF NITI AAYOG

After gaining independence from colonial rule in 1947 AD, a serious challenge before India was what type of governance system it should adopt to ensure the development of India. In such a situation, India considered it inappropriate to adopt a purely socialist model and also did not consider a completely capitalist form of governance appropriate. Therefore, according to its needs, even in this mixed form of governance, India was more inclined towards socialism rather than capitalism.

During this period, India had kept its socialist inclination towards the then, Soviet Union and India had adopted the format of five-year plans on the basis of the governance system of the, then Soviet Union and had dreamed of the development of the country on this basis. To fulfill this dream related to the development of India, the then Government of India formed an executive body named - "Planning Commission, it was formed on 15 March 1950 under the leadership of the first Prime Minister of India, Jawaharlal Nehru, by the then Government of India was done through executive order. Thus, the Planning Commission was an executive institution.

The Planning Commission was given the main task of preparing five-year plans related to the development of the country. Apart from this, the Planning Commission also recommended to the government how much financial assistance should be given by the Center to the states for the implementation of those five-year plans. On this basis, it can be said that the Planning Commission was an important institution to ensure the development of the country.

In the year 2014, the NDA government formed under the leadership of Prime Minister Modi, through a new executive order in January 2015, abolished the already existing Planning Commission and formed NITI Aayog in its place.

Structure of NITI Aayog: Through a resolution of the Council of Ministers on 1 January 2015, the Government of India constituted NITI Aayog. The Prime Minister

is the Chairman of NITI Aayog. The Governing Council will include the Chief Ministers of all the states and the Lieutenant Governors of all the Union Territories. Regional Councils (State will be established to deal with area specific problems. They will be convened by the Prime Minister and will include the Chief Ministers and Lieutenant Governors of all Union Territories in that region, and will be chaired by the Chairman of NITI Aayog or his nominee. The Prime Minister can call experts and special invitees through nomination. Ultimately, the formal organization of NITI Aayog will consist of:

- The Vice President is appointed by the Prime Minister.
- Full time members
- Part-time Members (two from the best research universities or organizations in ex-officio capacity and and also will be on rotation basis)
- Ex-Officio Members:- Maximum four members of the Union Council of Ministers who will be nominated by the Prime Minister.

The primary functions of NITI Aayog can be divided into four broad categories. Amended Entry 49 of the Business Allocation Rules, 1961 (Annexure 1.3) envisages the detailed tasks to be carried out under each of these heads.

- To promote cooperative federalism.
- Working as a resource center and knowledge center
- Policy-making and program design
- Monitoring and evaluation

In terms of governance structures, the changing needs of our country point to the need to establish an institution that will act as a think tank of the government – a directional and policy dynamos.

2.4 DEVELOPMENT: TWO CENTERS

Development:- In Sanskrit, the word 'Niti' means morality, behavior, guidance etc. But in the present context it means policy and policy means "National Institute for Transforming India". This is the main policy making body of the country which is expected to promote the economic growth of the country. Its goal is to build a strong state which will help in building a dynamic and strong nation. This helps India to emerge

as a major economy of the world. The formation of NITI Aayog has two centers which are called "Team India Hub" and "Knowledge and Innovation Hub".

1. **Team India Hub**: Through this, Indian states is partner with the central government. Promotes cooperative federalism and designs policy and program framework. It provides the required coordination and support framework to NITI Aayog in its engagement with states.

2. **Knowledge & Innovation Hub:** This builds the think tank capabilities of the institute. It ensures to fulfill the mandate of maintaining a state-of-the-art resource centre, creating a repository of research on good governance and best practices in sustainable and equitable development as well as helping in their dissemination to stakeholders. To provide advice and encourage partnerships between key stakeholders and national, international like-minded think tanks as well as academic and policy research institutions. Both the hubs are headed by the Chief Executive Officer of NITI Aayog (NITI Aayog Report, 2016)

2.5 PHILOSOPHY OF NITI AAYOG

Philosophy of NITI Aayog:- While the Prime Minister said goodbye to the Nehru-era economic policies by abolishing the Planning Commission, he has laid the foundation of a new indigenous ideological revolution by creating "NITI Aayog" in January 2015, which will integrate development with the global symbols of capitalism, communism and liberalism and will move towards analyzing and implementing it completely in accordance with nationalist and Indian philosophy.

Under this, India's development model will be based on the philosophy of six Indian personalities - Mahatma Gandhi, Swami Vivekananda, Bhimrao Ambedkar, Pandit Deendayal Upadhyay, Tamil poet Thiruvallur, Assamese saint Sankardev. The important philosophy of NITI Aayog is based on the formula of Gandhiji:- "Continuous development is the law of life and the person who always tries to maintain dogmatism leads himself astray. Similarly, the intention of the government has become clear from Dr. Bhimrao Ambedkar's formula 'centralizing powers is imprudent'. The priority of the Commission has been made clear from the statement of Tamil saint Thiruvalluvar, "There is nothing more terrible and painful than poverty and the sting of poverty takes away the excellence of a person and his nobility". For the first time, The statement of poet Sankardeva's treatise Kirtanghosh, "Seeing every living being as equal to one's

soul is the greatest means of attaining salvation" clearly depicts the ultimate goal of the government's plans for the first time and in achieving this goal, Deendayal Upadhyay's 'Antyodaya Darshan' ' Which emphasizes on the upliftment of the poor to provide them the fruits of development, has been included in the ideological background of NITI Aayog (Anuj Kumar Aggarwal, 2015).

2.6 MAIN POINTS OF NITI AAYOG

Main points of NITI Aayog:-

- Completely based on Indian philosophy
- Based on rural poor as well as youth, new middle class, non-resident Indians and urbanization,   urbanization was considered an opportunity.
- Spread of this philosophy equally in policy making of both Center and States.
- Will absorb all the positive things from around the world because no single model accepted from other model can fit the Indian scenario.
- The role of the government will be as an assistant (enabler) of the public.
- Importance of service sector in the economy.
- Emphasis on information technology and various types of connectivity to realize the concept of global village.
- More focus on neo-middle and middle class.
- Emphasis on increasing the role of NRIs in terms of professional management and technology.
- Appointment of Chief Executive Officer in place of Secretary to work in accordance with the corporate culture (Anuj Kumar Aggarwal, 2015).

2.7 OBJECTIVES AND CHARACTERISTICS OF NITI AAYOG

The NITI Aayog serves as the apex public policy "think tank" of the Government of India. It is nodal agency is mandated to facilitate the participation of the state

governments of India in the economic policy making process using a bottom-up approach. It has been entrusted with the task of catalyzing greater development through medium and cooperative federalism. Its main objectives and features are as follows:-

- To develop a common vision of national development priorities, areas and strategies through active participation of States.

- To promote cooperative federalism through initiatives and mechanisms for structured cooperation with States on an ongoing basis, recognizing that strong States create strong nations.

- To develop mechanisms to prepare credible plans at the village level and progressively disseminate these to higher levels of government.

- To ensure that national security interests are integrated into the economic strategy and policy of the sectors specifically designated.

- To pay special attention to those sections of our society who may be at risk of not benefiting adequately from economic progress.

- To formulate strategic and long-term policy and program frameworks and initiatives and monitor their progress and impact. Lessons learned through monitoring and feedback will be used to make innovative improvements including necessary mid-term revisions.

- Advising and encouraging partnerships between key stakeholders and like-minded national and international "think tanks" as well as academic and policy research institutions.

- To create knowledge, innovation and entrepreneurial support systems through a collaborative community of national and international experts, practitioners and other stakeholders.

- To provide a forum to address inter-sectoral and inter-departmental issues with a view to accelerating the implementation of the development agenda.

- To maintain a state-of-the-art resource centre, to be a repository of research on good governance and best practices for sustainable and equitable development and also to help disseminate the same to stakeholders.

- Proactively evaluate and monitor the implementation of programs and initiatives, including identifying needed resources, to enhance the chances of success in delivering services.

- Emphasis on technology upgradation and capacity building for implementation of programs and initiatives.

- To undertake such other activities as may be necessary to implement the national development agenda and achieve the above objectives (Niti Aayog Report, 2023).

NITI Aayog is developing itself into a state-of-the-art resource center with the necessary knowledge and skills that will enable it to act quickly, promote research and innovation, provide strategic policy vision for the government and deal with emergent issues. It is supported by a Liaison Office i.e. Development Monitoring and Evaluation Organization (DMEO), a flagship initiative i.e. Atal Innovation Mission (AIM) and an autonomous body i.e. Institute of Labor Economics Research and Development (NILERD).

2.8   SCOPE OF WORK OF NITI AAYOG

Subsidiary bodies or work areas of NITI Aayog help in smoothly running the work required by the organization, work areas are:-

1. Administration and supporting units
2. Agriculture and allied sector
3. Aspirational District Program Cell
4. Communication and Social Media Cell
5. Data Management and Analytics and Frontier Technologies
6. Economics and Finance Room
7. Education
8. Governance and Research
9. Governing Council Secretariat and Coordination
10. Infrastructure-Energy
11. Micro, Small and Medium Enterprises
12. Natural Resources and Environment and Island Development
13. Project Appraisal and Management Division

14. Rural Development

15. Science and Technology

16. Social Sector-I (Skill Development, Capability and Employment and Urban Development)

17. Social Sector-II (Health and Nutrition and Women and Child Development)

18. State Finance and Coordination

19. Sustainable Development Goals

20. Water and land resources

2.9 SEVEN PILLARS OF EFFECTIVE GOVERNANCE BY NITI AAYOG

1. Pro-People: It fulfills the aspirations of the society as well as the individuals.

2. Pro-active: Proactivity in anticipation and response to citizen needs.

3. Participation: Inclusion of Citizenship.

4. Empowerment: Especially to include women by empowering them in all aspects.

5. Inclusion of all: Inclusion of all people irrespective of caste, creed and gender.

6. Equality: Providing equal opportunities to everyone, especially the youth.

7. Transparency: Making government visible and accountable (Sources, PIB.NIC.IN)

"NITI Aayog oversees the monitoring and adoption of Sustainable Development Goals (SDGs) and promotes competition and cooperative federalism among states and government undertakings. It is a policy think tank of the Government of India whose objective is to "promote coordination and participation in the economic policy making process by the state governments of India." The Prime Minister serves as the ex-officio Chairman of NITI Aayog. NITI Aayog can provide an important directional and strategic input regarding India's developmental processes. The centre-to-state, one-way flow of policy, the hallmark of the Planning Commission era, has been replaced by a genuine and sustained partnership with and between Indian states. "Public policy" is mainly a means of directing social actions according to some predetermined goals. In a sense, public policy is a directional means of achieving goals driven by 'ideology'

that usually arise from dialectical interactions between governments and the governed. Planning Commission has been replaced by 'National Institute for Transforming India' or 'NITI' in short. What are the differences from "plan" to "policy"? First and foremost, it meant an initiative towards institutional change to transform "policy" and "India" from Soviet-inspired national development (five-year) plans. Paragraph three of the Cabinet resolution states: We need "institutional reforms in governance and dynamic policy changes that can sow and nurture change on a large scale" (Virmani, A. 2015). The primary objective of NITI Aayog is to promote economic growth and development in India by providing strategic and technical advice to the Central and State Governments. This includes national and international imports on economic fronts, dissemination of best practices from within the country as well as other countries, assimilation of new policy ideas and specific issue-based support.

2.10 FUNCTIONS AND ROLE OF NITI AAYOG

NITI Aayog formulated its objectives keeping in mind the national objectives as well as through the approach of national development along with the active participation of the states. Following are the main functions of NITI Aayog:-

1. Cooperative Federalism:- It will promote cooperative federalism through structured support initiatives and mechanisms on an ongoing basis with the states, recognizing that strong states make a strong nation.

2. Credible Plans:- It will develop mechanisms to make credible plans at the village level and disseminate them to higher levels of the government.

3. National Security:- National security issues will be considered and coordinated with any specific issues in economic strategy and policy.

4. The Weaker Section:- NITI Aayog will give special emphasis on the weaker sections of the society.

5. Policy & Strategy Formulation and Their Monitoring:- Policy and strategy will be formulated by the Commission and monitoring and feedback will be provided to encourage innovations and necessary midcourse reforms.

6. Partnerships:- It will make provisions to provide advice and promote partnerships between likeminded "Think Tanks" at the national and international level.

Academic and policy research institutions will be encouraged to work together to come up with new ideas.

7. Experts:- It will have this support system which will initiate creativity and entrepreneurship by uniting national and international experts from different fields.

8. Resolution Platform:- A platform will be set up to resolve inter-regional and inter-departmental disputes to enhance the level of execution of developmental projects and activities.

9. Resource Centre:- A state-of-the-art resource center will be set up which will be a repository of research on good governance and best practices in sustainable development across all sectors and departments and will help stakeholders access information.

10. Assessment & Evaluation:- Timely monitoring and evaluation of programs is necessary for effective and timely implementation of policies. Along with this, it is also helpful in estimating the required money and other resources.

11. Technical Upgradation:- Special attention should be given to upgrading technology in all sectors, so that projects can be better implemented.

NITI Aayog will aim to consolidate the vast pool of scientific and highly intelligent resources by adopting the approach of helping the tribal Indian community. To become a major power on the global economic stage, it will have to register its presence by participating in all such summits. Use of modern technology in all sections of the society has to be made a goal. The centre-to-state one-way flow of policy that characterized the Planning Commission era has been replaced by increased participation of Indian states, and a genuine and sustained partnership between them. 'Public policy' is mainly a means of directing social actions according to some clearly defined goals. Thus, public policy is "a directional means of achieving ideology-driven goals that usually arise from dialectical interactions between governments and the governed" (Pandey, A., Shukla, S.P. 2022).

On January 1, 2015, the Cabinet passed a resolution to establish the National Institution for Transforming India (NITI Aayog). This marked the end of the erstwhile Planning Commission, which had played an important role in the country's economy from very low initial conditions to a high growth path for more than six and a half decades. What prompted the NDA government to replace Planning Commission with NITI Aayog? What are its initiatives in the last four years? Was it inevitable to dissolve the Planning Commission and create a new institution to do what NITI Aayog is doing?

2.11 WHY DID NITI AAYOG REPLACE PLANNING COMMISSION

The Planning Commission was formed in 1950 through a cabinet resolution. It had no constitutional framework. It came into existence merely through an executive order and then grew by taking over the functions assigned to other institutions like the Finance Commission. The Director General is appointed by the Government of India, who has full authority to evaluate any scheme, program or project, that too without any interference from the government. He evaluates the Planning Commission.

The plans were centrally designed and in fact the states were not very happy with them. States were being hampered in following the Planning Commission's 'one size fits all' principle for implementation of schemes. While the states wanted more flexibility, they wanted the freedom to design, implement, experiment with new methods as per their own plans as well as spend the money allocated for various schemes, and this flexibility was not available to them. The evaluation investigation revealed that the real problem is not in the schemes themselves, but in the way the states approached them. It was also felt that different states should adopt different approaches, which was not available. The Planning Commission tried to bring some flexibility, but it did not have much effect. Moreover, most of the staff in the Planning Commission are generalists and not subject matter specialist areas, making it frustrating for the states to explain various issues. An organization needs to be reformed from time to time as per the changing circumstances. It is also important to look at the historical background to see for what purpose it was created and whether it is still fulfilling the purpose for which it was created. The evaluation found that the Planning Commission was initially conceived only as a 'think tank', but over time it took over the work of other institutions and facilitated the transfer of funds between the Centre, States and various Central Ministries started adopting a stubborn attitude in allotment. This was a function which should have been done by the Finance Commission and the Ministry of Finance for which they have been given ordinance, but the Planning Commission took these functions into its own hands. Whereas what was supposed to happen was that it should remain a 'think tank' and a plan should have been prepared for the long term. In which innovations, ideas of individual experts as well as suggestions on improvements should have been taken (Sharath.A.M., Dhananjaya.K.B.2019). The country has moved away from the "Nehru-Mahalanobis strategy" which envisaged substantial public investment and hence the need for a 'plan' to effect such investment (Patnaik, P.2014).

It was not that the Planning Commission could not play some role in countering neo-liberalism, but there was a need for a different role and framework than before.

It is also important to recognize that the erstwhile Planning Commission, though without any subject expertise, grew into a mammoth structure providing important policy advice and served the nation in some important respects. It is also true that for the first time it created a five-year framework for economic development based on detailed review and study and laid the foundation of strategy and macro-economic goals for the nation and its economy. Now this responsibility is on NITI Aayog. This new system is based on these how do you continue your efforts? The Planning Commission acquired the power for its allocation functions from various provisions of Article 282. Residual provision was meant to provide grant facilities for public purposes in abnormal circumstances, certainly this was not a constitutionally clear action. What was originally a planned transfer was transformed into formula-based resource allocation after 1969. This thread started in the name of the then Vice President D.R. Gadgil. However, it was improved several times and this formula was maintained despite strong opposition from the states. Articles 243(I) and 243(Y) were added following Constitutional Amendments 73rd and 74th and created a scope for a State Finance Commission, closely resembling the Federal Finance Commission, to correct vertical and horizontal imbalances at the state and sub-state level. It is important to underline that the 73rd and 74th Constitutional Amendments amended Article 280 to facilitate the Federal Finance Commission to supplement the resources of Panchayats and Municipalities on the basis of the recommendations of the State Finance Commission. The organic connections in Indian fiscal federalism are very clear and no restructuring ignores them. Thirdly, Planning Commission used to play an important role in project development and macro policy making and since NITI Aayog is going to be the only 'think tank', it will have to be given special attention (Umman. A.M., 2015).

Planning Commission has been replaced by NITI Aayog, after which perhaps the politics of pressure for special status can be curbed. Because its Governing Council includes the Chief Ministers of all the states and the Lieutenant Governors of the Union Territories. Along with the evolutionary change, it was also necessary to have this extensive change. It is also true that the Planning Commission was seen by some people as a rigid, narrow-minded and large bureaucratic organization that had a fixed formulaic approach to economic planning (Mehrotra, S. Guichard, S. 2020). Planning Commission has been replaced by NITI Aayog, after which perhaps the politics of pressure for special status can be curbed. Because its Governing Council includes the Chief Ministers of all the states and the Lieutenant Governors of the Union Territories.

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Economic liberalization resulted in significant and substantial changes in the relationship between the state and the market, especially in economic planning, resulting in a change in the planning context between them. Economic planning in India began in the context of the 'Single Party Dominant System' in which the Congress Party was in power at the Center and in almost all the states. If the leadership of the Center from 1947 to 1964 was in the hands of a charismatic political leader, the chief ministers of the states were also highly respected veterans of the nationalist movement. It is noteworthy that the most intense debate on planning strategy in the history of India's economic planning took place during the formulation of the Second Plan in the mid-1950s and state chief ministers took an active part in that debate, sometimes moving away from the centre were in opposition. Hence it was also observed that after coming back to his state he would do whatever he wanted to do especially with regard to land reforms and rural cooperative societies. After Nehru's death in 1964, the single party dominance system began to decline. It suffered a major setback in the 1967 elections, as a result of which most parts of North India came under the rule of non-Congress governments. Even when the Congress Party gained strength at the Center during the periods 1971–1977 and 1980–1989, it still had to contend with a large number of states which were under the control of non-Congress parties from time to time. Even before the emergence of economic liberalization in 1991, the tendency towards fragmentation of the national party system and regionalization of politics had become stronger. When in 2014-16, there was an unusual victory of BJP which was among the coalition governments. The stability of coalition governments often depends on the support of regional parties, so the later can exercise a veto on national policy and bend the Center to the interests of one or more states. Hence, it is clear that the flow of political influence from the states to the center and vice versa is political compared to the simplicity of the single party dominance system.

"Cooperative federalism" in India is not an option but a necessity for both the Center and the States. The Center needs the cooperation of the States to meet the challenges of the world economy and the States need the support of the Center to mitigate its deleterious aspects are required.

The Planning Commission functioned as the principal agency charged with the management of economic affairs between the Center and the States, although it prepared five-year plans based on economic parameters for the nation as a whole and it also made similar plans for the States. Also investigated and discussed with their representatives. Plans of various states were integrated within the overall national plan. Since the flow of funds from the Center to any state to implement its plan programs depended on its plan size profile, the state was encouraged to aim for a larger plan. As an economic agency at the Centre, the Planning Commission interacted extensively with the states and maintained frequent contacts with them on development issues but even these relations witnessed some ambiguity in the attitude of the states as it was responsible for development programs and projects. It was a source of additional funds for the state and the state always pressed for greater allocation on it. What is also interesting is that the states, in comparison to other agencies at the Centre, perceived the Planning Commission as an agency which was more impartial and with independent views and was conscious of the developmental interests of the states. The Planning Commission was also to understand that the primary objective of each sub-national government was to deliver programs or meet needs using its own resources, as well as to obtain maximum benefits from the Centre, so tensions between the Center and the states were natural. According to Baldev Raj Nayar (2020), overall the Planning Commission was a reasonably self-reflective and adaptive organization.

In the changed environment after liberalization and regionalization of politics, the Planning Commission laid more emphasis on coordination so that interdependence remained at the centre. In 2009, the Planning Commission inducted a new member from the private sector, "Arun Maira", to recommend ways and means to help overcome and improve planning, possibly in a new context. This was a sign of the Planning Commission's flexibility and openness to new ideas. But there were limits to the extent to which it could accommodate the demands of the state in disposing of funds and maintaining common standards across the many states of India, under its existing mandate but after embracing the many challenges of economic liberalisation. Even the Planning Commission could not satisfy the critics. Economists like D.R Gadgil attacked the Planning Commission for going beyond formulating the overall five-year plan and giving policy advice. They accused it of examining specific programs and projects and, more importantly, of releasing annual sums of money to various ministries and states. Accused of playing an active role in determining the allocation, after which the Finance Ministry was asked to include it in the annual budget. In the eyes of critics, the Commission was constantly expanding, turning itself into a counterweight to the national government,

with a vast and sluggish bureaucracy that encroached on the legitimate jurisdiction of other agencies (Mehrotra, S. Guichard, S. 2020)

Thus, it is appeared to be an adverse impact on the approach adopted by the Planning Commission regarding the role of allocating funds for development programs at the Center and the States. In a lecture on "A Vision For Planning" in 2011, Arun Maira seemed to agree with the view that, being hardwired to act according to the needs of a different era, the Planning Commission would have to adapt to the new context was unable to make significant contribution to national progress. the country had changed and become more decentralized politically and administratively and country's first priority was the South African "think tank" model, with little or no bureaucracy.

Although the government did not take any decisive steps to reform the Planning Commission till the end of the UPA regime, the recommendations of a high-powered committee headed by Dr. C. Rangarajan dealt a major blow to the Planning Commission. To improve public expenditure management, particularly by linking expenditure to outputs and outcomes rather than just inputs, the Committee recommended that there must be a distinction between plan and non-plan in favor of adopting a holistic approach to budget formulation and public expenditure. The gap should be removed.

Planning Commission member Arun Maira had said in March 2014, on the eve of the impending radical political change at the Centre:-

"The Planning Commission, according to its critics and according to its Chairman, the Prime Minister himself, has been rusting for a very long time. It has to improve itself and also improve the systems around it" (Maira.A, 2014).

Ajay Chhibber, Director General of the Independent Evaluation Office (IEO) of the Planning Commission, says - It is clear that the Planning Commission in its present form and functioning, is not a help in India's development, but a hindrance. In my experience, it is not easy to improve such a large and skeletonized body. It would be better to create a new institution in its place to assist states with ideological reasoning, provide long-term thinking and drive reform (Business Standard 2014).

2.12 MAJOR INITIATIVES

1. Atal Innovation Mission:-Atal Innovation Mission (AIM) is a major initiative of the Government of India with the aim of promoting the culture of innovation and

entrepreneurship in the country. Since its inception in 2016, AIM has established more than 10,000 Atal Tinkering Labs, 69 Atal Incubation Centres, 14 Atal Community Innovation Centers and launched 24 Atal New India Challenges across sectors (Niti Aayog Report, 2023). Atal Community Innovation Centers are a means to drive innovation towards achieving Sustainable Development Goals through new solutions in deprived areas of the country. Atal Community Innovation Center (ACIC) program was launched on 31 July 2019 under Atal Innovation Mission, a program of NITI Aayog to promote innovation in India.

2. Aspirational Districts Programme:- The objective of this program started in the year 2018 is to identify the socially and economically backward districts of the country and help in their overall development. Under this program, the progress of the districts is evaluated by NITI Aayog and they are given ranking. Since its inception, the program has studied ways to enable convergence of its three approaches: district, state and central level initiatives; To facilitate collaboration between civil society organizations, communities and district administration towards a common goal and preparing strategy to promote a healthy spirit of competition by releasing monthly ranks based on the performance of the districts etc. to reduce conflict with the districts (NITI Aayog Report, 2022)

3. Nutrition Campaign Program:- Nutrition Campaign was implemented in March 2018. The objective of that campaign is to reduce the problems like malnutrition, anemia in women and low birth weight of children in the country. This mission is under women and child development. NITI Aayog has played an important role in conceptualizing and organizing National Nutrition Month and Nutrition Fortnight across the country in the months of March and September 2019. The objective of celebrating Nutrition Month is to spread the message of nutrition to every corner of the country. Poshan Maah 2019 had five components: Child's First 1,000 Days, Diarrhea-Free India, Diarrhea Prevention, WASH (or Washing, Sanitation and Hygiene) and Nutritious India (NITI Aayog, 2020).

4. Zero Campaign:- NITI Aayog in collaboration with Rocky Mountain Institute launched Zero Campaign in September 2021, which is an initiative to promote zero pollution vehicles by working with consumers and industry. The campaign aims to accelerate the adoption of electronic vehicles in the urban delivery segment and sensitize consumers about the benefits of leaving zero pollution (NITI Aayog Annual Report, 2022).

5. Women Entrepreneurship Platform:- The Women Entrepreneurship Platform (WEP) is the first of its kind integrated-access portal to enable women of India to realize their entrepreneurial aspirations. The idea of such a platform was first mooted by NITI Aayog CEO Abitabh Kant, who announced its establishment at the conclusion of the eighth Global Entrepreneurship Summit held in Hyderabad in 2017, the theme of which was 'Women First, Prosperity for All' (NITI Aayog Report, 2020)

2.13 CHALLENGES

1. Expectations:- When an institution more than half a decade old is replaced by a new institution, people see it as bringing immediate change and development. The expectation to see change from people in general and intellectual critics in particular is a pressure on society.

2. The number of members in NITI Aayog is much more as compared to Planning Commission. Membership ranges from ministers to subject matter experts to state executive heads. Building consensus and trying to convince everyone will be a challenging task.

2.14 POSITIVE POINTS

1. Enthusiasm:- A new structure brings a new hope and enthusiasm. As can be seen in the current NITI Aayog, planning and brainstorming activities for development have gained momentum.

2. Flexibility:- This is the most important advantage. The Planning Commission was tied to the idea of five-year plans, with the advent of NITI Aayog, things like 15-year vision document and 7-year mid-term goals were done with periodic review and necessary amendments could be made from time to time. This will work for me.

3. Cooperative Federalism:- The entire Planning Commission was central, but NITI Aayog constantly consults with the heads of state governments and union territories.

4. Budget:- Earlier they used to have a budget allotted for workers/studies which is not the case anymore rather they get it from the concerned state/union department.

5. Empowerment:- While taking less bureaucratic initiatives in NITI Aayog, 'Think Tank' is emphasizing on more experts as a result of which consultants are working on many areas (Sharath, A.M. Dhananjaya. K.B., 2019)) | NITI is mandated to provide a significant directional and strategic input to the development process through its commitment to egalitarian access to opportunity, promoting collaboration, federalism and civic engagement.

2.15 CONCLUSION

The National Institution of Transforming India is a policy "Think Tank" of the Government of India whose objective is to "promote coordination and participation in the economic policy making process by the state governments of India." NITI Aayog seeks to facilitate and empower the critical need for good governance that is people-centric, participatory, collaborative, transparent and policy-driven. It accelerates the developmental agenda in line with the principles of 'minimum government and maximum governance'. In this way, NITI Aayog can generate means of knowledge and innovation with the participation of experts. NITI Aayog is also a non-constitutional body like the Planning Commission, which is constituted by a Cabinet resolution. NITI Aayog is entrusted with the responsibility of promoting cooperative federalism through structured support and initiatives to influence state coordination and decentralized planning and to develop mechanisms for formulating credible plans at the village level and progressively aggregating these to higher levels of government.

2.16 PRACTICE QUESTIONS

1. What the meaning of Niti Aayog.

2. Differences between Niti Aayog and planning commission.

3. Briefly explain seven pillars of effective governance of NITI Aayog.

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UNIT 3
CONDUCTING ELECTIONS: ELECTION COMMISSION OF INDIA

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Structure

3.1 LEARNING OBJECTIVES

- Students after studying this chapter, will be able to develop their knowledge on Election Commission of India and to know about the structure & functions of ECI.

- Students will be able to understand ECIs constitutional history and constitutional provisions.

- Students will be able to study more new technological innovations in ECI and know more new concepts like, EVM, SVEEP and eco friendly election.

3.2 INTRODUCTION

Election commission of India was estaibiled under the constitution of India, which provides the structure of government for the independent state. It was established in accordance with the constitution on 25th January 1950 (celebrated as National voters' day). The election commission has performed effectively as an independent body which is responsible for the conduct of free and fair elections (U.K. Singh). Election commission, as Mozaffar and schedler (2002:6) suggest,' good election are impossible without effective electoral governance.' The high regard of election commission also points to a more general paradox concerning India's public sector institution, or what lant Pritchett calls India's 'flailing state'. while scholars Lloyd and Susaane Rudolph have rightly praised the commission for serving as an effective 'bulwark of free and fair elections. Its status as regulator has not been free from controversy (U.K. Singh). Its role as a neutral 'referee'.

ECI has accomplished the constitutional task of deepening electoral democracy through institution building, transparency & accessibility, adopting the inclusive approach, and strengthening it through process simplification and proactive intervention. ECI exhorted the voters to 'vote without fear ', brought it into the public arena as an institution entrusted with carrying out the constitutional mandate of 'fair and free election. By Yogendra Yadav, the phenomenon of increase in voter turnout has also been seen as a democratic upsurge (Yadav, Yogendra,1997, 1999).

3.3 CONSTITUTIONAL PROVISIONS OF ELECTIONS COMMISSION

Set up in 1950 with Sukumar Sen as the first CEC, the ECE was unlike other administrative institution of the state such as the army, the bureaucracy and all of which reflect the structural logic of 'rule and authority' of the colonial state. The cornerstone of the ECI's mandate derives from Article 324 of the constitution, which grants it the authority over the 'superintendence, direction and control of the parliament, state assembly, presidency, and vice-presidency. Article 324 also clarify that the commission is to be led by a single chief election commissioner (CEC), although it gives the president the authority to appoint additional commissioner. The framers of the Indian constitution

appeared to have little expectation that the workload of the Election commission would be a demanding one;' It may be at times heavy and at other times it may have no work' (Ambedkar, 15 June 1949, CAD 8;906).

The final wording of Article 324 of the constitution stated that:

1) **Part XV (Article 324-329) of the Indian Constitution:** It deals with elections and establishes a commission for these matters.

2) **Article 324**: Superintendence, direction and control of elections to be vested in an Election Commission.the superintendence, Direction and control of the preparation of the electoral rolls for, and the conduct of.all elections to parliament and to the legislature of every state and of election to the offices of president and vice president held under the constitution –shall be vasted in the commission (referred to in the constitution as the election commission).

3) The election commission consist of the CEC and such number of other election commissioner, if any as the president may from time to time fix and the appointment of the chief election commissioner and other election commissioners shall, subject to the provision of any law made in that behalf by parliament, be made by the president.

4) **Article 325:** No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll-on grounds of religion, race, caste or sex.

5) **Article 326:** Elections to the House of the People and to the Legislative Assemblies of States to be based on adult suffrage.

6) **Article 327:** Power of Parliament to make provision with respect to elections to Legislatures.

7) **Article 328:** Power of Legislature of a State to make provision with respect to elections to such Legislature.

8) **Article 329:** Bar to interference by courts in electoral matters

The precise areas of dispute appear around the competing claims of the parliament and the ECI over, respectively, the power and the responsibility to govern the electoral domain. Over the years, the powers of the ECI have both deepened and widened so that its constitutional powers of superintendence and control of elections became more pronounced vis-à-vis competing claims of the political executive to limit it through its powers to legislate on it. Dipping into the 'reservoir' of powers, which Article 324 of the constitution has vested in it, the ECI has marked out 'election time' as 'special

time' (Gilmartin, 2009). to enable unharnessed and uncoerced exercise of the sovereign act of voting by the citizen-voter (Gilmartin, 2009).

3.4 ELECTION COMMISSION: STRUCTURE AND FUNCTIONS

The function of election commission, as set out in article 324(1) were remarkably broad. The responsibility for the conduct of all major election in such large democracy –one which previously had only a partial franchise, and an electoral system and machinery controlled by a colonial administration was a huge undertaking. The election commission of India is often seen as an institution which reflects the sagacity of the constituent assembly in providing a constitutional body which would guard against self-destructive tendencies within democracies, by performing an oversight function over the conduct of election (thiruvengadam, 2018, p.138). Devesh Kapur and Pratap Bhanu Mehta (2005) have referred to the ECI as a "referee institution", while James lyngdoh, former chief election commissioner (CEC) sees the ECI performing the role of a 'PITCHER'(Lyangdoh,2004).

3.5 APPOINTMENTS AND TENURE

Article 324 of the constitution states that the ECI shall consist of the Chief election commissioner and such number of other election commissioner, if any, as the president my from time to time fix. the appointment of CEC and other election commissioner (EC) is made by the president, and article 5 of section 324 states that the CEC can only be removed from his office in like manner and on like grounds as a judge of supreme court.the article also allow for the president, after consultation with the ECI, the authority to name regional commissioners to assist with election, if deemed necessary.

The question of whether the authority of the election commission should be vested in a multi member body has long been an issue in the debate over electoral reform. In 1972, the joint parliamentary committee on reform of electoral law suggested that the chief election commissioner should be supported by the appointment of other election commissioners, as allowed by article 324 of the constitution (ALI 2001:41).

The Tarkunde Committee on election reform (1975), (appointed by citizens for democracy) suggested multi member body, and proposed that the selection of commissioners, rather than being in the hands of a committee consisting of the prime minister, leader of opposition in the Lok Sabha, and Chief Justice. A similar proposal was made by the all–party Goswami Committee on Election Reforms in 1990. The chief election commissioner, PERI SASTRI, thought the issue worthy of consideration in the late 1980s but was not prepared for the sudden nomination of two extra commissioners instigated by the Rajiv Gandhi government, in October 1989. The change was seen as an attempt to undermine the independence of the election commission, in the run up to the Lok Sabha elections, and the two new commissioners (S.S. Dhanoa and V.S. Seigal) were removed by the incoming government of V.P. Singh (Ali 2001:30).

For the first several decades after the independence, the ECI was guided by a single cec, although since 1993 (for reason elaborated below), the ECI has operated as a three –member body with decision taken on the basis of consensus. although there is no formal provision of law that stipulates ECs should be drawn from the Indian administrative services, this has become customary. after some controversy, the term of service of the commissioners were fixed by parliament so that all commissioners will be treated equivalent to judge of the supreme court (in terms of salary, perquisites, retirement, etc). commissioners are appointed to six year terms and are subject to a mandatory retirement age of 65. The issue of partisan over appointments emerged in a blaze of controversy in January 2009, when the chief election commissioner Gopalaswami wrote a letter to the president recommending the removal of election commissioner Navin Chawla reflecting complaints made to the president from the bjp, alleging that Chawla favoured the congress party. The president Pratibha Patil, declined to act on the recommendation. The controversy highlighted two institutional weaknesses in the structure of the election commission : the potential for partisan appointments by a government and the difference in security of tenure for the chief election commissioner and election commissioners..the event of 2009 reawakened interest in the idea of the Tarkunde committee(1975) and Goswami committee (1990) the election commission should be selected by a committee, including a representative of opposition parties. These recommendations sought to weaken the influence of government over the president's choice of election commissioners. The relative weakness of tenure for election commissioners, who legally could be seen to be serving at the behest of the chief election commissioner, had been raised by the election commission in 2004,

when a proposal was made to entrench the election commissioners in the same way as the chief election commissioner (Katju 2009:10).

The work of ECI is supported by a secretariat based in New Delhi. According to former Deputy Election Commissioners R.P. Bhalla, the ECI began its life with a skeletal staff comprising a handful of officers working for the constitution assembly who were rendered unemployed once the assembly concluded its work. The administrative machinery related to India's electoral system is intricate and multilayered. At the top, of course, sit the ECI, which is the apex body for administering elections. The rights of the election commission to censure government officials who have been co-opted to carry out Election Duties has been a source of controversy. The ECI's writ does not extend to elections that take place below the state level. The 73rd and 74th amendments to the constitution, which established new local governance structure in rural an urban India, authorized the creation of autonomous state election commission (SECs) to oversee the conduct of elections to rural panchayat and urban local bodies (D. Kapur: 370).

Under article 81 of the constitution, parliament has authority to make laws related to delimitation, which they have typically outsourced to an independent set up after each decennial census. The ECI,however, has played a supporting role in assisting the various delimitation commissions, although it lacks any legal or supervisory authorities in this regards.

3.6 REGULATORY RESPONSE

As McMillan writes, 'A weak legislative framework and the slow and imperfect functioning of the judiciary have created a vacuum of authority into which the election commission has frequently been drawn.'

3.6.1 Electoral Rolls and Voter ID

The electoral process begins with the preparation of electoral rolls. If the rolls are incomplete or defective, The whole electoral process is vitiated. Any serious attempt at electoral reform, Therefore, must first tackle the question of faulty electoral rolls. At present the election commission is responsible for preparing the electoral rolls for Assembly and Parliamentary constituencies. The state Election Commission are

responsible for electoral rolls for local body elections. In some states, the EC and state election commission (SECs) have agreed to coordination the preparation of electoral rolls. The Commission recommends a foolproof method of preparing the electoral roll right at the panchayat level constituency of a voter and supplementing it by a foolproof voter ID card which may in fact also serve as a multi-purpose citizenship card for all adults. A single exercise should be enough for preparing common electoral rolls an ID card. The task could be entrusted to a qualified professional agency under the supervision of the EC and in coordination with the SECs. The rolls should be updated constantly and periodically posted on the website of the Election Commission and CD ROMs should be available to all political parties or anyone interested. Prior to election, these rolls should be printed and publicly displayed at the post offices in each constituencies,as well as the panchayats or relevant constituencies HQs. These should be allowed to be inspected on payment of a nominal fee by anyone.

3.6.2 Voter Registration

One of the foremost challenges facing the commission involved voter registration, which gets to the heart of the participatory democratic process. in practice, the commission interpreted its mandate as an voters for ensuring their place on the electoral rolls (Roy: citizens,'174). The ECI's decision to place the burden of registration on itself, rather than on the voter, has been fraught with practical challenges. Indeed, the commission has found itself in the uncomfortable position of taking decision on the matter related on citizenship.

As the political scientist Anupama Roy explains, commission –backed by the court –was granted the power to decide… whether those who laid claims to being eligible to vote were in fact citizen. (ibid)

The ECI, reluctant to wade into such murky waters, responded by placing the burden on voters to disclose their citizenship status, but the precedent of blurring the lines between citizenship and voter eligibility had been established (ibid: 175). Still today, controversies about voter registration remain with urbanization posing a particular challenge to the work of election authorities. Due to rapid urbanization, maintaining up-to-date voter lists in urban area Is an immense challenge. As several experts warned in a 2012 column: this is not about bureaucratic neglect or administrative incompetence, but rather the early warning signs of a new order: a dynamic mobile urban citizenry (R, Ramanathan and Krishnamurthy, 2012)

3.6.3 Nomination of Candidate

Two kind of issues mention here: first is related to the proliferation of candidates and parties contesting election. In an attempt to regulate entry, candidate have been require to submit a security deposits, which they forfeit if they obtain less then one-sixth of the vote share in their respective constituency.

The second issue related to the criminalization of politics. For many years ECI had been agitating for either new powers to bar candidates facing serious criminal cases from standing for elections or, at the very least, the authority to make transparent the criminal and financial details of nominated candidates. in response to PIL filed by the association for democratic reforms, a good governance non-governmental organization, the supreme court in 2003 clarified that the ECI could require that all candidate standing for elections at the state and national levels must submit, at the time of nomination, a judicial affidavit declaring the candidate's criminal, educational, and financial records, ECI framing new guidelines for disclosure, which have improved the level of transparency voters can access about the candidate in fray. As, CEC Gill also asserted his authority to qualify candidates for 'corrupt practices' under section 8A of the RPA; the president has to act on the ECI's opinion. however, court very rarely upheld the corrupt practices charge.

3.6.4 Regulation of Parties

The 1951 RPA grants the authority of registering political parties to the ECI, which requires that parties furnish the agency with a copy of its party constitution. The election symbols (RESERVATION AND ALLOTMENT) ORDER,1968, an order to provide for specification, reservation, choice and allotment of symbols at elections in parliamentary and assembly constituencies, for the recognition of political parties in relation thereto and for matters connected therewith. Parties can gain or lose symbols (including to other parties, who can adopt those symbols in subsequent election) and that the ECI, by default, has been saddled with the unenviable task of deciding with faction retains the symbol in the case of party splits. ECI categorizes party as 'national' or 'state' parties, based on parties performance.

In recent decades, ECI has a major issue facing India's democracy is the lack of democratic norms and procedures with in political parties, a practice that only flouts the ECI's requirement that parties adhere to such practices (P.B. Mehta, 2001). The

ECI under T.N. Seshan declared that the commission can, and would, deregister any party that did not adhere to its internal constitution (McMillan: 193). Seshan and Gill, interpreted this to mean that parties would have to hold internal elections. Subsequently ECs stuck to this line, although they eventually backed off once it became clear that withdrawing recognition on such ground would like to be challenged in the courts. however, seshan did succeed in getting shiv sena leader bal Thackeray banned from contesting elections for six years, a victory only in principle since thackeray never actually stood for elections. the purpose of forcing parties to hold internal elections was to eliminate the entire party leadership, which was made powerful by the anti-defection law, and to reduce the threat to the ECIs authority from their leaders.

3.6.5   Conduct of Elections & Model Code of Conduct (MCC)

The extraordinary nature of election time is characterised by both a bar on judicial interference in the constitution and a corresponding juridical vacuum explicitly laid down in the RPA, 1951, for addressing issues that arise in the course of the conduct of elections. The RPA of 1950 and 1951, which provide the statutory framework for the conduct of elections in India, identify offences which may be committed by individuals during elections.

The ECI defines the MCC as 'A set of norms which has been envolved with the consensus of political parties who have consented to abide by the principle embodied in the said code and also binds them to respect and observe it in its letter and spirit'.

The MCC, on the other hand, introduced an innovation by providing a disciplinary regime for political parties, empowering the election commission to call political parties to order, making them accountable for the conduct of individual members. Moreover, while the legal frameworks pertaining to electoral offences and corrupt practices under the RPAs, come into effect only after the electoral process is over, the MCC comes into play during election time, ensuring the direct disciplinary control of the election commission over political parties, offering a system of supplementary legality to plug the legal vacuum that exists during election time(U.K.Singh). It may be recalled that Article 329 puts bars to interference by courts in electoral matters including election to either house of parliament or a state legislature.Devesh Kapur and Pratap Bhanu Mehta have categorised the election commission along with the Supreme Court as order-maintaining, referee institutions, exercising primarily the task of restraining other public institutions within a given framework of rules (Kapur & Mehta: 4).

The ECI first utilized the MCC at an all India level in the late 1960s, although it made several substantial revisions to the code along the way to adopt to changing circumstances. however, it was not until 1982 that all parties accepted the model code, allowing it to fully take root. until the 1990s, the MCC was largely a set of norms the ECI championed, but did not actively police. This changed in 1990s for a few reasons (U.K. Singh, 2012: 149-169). As Singh pointed out, the emphasis on the 1990s as a critical juncture is possibly overstated. Following emergency rule, the ECI did engage in a bout of activism in order to restore its constitutional role and reinforce democratic procedures with respect to elections. Both had taken a hit during this period from 1975 to 1977.

The issue of 'electoral time' has several additional aspects. with the consent of ECI, Parliament agreed to reduce the campaign period from three week down to two. while two campaign period has shrunk, ironically election now unfold over a great length of time. in 2014 general election unfolded over nine phases, spanning five weeks. likes many big states elections taking several weeks, or occasionally few months in phrases. Another has to do with the actual timing of elections itself, or 'time – tabling'. while the basic parameter of scheduling elections are detailed under existing statute, the ECI does have significant latitude in determining the precise timing and sequencing of elections.

Seshan played a central role in re- asserting the ECIs authority, it was under Gil's stepwardship and deft political, as well as internal management within the ECI, that the new three member ECI came to be institutionalized in 1997- 2001, a period of political flux followed by a relatively stable bjp - led national democratic alliance government. It was first Gill who initiated the practice of transferring all district –level civil servants and police officers, down to tehsildars, who had been in their posts for four and more years at the of announcement of elections. This process has since become customary, with the modification under CEC Qureshi that those who had served in the same post at those level for three of the preceding four years would be automatically transferred. By Qureshi's appointment in 2010, this practice gave the ECI appointment and transfer power over election roughly 40% of the state bureaucracy.

3.7 TECHNOLOGICAL INNOVATION AND STRATEGIC VOTER EDUCATION AND ELECTORAL PARTICIPATION (SVEEP)

The new technological tools have enabled the commission to bring in more efficiency, widespread reach, and accountability in the conduct of free and fair elections in recent times. India is one of the earliest adopter of electronic voting technology. An important channel by which the ECI has been able to maximize its capacity has been adoption of technology (Kapoor & Mehta: 386). McMillan explains, the commission first experimented with the use of electronic voting machine (EVMs) in 1982, though the supreme court disallowed their use in 1984 (McMillan,104).

Since 2003, the ECI has used them for all state and national elections. For the 2014 general elections, the ECI employed more than 1.7 million such voting machines. The introduction of professional management system with extensive and intensive use of information and communication technology (ICT) and vastly improved system and procedures in electoral management enhanced the ECIs 'event management 'function. The ECI also took the initiative to install critical ICT infrastructure in place at the national, state, and district level (D. Kapoor & Mehta: 387).

The use of EVM has contributed significantly to address the plague of electoral malpractice India witnessed in prior decades. the commission has used technology to tackle electoral malpractice in other ways as well.

Beginning in 2007, the ECI conducts a 'vulnerability mapping' exercise prior to every election in order to determine which polling booths face the greatest likelihood of violence or unrest (M. Scharff, 2011). For the 2014 general elections, according to the ECI, 75,237 hamlets were identified as potentially 'vulnerable' and 250,892 individuals were targeted as 'possible intimidators'. To monitor and inventory potential security threats, in 2009 the ECI hired nearly 75,000 videographers to assist its officers (S.Y. QURESHI, 2011).

Another technological innovation relates to communications for election monitoring. A perfect communication plan is essential for effective election tracking. it is implemented to computerize communication details of all the polling station and to ensure the connectivity between the ECI and booth level officers to overseeing individual polling stations and ECI using technology to receive real time updates like: any instance

of voting disruption, status on election, status of polling party, announcing information about voters and providing voter slip to voters etc.

Another instance where technology has not been a panacea relates to the registration of voters. Because the task of registering voters and ensuring updated rolls is so burdensome, technology has the potential of improving efficiency. but the ECIs efforts in this area have been uneven. during his tenure as CEC, T.N. Seshan was particularly seized by the issue of voter registration, viewing any shortcomings in in the electoral rolls as a blemish on India's democracy itself (Kapoor & Mehta: 388).

Seshan pursued a 'quixotic' campaign to solve the problems of registration and verification through the provision of voters identification card (McMillan,191). In 1997, the commission shifted gears, investing instead in the computerization of the electoral roll. This has reduced the administrative burden on the Commission, although it is perhaps of limited relevance to voters who lack internet access. voters photos have now been integrated with the electoral rolls.

Election commission of India developed a suite of 20 apps that provides a perfect ecosystem for rolling the giant wheel of the electoral system from registration to results. The elections have following 4 technological phases where the ecosystem of these applications are used. These four phases are described briefly as below: 1) NON- ELECTION: this phase depicts the continuous phase when the voters register into the system and there are no major elections scheduled. The election commission of India utilizes ICT application for new voter registration, correction of entries and migration cases apart from polling station rationalization (Election commission of India). Voter portal, Voter helpline mobile app, short message service (sms), toll free number,persons with disabilities (PWD) app,ECI RTI PORTAL, systematic Voters' Education and Electoral Participation (SVEEP) PORTAL AND ECI website, these are some methods by which a new voter is engaged.

2) PRE- ELECTION: this phase starts generally one year/6 months before the elections and extends up to the date of the announcement of elections. This phase is characterized by election planning and preparation. To track and record the end to end movement for each machine from placement to destruction, a seventh application was developed as a new centralized software and is called EVM Management System (EVM).the whole process of the randomization of ballot unit,control unit, and VVPAT is done multiple times in the presence of political parties and then finalized using the EMS softwares.

3) IN- ELECTION: this phase is the most important phase which starts from the date of the announcements, runs through the poll day, and ends on the conclusion of counting. the Cvigil app which stands for citizens vigilance is a mobile application designed by the ECI, with an opportunity to report election code violation directly by citizens. MCC violation portal, candidate nomination application, ENCORE Scrutiny application, candidate affidavit portal, ENCORE Nodal App these are the most important apps during the date of the announcement to date of poll and on the date of poll voters using quick search app likes, Booth app, voter turnout app and on the date of counting, results ECI portal to ensure fast and authentic results of the elections, a very important application has been developed. the ECI hosted the website results ECI. This website witnessed 812.3 million hits in a sinlge day during the lok sabha election of 2019. And the results are also available through the voter helpline and Pwd app and result trends TV has been launched which is a customizable auto scrolling panel displaying the result in real-time.

4) POST- ELECTION: The phase signifies the time when the reports are generated and post audits are done after the end of the elections. In this particular section Election Expenditure App and Index card are two important applications using post elections phase. The application developed for monitoring day to day election expenditure incurred by the candidate and is called the election expenditure app. And the index card is an important module of ENCORE. The final statistical report of the election is managed in the index card application.

SVEEP

The ECI has also invested new resources in educating voters to get involved in the political process through its systematic voter's education and electoral participation (SVEEP) programme, the commission has ramped up its voter mobilization and registration efforts. While causal attribution is difficult, these efforts appear to be paying off. In the 2014 general election, India recorded an all time high voter turnout: 66.4%.

Mozaffar and Schedler (2002) consider the principle of procedural certainty an essential guiding principle of electoral governance in societies which are 'democratising' but equally valid for long sustaining democracies where elections have become 'routine'. The invocation of best practices is part of a tendency in election administration that sees the conduct of elections as efficient management, transforming the election commissions into one of EMBs. The EMBs are expected to manage elections as 'enforcement enterprise'. One component of this enterprise is SVEEP, a 'best practice'

which, however, the election commission describes as being distinct for having a 'different character'—which is one of 'election development'(SVEEP,ECI).

As a voter education programme, SVEEP was expected, through what the ECI called officers with 'a distinct social orientation and collaborative approach', to enhance voter participation and diminish the 'democracy deficit' that had seeped into democracies across the world (SVEEP,ECI). According to official ECI figures, voter turnout in the district for the parliamentary election in April–May 2014 had doubled from the previous elections held in 2009, from 43 per cent to 81 per cent. Hitherto excluded groups (nomadic populations such as the Gujjars and Bakerwals, migrants and those displaced by conflict, women and persons with disability) were included into the electoral process through what the official SVEEP report for the district presented as 'innovations', leading to an unprecedented enhancement in their participation.

3.8   ECO- FRIENDLY ELECTIONS

Election commission has issued advisories onseveral occasions urging political parties and candidate to use only environment-friendly material and to avoid single –use plastic and non-biodegradable material in their election activities. Protecting the environment is not an individual task but a collective responsibility and hence the commission urges all the political parties to avoid the use of plastic /polythene and similar non-biodegradable materials for preparation of posters, banners, etc. during election campaign in the interest of environment and human health (Election commission of India, Press Note, 2023)

3.9   CONCLUSION

Election commission of India is primarily an administrative institution. The election commission has an important constitutional role in maintaining the legitimacy of the democratic process which it has, to a large extent, performed successfully. the ECI has been relatively successful compared to other public institution due to the crucial role played by a combination of structure and agency in its evolution. the strength and independence of the election commission is crucial, but has to be exercised with some restraint. while arguing that political mobilisation may have 'often exceeded institutionalisation' affecting institutions adversely, Kapur and Mehta (2005, 4) suggest

that it would be wrong to presume that that there is a direct proportionality between the two and that Indian public institutions are 'severely stressed and weakening'. The impact of political mobilisation, they argue, has been uneven and variable, strengthening some institutions, while weakening others. Indeed, pointing at the increase in 'veto points' within the government, Kapur and Mehta identify the emergence of 'referee institutions' like the election commission and the Supreme Court, as one aspect of the strengthening of institutions. The choice of the expression 'referee institution' for the election commission as in the case of the expression 'regulatory institution' used to refer to the election commission by the Rudolphs and following them by Allistair MacMillan has significant implications. Both refereeing and regulating connote specific functions, but these may not be the role that the election commission is expected to perform or even what it is perceived to be performing. Far from being a neutral arbiter and rule implementing body, the ECI has become a prominent player in the electoral game by determining its rules, strengthening and reinforcing them where they appear to be weak, and plugging gaps by devising new rules, becoming in the process, as former CEC James Lyngdoh remarked, a 'pitcher' in the football game. The contestations around Article 324, the manner in which the MCC as an instrument of supplementary legality has evolved and innovations such as SVEEP are indicative of a more expansive role the ECI plays within the shared institutional space of democracy. The real test of election commission is in the legitimacy of a democratic government, and the public's faith in free and fair elections.

3.10　　PRACTICE QUESTIONS

1. What is the importance of elections in democracy? Explain.
2. Critically evaluate the role and functions of election commission of India ?
3. Explain the concept of FREE and FAIR elections, with the suitable arguments.

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UNIT 4
SECURING CITIZENS: THE POLICE

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Structure

4.1 LEARNING OBJECTIVES

In the lesson student will be able to understand:

- Meaning and nature of Police in India.
- Challenges in policing
- Reforming India's Policing system
- Accountability & challenges in citizen complaints in reference to Police.

4.2 INTRODUCTION

The chapter' Securing Citizens- the Police' deals with the evolution of the 'police.' The origin of the police system stems from the necessity for societal order. Western contractual political thinkers like Hobbes, Locke, and Rousseau also advocated for a structured system to protect people's rights in their societies. The chapter's primary

focus will be on the distinctive behavior of the police force during and after the British Raj. In pre-colonial, colonial, and post-colonial times, the police force played a crucial role in the significance of every evolving political system. This chapter examines the positive and negative aspects of the police system in India. Additionally, it suggests that implementing reforms, especially in emergency response calls within the police force, can bring about a much-needed and critical change benefiting the police and citizens, ultimately contributing to maintaining order in Indian society.

4.3   WHAT ARE POLICE?

The term 'police' originates in the Greek word 'Polis' and the Latin term' Politeia,' which means 'city' and 'conditions of a State.' Police, in simple terms, act like the rulekeepers in society. They ensure everything runs smoothly, everyone plays by the rules, and the public stays safe. As per the Oxford Dictionary, 'police' is a system that helps keep things orderly and enforces laws. A police officer, as described by the Royal Commission on Police Powers and Procedure in 1929, is someone who carries out specific duties for the public good, whether they are paid or do it voluntarily.

As a crucial component of the executive system, the 'police' plays a significant role in implementing laws and policies formulated by lawmakers.

The Indian police system has the most detailed command hierarchy in the world, i.e., headquarters, range, district, subdivision, circle, and station. The system includes four leading lateral recruitment positions: Indian Police Service Officer, Provincial Police Service Officer, Sub-Inspector, and Constable. Constables cover more than 90 percent of it.

4.4   EMERGENCE OF POLICE

The history of organized and legally controlled police systems in ancient India remains somewhat elusive before British rule, challenging the notion that the British created the Indian police system. While records are scarce, traces of security organizations in the Harappan Civilization suggest using security guards to protect Indian merchant

townships. The ancient text Manu outlines the early principles of social order and emphasizes the state's duty to preserve peace and punish wrongdoers.

4.5 PRE-COLONIAL PERIOD, POLICING IN ANCIENT INDIA: A COMPREHENSIVE OVERVIEW- (320-1200 A.D.)

Manu, a key figure in ancient literature, was crucial in shaping early Indian societal norms. According to Manu, the state was responsible for maintaining peace at home and ensuring freedom from external threats. The king was tasked with preventing crime and administering justice. The concept of 'Danda' symbolized the state's coercive power and laid the groundwork for the birth of a rudimentary police system.

Epic narratives like the Ramayana and Mahabharata shed light on the importance of protecting subjects as a fundamental duty of the king. Instances of police squads capturing Hanuman in Lanka and crowd control measures upon Lord Rama's return from exile are found in these ancient texts. The concept of 'Danda' as a symbol of the right to punish was a central political idea in old India.

4.6 POLICE ORGANIZATION IN ANCIENT PERIOD

This section will examine the historical landscape spanning the Delhi Sultanates (1206–1526 CE) and subsequently explore the dynamics of the Mughal era (1526–1860 CE). In ancient India, the maintenance of law and order was a crucial responsibility of the state, akin to its modern counterpart. However, the distinction between police and military officers was often blurred, presenting a unique challenge in understanding ancient policing. Delving into the intricacies of police administration, we find a fascinating hierarchy that spanned from village to city levels. Let us journey through the annals of time to unravel the fascinating intricacies of ancient Indian policing. According to Bayley's analytical scheme, policing under Islamic systems tends to be singular and highly centralized.

4.6.1   Village Level Policing

At the grassroots level, the village chief, known as the "gramini," played a pivotal role in preserving law and order. Their duties included apprehending culprits and ensuring the well-being of soldiers and officers stationed in the village. Villages were even taxed for hosting these officers, reflecting a community-wide commitment to maintaining security. Moving up to the district level, officers known as "pradeshta" were tasked with maintaining law and order, collecting taxes, and occasionally serving as judges. The fluidity between these roles mirrors the complexity of ancient policing, as seen in Kautilya's Arthashastra.

4.6.2   Urban Level Policing

Kautilya's Arthashastra provides detailed insights into urban policing, introducing the concept of "Ashtadasha Tirthas," or 18 great officers. Notably, at the palace level, "Dauvarika" and "Antarvansika" oversaw inner and outer security, with the latter possibly being female. The city administration featured officers like "Durgapal" or "Kotapal," responsible for maintaining law, order, and revenue collection.

4.6.3   Road Security

Recognizing the threats faced by travelers on roads and trade routes, ancient India had officers like "Anthapal" tasked with securing these pathways. They not only guarded the kingdom's frontiers but also collected road tolls, providing a form of insurance for merchants against robberies.

4.7   CRIMINAL LAW ADMINISTRATION

Kautilya termed criminal law "Kantaka Sodhana," emphasizing its role in clearing thorns. Lower-level officers known as "Chatas" and "Bhatas" were integral to this system, doubling as soldiers during wartime. However, historical inscriptions suggest that these officers sometimes abused their power, echoing modern concerns of police misconduct.

In ancient India, the state's duty to provide security and uphold law and order was ingrained in its societal structure. The intricate web of officers at various levels highlights the interconnectedness of roles, reflecting a nuanced approach to policing. The challenges and nuances of ancient policing, as outlined in texts like Kautilya's Arthashastra, reveal a system that grappled with maintaining order, collecting revenue, and administering justice in a manner that echoes through the annals of time.

The Arthasastra, a literary work developed alongside Dharmasastra, covered various aspects of state administration, including executive, legislative, judiciary, police, and military. Kautilya, the author and minister of Mauryan Emperor Chandragupta, is regarded as the father of the modern concept of policing. His 'Dandaniti' outlined a comprehensive system of policing and bureaucracy, setting the foundation for the governance of the time.

4.8 EVOLUTION TILL THE GUPTA PERIOD

Until the end of the Gupta period in 540 A.D., the king bore ultimate responsibility for losses due to theft. The village headman, aided by a council, played a role in apprehending criminals, and the indigenous police system operated based on land tenure and collective responsibility within the village community. The headman-maintained law and order through a network of subordinate tenure holders.

In conclusion, the evolution of policing in ancient India reveals a sophisticated understanding of governance and justice. Rooted in the principles outlined by Manu and expounded upon by Kautilya, the early policing systems were integral to maintaining societal order and protecting the well-being of the citizens. These ancient practices laid the groundwork for developing more structured policing systems in subsequent historical periods. (Police Administration in Ancient India by K. K Mishra, Police in Ancient India by Anupam Sharma)

4.8.1 Policing and Justice in Medieval India: A Comparative Study

This chapter delves into the fascinating realm of policing during two critical periods in India's history – the Delhi Sultanates (1206–1526 CE) and the subsequent Mughal

era (1526–1860 CE). The analysis draws from the insightful classifications of policing structures by scholars, particularly the concepts of centralization and decentralization outlined by Bayley (1985).

In the global context, the study of policing systems often hinges on the type of command structure (centralized/decentralized) and the number of forces to be supervised (single/multiple). Notably, Islamic systems, as exemplified by Saudi Arabia and India during these historical periods, tend to exhibit a singular and highly centralized approach to policing. This uniqueness is illuminated through the utilization of local and informal methods before resorting to formal police apparatus, emphasizing strict compliance with Islamic tenets.

4.8.2 Sultanate Period (1206–1526 CE)

The narrative unravels with the early Muslim incursions into India, marking the beginning of the eighth century. While the initial impacts were limited, subsequent incursions during the eleventh century, led by Turks, Persians, and Afghans, had a profound effect. Within the sultanate period, the Kotwal emerged as a central figure responsible for policing duties. Assisted by local inhabitants and an elite civil force, the Kotwal acted as a committing magistrate, overseeing urban and rural areas. The Muhtasib, another significant official, played a multifaceted role as an inspector general of police, chief engineer of public works, and enforcer of public morals. A distinctive feature was the simultaneous occupancy of the offices of Kotwal and Muhtasib by a single person, the Amir-i-dad, signifying their paramount importance.

4.8.3 Mughal Period (1526–1860 CE)

Transitioning to the Mughal era, the study reveals a similarly centralized policing structure. However, the insights into Mughal India's policing system often stem from the accounts of European travelers during the sixteenth and seventeenth centuries. These accounts, though colored by cultural biases and linguistic barriers, offer glimpses into the perceived simplicity of the Mughal justice administration. The Mughal dynasty's enduring impact on India's administrative apparatus lasted over 300 years, persisting until the Mutiny of 1857. Despite the waning of the Mughal Empire, elements of the Mughal Islamic system endured, as the British, initially traders under the East India Company, maintained cultural affinities with Indian society.

4.8.4 Official Mughal Records

To better comprehend the nuances of policing and justice administration, various sources provide valuable accounts of this period. Official Mughal records printed Persian works, Urdu translations, English translations, Hindi works, and accounts by Westerners collectively contribute to our understanding. The establishment of the Public Records Office by Emperor Akbar in 1574 marked a pivotal moment, showcasing the Mughals' forward-thinking approach to recording court proceedings systematically. These original Persian documents, particularly the Akhbarat, offer a comprehensive account of criminal law and procedure under the Mughal emperors, providing invaluable insight into the administrative practices of this era. In the Mughal-era policing system, distinct roles and responsibilities were assigned to key officials, each contributing to the maintenance of law and order.

The **Muhtasib** held a central position, tasked not only with ensuring lawfulness but also overseeing public morals and public health initiatives. Working in tandem, the **Kotwal**, acting as a subordinate, meticulously recorded inhabitants and played a crucial role in urban police administration. At the district level, the **Faujdar** assumed a dual responsibility as the chief police officer and the administrative/military head. Empowered with executive authority, the Faujdar functioned as a police magistrate and commanded a military contingent within the district. The **Subhedar**, overseeing entire provinces, played a pivotal role in maintaining law and order, facilitating revenue collection, and executing royal decrees and regulations.

Further organizational structure involved hierarchical subdivisions. The **Shikadars**, under the authority of Faujdars, managed Parganas, while the **Thanedars**, assisted by Barkandazes, were responsible for overseeing individual Thanas. This intricate system, with each official fulfilling a specific role, contributed to the overall effectiveness of policing and administration during the Mughal era.

Figure-1.
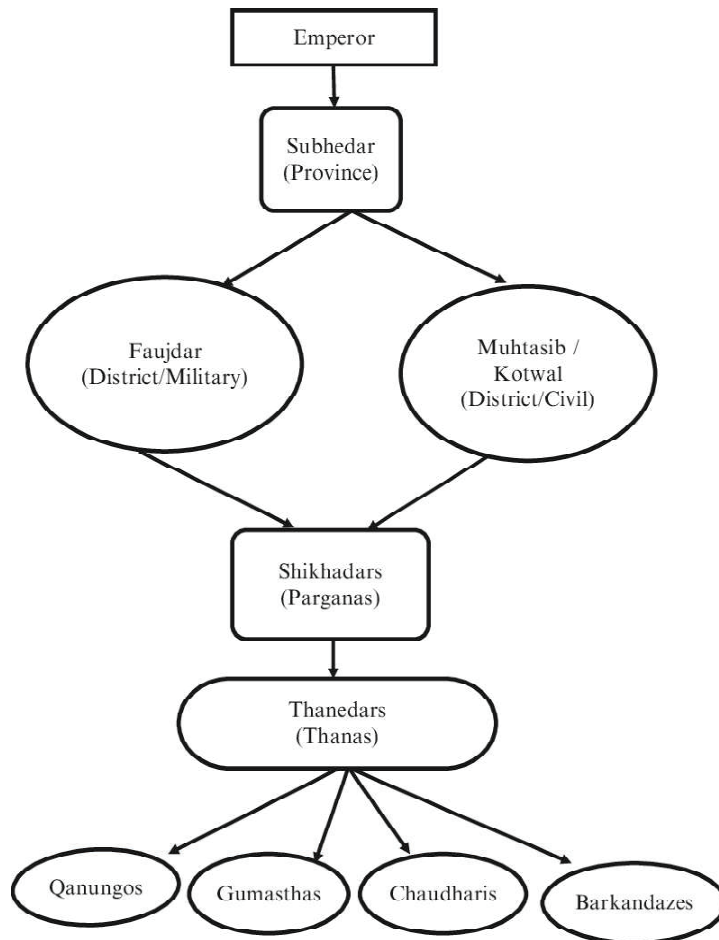
In conclusion, this exploration into the policing and justice systems during the Delhi Sultanates and the Mughal era not only sheds light on historical intricacies but also underscores the enduring impact of these systems on India's governance landscape. The synthesis of various sources, from official records to travelers' accounts, contributes to a richer understanding of the evolution of policing and justice in medieval India. Top of Form

The colonial era in India witnessed a significant evolution in policing, marked by the transition from Mughal administration to British rule. The Mughal provincial setup, mirroring the central government, concentrated on urban centers, neglecting villages. However, the arrival of the East India Company ushered in a complex period of dual control or dyarchy, causing a breakdown in effective policing.

4.9 BRITISH POLICING INITIATIVES

The East India Company's initial foray into policing began with acquiring diwani rights in Bengal, Bihar, and Orissa in 1765. Despite gaining control over financial affairs, the Nawab retained responsibility for policing and criminal justice. The dual system faced challenges as English interference increased, leading to de facto English rule in the eastern provinces during Warren Hastings' tenure. Robert Clive introduced a dual system where the Company acquired power, but the Nawab remained legally responsible for criminal justice. The policy of dyarchy, intending non-intervention, failed as zamindars neglected their duties, colluding with criminals—the English government's 1770 order to abolish faujdars and amils added to the chaos. Recognizing the need for a structured police force, Warren Hastings emphasized indigenous policing in 1772. Faujdari thanas were established, but the system crumbled due to Zamindar's resistance. Further reforms in 1775 aimed to civilianize the faujdari system, yet challenges persisted.

By 1793, Cornwallis introduced radical changes, removing indigenous elements and placing Europeans in sole charge of the police. The institution of darogas was created, zamindars were relieved of policing responsibilities, and the East India Company directly assumed the task of

4.9.1 Historical Roots and Persistence of Colonial Policing in India

In contrast to the democratic British Bobby system, colonial policing took a different approach. Sir Robert Peel, known as the 'Father of Modern Policing,' established the London Metropolitan Police Force in 1829 with democratic principles. He advocated for a uniform, unarmed force accountable to citizens, subject to judicial control, and focused on preventing crime by earning people's trust. However, these democratic ideals were not extended to the colonies. Sir Charles Napier introduced a repressive colonial policing system in Ireland and later in India. Unlike the British model, colonial policing aimed to control through strength and terror, with little accountability to the local population.

The Police Act reveals a concerning side of law enforcement. Section 15 allows authorities to deploy additional punitive police to any troubled area, suggesting a heavy-handed approach. Section 17 empowers the appointment of residents as special police officers, potentially leading to unchecked authority. Section 19 grants powers to deal

with those refusing such roles. Furthermore, Section 30 enables the police to license assemblies and processions, potentially suppressing peaceful gatherings. Section 44 mandates the Station House Officer's maintenance of a General Diary, possibly fostering a culture of surveillance. This legislation introduces new criminal laws, adding to a complex legal framework.

4.10 CONTEMPORARY CHALLENGES AND IMPERATIVES FOR REFORM

Contemporary Challenges and Imperatives for Reform

The Indian Penal Code of 1860 covered offenses against the state, army, navy, public tranquillity, public servants, and contempt of lawful authority. Similarly, the Code of Criminal Procedure empowered police officers to arrest and detain individuals for at least 24 hours. Despite these efforts, a British Commission in 1902 found the police system to be inefficient, poorly trained, inadequately supervised, and often perceived as corrupt.

Even after India gained independence in 1947, the inherited police organization from 1857, governed by the 1861 Act, remained largely unchanged. Despite establishing democracy, there has been little progress in reforming police methods and attitudes. The National Police Commission 1978 made significant recommendations for change, but the government did not accept them. So, despite the passage of time and political changes, the police system has persisted without substantial improvement.

The structure of the Indian police has pretty much stayed the same since 1861, despite some new titles like Deputy Superintendent (DYSP) in 1905 and Director General (DGP) in 1980. They work on a state level, reporting to the Home Minister, showing a connection to potentially overpowering state authority.

The use of centrally controlled armed police and intelligence agencies suggests that India has stuck to its colonial roots since gaining independence. Three things affect how the police work:

- a long-standing focus on using force.
- a system where both the Indian Police Service (IPS) and Indian Administrative Service (IAS) have control.
- keeping armed reserves even when it was suggested to separate military and civilian police.

Instead of focusing on preventing crime, the police primarily work on maintaining law and order, which has led to a significant increase in armed police and paramilitary forces. This growth is driven by dealing with public unrest, conflicts, terrorism, and threats to stability. The police system also puts much attention on handling community issues and providing security for important people.

4.11 SOCIAL AND POLITICAL DYNAMICS RESHAPING POLICING IN POST-INDEPENDENCE INDIA

After India's independence, the government assumed a multifaceted role, expanding its responsibilities to include crucial aspects like food provision, education, healthcare, and community development. However, the broadened scope of government functions also brought about challenges, with citizens expressing dissatisfaction over issues such as high food prices, inadequate education and healthcare, and perceived lack of government support. The repercussions of these grievances often manifest in protests and demonstrations, with the police becoming the frontline enforcers grappling with public discontent.

India's social fabric presents a unique set of challenges, marked by persistent tensions among different communities, particularly between Hindus and Muslims, and caste-related conflicts in regions like Bihar, resulting in serious violence since the 1960s. Ethnic and regional conflicts further contribute to the intricate social landscape. The political scene mirrors this complexity, with frequent protests and government policies escalating into violence. Strikes, student unrest, and debates on job reservations add to the array of issues, creating constant law and order challenges for the police.

Despite being a democracy with freedom of expression, political activities in India often escalate into violence, involving both protesters and the police attempting to maintain control. Elections, a cornerstone of democratic governance, are marred by concerns over violence, hindering the democratic process. Instances of people being prevented from voting and election-related violence underscore the challenges faced during this critical period. The police, tasked with maintaining order, sometimes prioritize this over adhering to proper legal procedures, raising questions about the balance between law enforcement and citizen rights.

The evolving landscape has transformed the police force into a more politically charged entity. The focus on order maintenance often overshadows the government's responsibilities, leading to a perception that the police align more with the interests of the influential and affluent rather than serving the broader populace. The dream of a police force closely aligned with the people for a true democracy remains elusive as the challenges posed by social and political changes continue to shape and redefine the role of law enforcement in post-independence India.

4.12 THE NEXUS OF POLITICIZATION AND CENTRALIZATION: CHALLENGES PLAGUING INDIA'S POLICE INSTITUTIONS

In the evolving landscape of India's public institutions, a troubling trend of growing politicization is taking root, particularly within law enforcement. The influence of political pressure and interference has become a central preoccupation for administrators, markedly impacting the operational freedom that police leaders once enjoyed.

The seeds of this politicization were sown in the mid-sixties, and the situation took a precipitous turn after the 1967 elections, where the Congress party lost power in many states, ushering in a new era of coalition governments. This shift in political dynamics directly affected public institutions, with political interests effectively eroding the autonomy of police leadership in administering their departments. The National Police Commission (NPC) strongly criticized this interference and decried the blatant political misuse of the police organization. Over time, interference in police functions has only intensified, particularly in an era marked by ideologically diverse political parties forming coalitions. The NPC's harsh critique highlighted the issue of direct political interference, where officers receive mandates from politicians, compromising the impartial execution of law and administrative guidelines. The appointment and tenure of police chiefs, and even the postings of the lowest-ranking constables, are now subject to the whims of politicians.

The complete subservience of the police department to political offices by ruling parties and influential politicians is a hard reality. The institution is grappling with external political pressures and numerous internal agency problems that impede its effective functioning. Adding to these challenges is the centralization of power within the police

structure. Decision-making authority is concentrated at the top levels, impacting the institution's performance. While district-level officers have some control over the transfer and posting of subordinate officers within their jurisdiction, crucial decisions, such as postings from police headquarters and allocation of funds and resources, are centrally controlled. Even aspects like critical investigations, vigilance, intelligence collection, armed battalions, and the supply of stationery and clothing fall under a centralized command. This centralization often works against the local or special interests of districts and sub-divisions, perpetuating a culture of distrust that has lingered since the British colonial period. The administrative challenges are further exacerbated by outdated record-keeping systems and administrative norms, making the management of such large police departments increasingly demanding.

In conclusion, the intertwining challenges of politicization and centralization pose significant threats to the autonomy, efficiency, and integrity of India's police institutions, warranting urgent attention and systemic reforms to ensure the impartial and effective delivery of law enforcement services.

4.13 CLASS DISTINCTIONS AND PERFORMANCE MEASUREMENT CHALLENGES: AN IN-DEPTH ANALYSIS OF INDIA'S POLICING STRUCTURE

The organizational dynamics within India's police institutions have given rise to class distinctions, creating a three-tiered structure comprising the Indian Police Service (IPS), sub-inspectors, inspectors, and the lowest-ranking constabulary. The National Police Commission (NPC) highlighted the disparity, particularly emphasizing the less respectable position, meager salary, and poor working conditions faced by constables. The hierarchical structure also creates communication gaps between the tiers, with decision-making power concentrated in the hands of the IPS officers.

The challenges within this three-tiered system extend beyond class distinctions to operational difficulties subordinate officers face. Those under the supervision of IPS officers or superintendents (SPs) bear significant burdens, including investigations, inquiries, and data collection. The lack of trust is evident, as S.P.s often find themselves supervising lower-ranking officers due to suspicions regarding the evidence provided.

The NPC's report sheds light on the need for reform in the organizational structure to foster better communication and collaboration between the different tiers. It

emphasizes the importance of addressing the working conditions and status of constables to create a more harmonious and effective policing environment.

In the realm of performance measurement, the article delves into the existing evaluation methods prevalent within the police institution. The three-tiered structure complicates internal evaluations, with day-to-day monitoring conducted by supervisors forming part of routine police work. External evaluation, represented by research studies, is limited, with the Bureau of Police Research and Development (BPRD) having conducted few principal evaluations over the past fifty years. The article identifies four standard evaluation measures used to assess police performance: reported crime rates, overall arrest figures, clearance rates, and response times to situations. However, it critiques these measures for their focus on negative aspects—complaints and failures— rather than recognizing officers' success in addressing citizen problems subtly. The inadequacy of these standard performance measures is underscored by the lack of clarity on what constitutes good police work and how to recognize it. Moreover, the article highlights the absence of ethnographic observational studies of police in action in India, making the assessment of the policing process challenging.

In conclusion, the intertwined issues of class distinctions within the police structure and challenges in performance measurement call for comprehensive reforms. Addressing these concerns is essential for fostering a more equitable, efficient, and transparent policing system in India.

4.13.1 The crime rates in India

The provided text discusses various aspects of crime rates in India, focusing on police performance, discretion in law enforcement, and the challenges faced by the Indian police force.

The text highlights a decline in crime rates in India during 1951, 1961, 1971, 1981, and 1991, attributing this trend to the actual and greater population count at the end of each decade. However, it notes that crime rates are a risk ratio for individuals in the population, and certain groups, such as small children, old people, and females, are less likely to contribute to criminal activities. Despite this, the National Crime Records Bureau (NCRB) classifies offenses under the Indian Penal Code (IPC) and local laws, with a significant percentage categorized as "others."

4.13.2 Police Performance

The text expresses concern about the poor and alarming measures of Indian police output. It relies on data prepared by the NCRB, which compiles annual reports titled "Crime in India." Violent crimes, especially those against women, such as murder, kidnapping, and injuries, show an upward trend. The text highlights that crimes against women are underreported due to social stigma, and police investigations, particularly under special acts like the Dowry Provision Act, are often incomplete.

Issues with Police Investigations

The text reveals that police investigations are incomplete in many cases. For example, there is a poor record of completing investigations into crimes against women, with a considerable number of cases pending for police action. The data also indicates a high number of rape victims being children, further underscoring the need for improved law enforcement and protection of vulnerable populations.

Police Misbehaviour and Use of Force

Instances of police misbehaviour, including custodial rapes and deaths in police custody, are mentioned. The text notes that police resort to firing on numerous occasions, leading to civilian casualties. The increasing incidence of police firing is a cause for concern, and citizen complaints against police officers are filed regularly. However, investigating these complaints is lacking, as a significant number are declared unsubstantiated, and only a tiny percentage proceed to trial.

Police Workload and Pay

The text points out that the number of police personnel per unit population has remained static since 1987, leading to a heavy investigator workload. Indian police officers are described as overworked and lowly paid, emphasizing the need to improve working conditions and remuneration to enhance performance.

Rules versus Discretion

The text introduces the concept of discretion in police work, emphasizing its significance in law enforcement. It mentions that police discretion in India is subject to limited studies, and there is a lack of understanding regarding the nature and exercise of discretion by the Indian police.

Discretion in Law

The discussion delves into the discretion provided by Indian laws to police officers, particularly citing sections of the Criminal Procedure Code (CrPC). These sections grant powers of arrest without a warrant under certain circumstances and provide authority for searches without a warrant when deemed necessary by investigating officers.

Discretion by Rank

The text notes that lower-ranking officers like constables exercise the most discretion. Constables, forming the majority of the police force, are often tasked with handling disputes, conducting local inquiries, and addressing disorder problems in the initial stages.

In conclusion, the text provides a comprehensive overview of crime rates, police performance, discretion in law enforcement, and the challenges faced by the Indian police force. It highlights areas of concern, such as incomplete investigations, police misbehavior, and the need to improve working conditions and remuneration for officers. The discussion on discretion underscores the importance of understanding and studying its application in the context of Indian law enforcement.

4.14 CHALLENGES IN POLICING: LEGAL, BUREAUCRATIC AND CORRUPTION DYNAMICS IN INDIA

In India, the process of recording criminal incidents, as outlined in Section 154 of the Criminal Procedure Code (CrPC), is a critical aspect of law enforcement. However, the discretion exercised by individual police officers often leads to the minimization of charges, impacting the overall seriousness of the offenses reported. Political decisions, particularly in appointing critical positions like the Superintendent of Police (S.P.), are instrumental in shaping law enforcement strategies, affecting the security landscape during elections and, subsequently, the political climate. The criminalization of political parties further complicates matters, as politicians strategically deploy the police to influence electoral outcomes, emphasizing the far-reaching consequences of police actions on social, economic, and political developments.

The rivalry between the Indian Administrative Service (IAS) and the Indian Police Service (IPS) adds another layer of complexity. The IAS, wielding significant control over the police department, influences policy decisions and operational aspects without facing accountability. The commissioner system in metropolitan cities further intensifies this dynamic, often sidelining District Magistrates (DMs). The concentration of rule-making powers in the hands of the IAS, especially within the home ministry, impacts critical aspects such as officer transfers, promotions, and law enforcement strategies. This bureaucratic tug-of-war not only hampers the professional growth of the police institution but also diverts D.M.s from essential development work, contributing to issues like underdevelopment and extremism.

There are instances of public land and railway station sales by influential figures remain unprosecuted due to the collusion between politicians and law enforcement. High-profile corruption cases, such as the fodder scam involving former Chief Minister Lalu Yadav, highlight the challenges in conducting proper investigations. The erosion of autonomy within the police institution, driven by political interference and bureaucratic alliances, transforms law enforcement into a tool for specific agendas, hindering the pursuit of justice and contributing to the persistence of issues like the Naxalite movement.

In summary, the challenges faced by the Indian police system stem from a complex interplay of legal, bureaucratic, and corruption dynamics. The need for reform is evident to ensure impartial law enforcement, foster development, and maintain the autonomy of the police institution in the face of political and bureaucratic pressures.

4.15 REFORMING INDIA'S POLICING SYSTEM: A CRITICAL ANALYSIS FOR CITIZEN AND POLICE SECURITY

In the diverse mosai.c of India's democratic landscape, the role of the police as the guardian of citizen safety is pivotal. However, the Indian policing system, over the years, has come under intense scrutiny for its inherent flaws and shortcomings. From accountability issues to an archaic organizational culture, the need for comprehensive reform is glaring. This critical analysis will delve into various aspects of the Indian policing system, shedding light on the imperative for change to ensure the security and well-being of both citizens and the police force.

4.16 ACCOUNTABILITY CHALLENGES IN CITIZEN COMPLAINTS

Addressing citizen complaints against police officers in India is often marred by systemic biases and shortcomings. Departmental inquiries, the prevailing mechanism, have inherent flaws, with investigating officers potentially inclined to protect their subordinates, fearing repercussions on their reputation. The National Police Commission (NPC) has proposed a thorough framework for police accountability, suggesting the involvement of senior judges in severe misconduct cases. This proposal aims to minimize political interference and enhance transparency by advocating for establishing district inquiry authorities led by senior judges. Examining the intricacies of this proposal, it becomes evident that an external and impartial oversight mechanism is imperative to ensure fairness and justice in handling complaints against the police.

4.16.1 Recruitment, Training, and Institutional Memory

The recruitment and training of police personnel in India have been persistently neglected, contributing to various issues within the force. Despite calls for reform, constables often possess minimal educational qualifications, and training institutes suffer from inadequate facilities and qualified instructors. The curriculum, predominantly centered on physical and arms drills, fails to address the multifaceted challenges faced by the police in the contemporary landscape. The National Police Academy in Hyderabad, while providing commendable instruction, reflects bureaucratic preferences for senior ranks, perpetuating an imbalance in the development of the police force. Moreover, the lack of institutional memory within the police department, attributed to an outdated record-keeping system dating back to the colonial era, hampers the force's ability to tackle modern challenges effectively. Information gaps on issues such as left-wing extremism or communal cases impede the police's capacity to devise targeted strategies, showcasing the dire need for a comprehensive overhaul in recruitment, training, and information management.

4.16.2 Organizational Culture: The Root of Misconduct, Brutality, and Corruption

The police force in India operates within a subculture characterized by secrecy and, at times, violence. This culture, deeply rooted in historical colonial practices, fosters a

sense of mistrust toward citizens and promotes a code of silence within the force. This pervasive culture is a breeding ground for corruption and brutality, making it resistant to change. The historical roots of the police force, established during British rule to suppress dissent, resulted in unchecked power for police officers.

The code of silence prevailing in Indian police institutions shields guilty officers from accountability. Despite public outcry and media exposure of incidents like fake encounters and custodial deaths, little action is taken against the responsible officers. The culture of brutal and unaccounted force, evident in cases like encounter killings and disappearances, persists, raising serious questions about the willingness and ability of the police force to reform its organizational culture.

4.17 HUMAN RIGHTS AND POLICING IN INDIA

Human Rights and Policing in India Human rights considerations form the bedrock of a just and democratic society, and nowhere is this more critical than policing. Bidyut Chakrabarty's "Human Rights and Policing: A Case Study of India" and Meenakshi Ganguly and Jayshree Bajoria's "Police Violence and Impunity in India" shed light on the intricate issues surrounding human rights violations within India's policing system. Chakrabarty sets the tone by emphasizing the pivotal role of human rights considerations in policing. Policing, inherently a power-laden institution, necessitates a delicate balance between maintaining law and order and safeguarding the fundamental rights of citizens. The author underscores the significance of upholding human rights to preserve the trust between law enforcement and the public. Chakrabarty meticulously dissects case studies of extrajudicial killings and custodial torture, exposing the alarming prevalence of such abuses within the Indian policing system. The analysis delves into the implications of these violations on human rights and public trust, revealing a disturbing misconduct pattern that erodes the foundation of a just and accountable society.

The author scrutinizes the role of accountability mechanisms in addressing human rights abuses within the police force. Chakrabarty highlights the inadequacies of existing mechanisms and advocates for robust reforms. While acknowledging the need for internal accountability, the author proposes a more transparent and independent oversight process, perhaps involving external bodies, to ensure a fair and impartial evaluation of police actions. On the other hand, Ganguly and Bajoria's exploration of police violence and impunity provides a stark backdrop to the challenges faced by India's law

enforcement agencies. The article sets the stage by underscoring the urgency of addressing systemic issues contributing to a culture of violence and impunity. The authors provide a nuanced analysis of specific cases that exemplify instances of police violence, bringing into sharp focus the stark realities faced by individuals at the hands of law enforcement. These cases, ranging from extrajudicial killings to instances of excessive use of force, underscore the deep-seated issues within the system that demand immediate attention. Ganguly and Bajoria delve into the role of civil society and legal mechanisms in addressing the systemic issues that perpetuate police violence. They argue for a multifaceted approach, urging the active involvement of citizens, non-governmental organizations, and legal bodies in holding the police accountable. The authors propose strategies that include increased transparency, citizen oversight, and legal reforms to foster a culture of accountability within law enforcement agencies.

In summary, collectively paint a grim picture of human rights violations within India's policing system. The cases presented by Chakrabarty and Ganguly/Bajoria illuminate the urgent need for reforms to rebuild public trust and ensure the protection of fundamental rights. The analysis underscores the importance of independent accountability mechanisms, legal reforms, and active citizen engagement to bring about a transformative change in India's policing landscape. The journey toward a more just and rights-respecting policing system requires acknowledgment of the existing challenges and a committed effort from all stakeholders to address and rectify the systemic issues that perpetuate human rights violations. As India navigates this complex web of challenges, the imperative for immediate and comprehensive reforms becomes increasingly evident, laying the foundation for a policing system that genuinely upholds the principles of democracy and human rights.

In the rapidly evolving landscape of law enforcement, it is imperative for Indian policing to adapt to the challenges posed by the digital era, as highlighted in Kamal Kumar's article, "Policing in the 21st Century: Challenges and Opportunities." Kumar emphasizes the urgent need for law enforcement to proactively embrace technological advancements, particularly artificial intelligence (A.I.) and advanced surveillance tools. His argument goes beyond acknowledging the changing landscape; it calls for a strategic transformation in traditional policing methodologies.

The crux of Kumar's message revolves around the necessity for law enforcement to recognize the implications of technological innovations and develop comprehensive strategies to leverage their benefits. He advocates for a multifaceted approach encompassing training, collaboration, and policy formulation. Kumar stresses the importance of creating a workforce skilled in using emerging technologies and aware

of the ethical considerations surrounding their deployment. Collaborative efforts among law enforcement agencies, technology experts, and policymakers are crucial for effectively responding to the challenges posed by the digital era.

A key takeaway from Kumar's analysis is that embracing technology responsibly is not an option but a necessity for the effective functioning of law enforcement in the 21st century. This call to action extends beyond adopting new tools; it requires a fundamental shift in the mindset of law enforcement professionals and the institutions they represent.

Wesley G. Skogan, in "The Future of Law Enforcement: Adapting to Technological Changes," echoes Kumar's sentiments. Skogan emphasizes the need for law enforcement to strike a delicate balance between technological progress and ethical responsibility. The article prompts essential questions about the benefits and concerns of integrating technology into policing. As India shapes the future of its policing, Skogan's work catalyzes reflection on the ethical considerations tied to increased surveillance and data usage.

Skogan argues for a nuanced approach to policymaking, urging policymakers to craft frameworks that ensure transparency, accountability, and the protection of civil liberties. In India's diverse socio-political landscape, the importance of such frameworks cannot be overstated. As technology becomes integral to law enforcement, ethical considerations take center stage. Skogan emphasizes the need for policymakers to tread carefully, recognizing the potential for misuse and the infringement of individual rights.

In summary, these two articles collectively paint a comprehensive picture of the challenges and opportunities presented to Indian law enforcement in the digital age. They stress the need for a proactive and strategic approach to adaptation, combining technological proficiency with ethical responsibility. The future of policing in India hinges on the ability of law enforcement agencies and policymakers to navigate this complex terrain, ensuring that progress is not only technologically driven but also guided by a steadfast commitment to justice and ethical conduct.

4.18 CONCLUSION

In conclusion, the need for reform in India's policing system is urgent and multifaceted. Addressing the challenges in citizen complaints, revamping recruitment and training processes, and reforming the deep-seated organizational culture are essential

components of a comprehensive transformation. The proposed framework by the National Police Commission serves as a starting point, emphasizing the involvement of senior judges to ensure impartiality and transparency. However, the reform must extend beyond isolated measures, encompassing a holistic approach that addresses the root causes of misconduct, brutality, and corruption. Only through such systemic changes can India's policing system evolve into a more accountable, efficient, and citizen-friendly force, ensuring the security and well-being of both the public and the police themselves.

In a nation where democracy is still evolving, the police institution plays a pivotal role in ensuring the security and well-being of citizens. However, the need for reform is evident in the myriad challenges faced by the Indian policing system. While the responsibility for reform ultimately lies with politicians, the lack of interest and vested interests within the political and bureaucratic spheres hinder progress.

The call for reform must emanate from the people and other institutions, including the judiciary, National Human Rights Commission, media, academic community, and civil society groups. These entities can collectively apply pressure to instigate change, forcing the government to be accountable for its policies and actions. Collaborative efforts, like those undertaken by civil liberties organizations, have held the government accountable. To secure citizens and the police alike, a comprehensive research agenda is needed to understand community problems, redefine the role and function of the police, and study criminal justice agencies. Collaborations between universities and autonomous institutions can contribute to a research-driven reform process that fosters accountability, performance appraisal, and checks against the misuse of power. As India strives for a more accountable and effective policing system, this research-driven approach emerges as the beacon of hope for a brighter future.

4.19 PRACTICE QUESTIONS

1. How have historical legacies affected contemporary policing, and what reforms are essential for addressing the evolving needs of society?

2. How do resource inadequacy and outdated technology impact the efficiency of policing, and what practical solutions can be implemented to enhance effectiveness?

3. How can accountability mechanisms prevent human rights violations in law enforcement, and what strategies can be devised to strengthen accountability?

4. What lessons can India learn from successful international practices, and how can these insights contribute to the enhancement of policing strategies within the country?

5. What challenges and successes characterize efforts to democratize law enforcement, and how can India navigate these dynamics in its own context?

6. How can law enforcement adapt to emerging technologies while addressing ethical considerations and ensuring accountability?

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UNIT 5
ENSURING RIGHTS: NATIONAL HUMAN RIGHTS COMMISSION OF INDIA

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Structure

5.1   LEARNING OBJECTIVES

After completing the lesson the student would–

1. To understand the need for institutional arrangement for ensuring human rights

2. To discuss and examine the nature and role of National Human Rights Commission

5.2 INTRODUCTION

Human rights, often referred to as the rights and freedoms inherent to all individuals by virtue of their humanity, have a rich historical context that spans centuries. These rights, universal and inalienable, are indivisible, meaning they are interconnected and interdependent. The concept of human rights is fundamentally based on the intrinsic worth and dignity of every individual. Human rights recognize that every person is a unique creation, without being subjected to artificial divisions based on factors such as race, color, sex, or religion. These rights are essential for unlocking the full potential of every human being. Human rights encompass not only civil and political rights but also social, economic, and cultural rights. They create a framework of mutual respect and responsibility among individuals in society.

In essence, human rights shape the way people behave in society by setting the standards for how each person's rights should be respected. The existence of these rights in each individual serves as a link between their rights and responsibilities. The respect for one person's rights comes from recognizing the same obligation in others. Therefore, human rights education must include an understanding of the responsibilities that individuals owe to one another. Human rights are not universal because they are timeless, but because they are widely accepted as an ideal standard worldwide.

When we contemplate human rights, it signifies the highest level of political and moral ideals. The language used in discussions about human rights often carries a sense of urgency and calls for reform. Human rights can be both compelling and persuasive in decision-making processes. They represent a special category of rights that place the dignity of the individual at their core. Human rights are inherently political because they pertain to the relationship between an individual and their broader community and the state. They aim to empower individuals through awareness and recognition.

Let us explore the roots of human rights.

The roots of human rights can be traced back to ancient civilizations, where concepts of justice, equality, and individual freedoms are interconnected. For instance, in ancient Greece, the idea of democratic governance laid the foundation for the recognition of the rights of citizens to participate in decision-making.

One of the most significant historical documents in the development of human rights is the Magna Carta, signed in England in 1215. This landmark agreement limited the powers of the monarch and introduced the idea that even rulers were subject to the law. It marked the beginning of the rule of law and emphasized the notion that individuals possessed rights that deserved protection.

The Enlightenment, which flourished in the 17th and 18th centuries, brought forth the ideas of philosophers such as John Locke, Jean-Jacques Rousseau, and Voltaire. Locke, for example, articulated the concept of natural rights to life, liberty, and property. These Enlightenment ideas influenced the development of modern democratic systems and the protection of individual rights.

The American Revolution (1775-1783) is another pivotal moment in the historical journey of human rights. The United States Declaration of Independence in 1776 proclaimed that "all men are created equal" and have "certain unalienable Rights." These ideas were later enshrined in the U.S. Bill of Rights, shaping the protection of individual liberties.

Further the French Revolution (1789) advanced the concept of human rights with its motto of "Liberty, Equality, Fraternity." The French Declaration of the Rights of Man and of the Citizen (1789) declared that all citizens had equal rights, setting a precedent for rights-based governance.

However, it was the aftermath of World War II that precipitated a global commitment to human rights. The atrocities of the war, including the Holocaust and other war crimes, underscored the urgent need to protect fundamental rights. The Nuremberg Trials held individuals accountable for crimes against humanity, demonstrating the international community's determination to ensure justice and accountability.

The culmination of these historical events and the global recognition of the need for human rights protection was the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations General Assembly in 1948. The UDHR articulated a comprehensive set of rights and freedoms to which all people are entitled, serving as a foundational document for international human rights law.

In the years following the UDHR, a body of international treaties and conventions was developed to further codify and protect human rights. These legal instruments cover a wide range of rights, including civil, political, economic, social, and cultural rights.

Understanding the historical context of human rights allows us to appreciate the evolution of these rights and the ongoing struggles to protect and expand them. These rights are not static but continue to develop and adapt to the changing needs and challenges of societies worldwide. They are fundamental to promoting justice, equality, and the dignity of all individuals.

5.3 HISTORICAL CONTEXT OF HUMAN RIGHTS IN INDIA

The Preamble of the Indian Constitution provides a broad framework for the Indian polity, defining India as a "sovereign, secular, socialist, democratic republic" that guarantees liberty, equality, and fraternity to its citizens. In contrast to the U.S. Constitution, which provides dual citizenship, India, upon becoming a republic in 1950, established a single citizenship. The Preamble commences with the powerful declaration "We, the people of India," signifying that sovereignty rests with the Indian people.

The Constitution of India, under development during this period, was officially adopted on November 26, 1949. It includes explicit assurances of basic freedoms in the form of Fundamental Rights outlined in Part III of the Constitution. Additionally, it contains certain fundamental governance principles known as the Directive Principles of State Policy, outlined in Part IV. While the fundamental rights in Part III are legally enforceable and include the constitutional remedy under Article 32 in the Supreme Court, the directive principles are not inherently justiciable. The directive principles aim to promote socio-economic justice and establish an egalitarian state by formulating policies to govern accordingly. (Basu et al., 2008)

Remarkably, the Supreme Court of India has leveraged the directive principles to broaden the scope and content of fundamental rights. This expansion has rendered the non-justiciability of directive principles a somewhat theoretical matter. This effectively amplifies the meaning, content, and impact of the guarantee of human rights in the Indian Constitution.

Moreover, Part IVA of the Indian Constitution incorporates Article 51A, which outlines the Fundamental Duties of every Indian citizen. This must be considered as an integral part of the constitutional framework. Realizing the guarantee of rights necessitates the fulfillment of duties since "all rights to be deserved and preserved come from duty

well done." Notably, the Inter-Action Council, comprised of eminent individuals, has proposed to the United Nations a draft titled "A Universal Declaration of Human Responsibilities," dated September 1, 1997, as a companion to the Universal Declaration of Human Rights (UDHR). This proposal is rooted in the principles championed by Mahatma Gandhi.

Fundamental Rights enshrined in the Indian Constitution ensure that citizens are protected against any form of discrimination, providing safeguards for their personal liberty, equality before the law, freedom of speech, and other key liberties. Some of the notable Fundamental Rights in India include the Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, and the Right to Constitutional Remedies.

These rights are pivotal in upholding the principles of justice, equality, and freedom, ensuring that every citizen has the means to lead a life with dignity and without oppression. The Indian Constitution not only guarantees these rights but also provides mechanisms for citizens to seek legal redress in case of their violation, making these rights an integral part of India's democratic and pluralistic society.

5.4 NEED FOR INSTITUTIONAL ARRANGEMENT FOR HUMAN RIGHTS

Institutions are crucial for protecting and upholding human rights for several important reasons. They act as a form of "watchdog" that holds governments and those in power accountable for their actions. These institutions provide a legal framework that allows people to seek justice when their rights are violated. They also monitor and report on the human rights situation in a country, highlighting areas that need improvement.

Furthermore, these institutions help prevent abuses before they become widespread. Just their presence can deter potential rights violators. They often raise public awareness about human rights through education and information campaigns, making sure people know their rights and how to protect them.

In regions with a history of conflicts or tensions, these institutions can play a role in resolving disputes and addressing grievances. Their involvement contributes to stability and peace. They also help countries fulfill their international obligations under human rights treaties and conventions, demonstrating a commitment to these standards on a

global stage. Additionally, human rights institutions can focus on the specific needs of vulnerable groups, such as women, children, minorities, and refugees. They work to ensure that the rights of these groups are protected and that their unique challenges are addressed.

Ultimately, these institutions contribute to a more just and equal society by advising on policy changes and advocating for laws that align with human rights principles. They are an important part of the framework that upholds the values of justice, equality, and dignity for all individuals in a community.

The United Nations made a commitment to advance higher standards of living, full employment, and conditions conducive to economic and social progress and development. Additionally, they pledged to promote universal respect for the observation of human rights and fundamental freedoms, without any discrimination based on race, sex, language, or religion (Nayar, 1980). In contemporary societies, particularly in developing nations marked by entrenched caste systems, there have been extensive human rights violations, both by individuals and by the state. To address these issues, the Indian Constitution has put in place institutional mechanisms for the safeguarding of human rights. These include the establishment of the National Human Rights Commission, the National Commission for Women, and the National Commission for the Protection of Child Rights.

These institutions, as outlined in the Indian Constitution, underscore the nation's commitment to the principles of justice, equality, and the dignity of all individuals. They function as essential components of the country's democratic and pluralistic framework, working to address human rights violations and promote a more inclusive and equitable society.

5.5   THE NATIONAL HUMAN RIGHTS COMMISSION OF INDIA

In her book "Chains of Justice," Sonia Cardenas (2014) highlights that during the 1970s, following the emergency period and concurrent with the revival of a civil rights movement in India, the Janata Party made a commitment to establish a human rights commission in its 1977 election manifesto. At this juncture, the author points out that the shortcomings of other organizations, including those for Scheduled Castes, Scheduled

Tribes, linguistic minorities, and other minority groups, were also becoming evident.

In the 1980s, the concept of a human rights commission resurfaced. This time, it was Justice P.N. Bhagwati who introduced the idea. His motivation was rooted in the belief in creating alternative systems for ensuring access to and the delivery of justice. This idea seemed to align with the emergence of public interest litigation in the Supreme Court, and the notion that human rights, particularly those enshrined in international human rights law, could be made more accessible through an institution dedicated to this purpose. By the 1990s, when such a commission was eventually established, the establishment of a human rights commission had become a significant topic in mainstream political discussions. (Singh, 2016)

The proposal for a Commission, originally outlined in a Human Rights Commission Bill, was introduced in the Lok Sabha on May 14, 1993. The Commission was initially formed on October 12, 1993, under the Protection of Human Rights Ordinance issued on September 28, 1993. Subsequently, it was presented to Parliament on November 25, 1993, as a replacement for the ordinance and was enacted as 'The Protection of Human Rights Act,' 1993.

The National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act (PHRA), 1993. This establishment aligns with the 'Paris Principles' adopted during the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October 1991. The primary objective of the Act is to create a National State Human Rights Commission and Human Rights Courts, aiming to enhance the protection of human rights and address related matters. The reason for enacting it these was to provide 'better protection and promotion of human rights'. It is an institution which acts as a compliment to the judiciary and is engaged in – the protection and promotion of the constitutionally enshrined fundamental human rights of all people in the country. (NHRC annual report, 2018)

The establishment of an independent National Human Rights Commission (NHRC) by the Indian government underscores its dedication to effectively enforce human rights provisions outlined in both domestic and international instruments. The NHRC was officially formed on October 12, 1993, in accordance with the Protection of Human Rights Act of 1993. In addition to the national NHRC, fourteen Indian states have established their own human rights commissions to address violations occurring within their respective regions. The Act includes comprehensive provisions

related to the NHRC's functions, powers, composition, and other relevant aspects.

Unquestionably, the greatest strength of the PHRA, 1993 has been to provide the Commission with 'independence, functional autonomy and broad mandate', which are essential to the composition and proper functioning of a NHRI conforming with the Paris Principles. NHRC, India is an embodiment of India's concern for the promotion and protection of human rights. The experience of NHRC-India, ever since its inception, has reflected that its independence and strength is well guaranteed by the requirements of the statute relating to its composition, appointments procedure, and powers relating to inquiries, extensive range of functions and specialized divisions and staff. (NHRC annual report, 2018)

Under Section 2(d) of the Act, human rights are defined as rights pertaining to an individual's life, equality, and dignity. These rights are guaranteed by the Indian Constitution and enshrined in international agreements, which are enforceable by Indian courts. The Indian Constitution grants specific rights to individuals in Part III, known as fundamental rights. Meanwhile, Part IV outlines the Directive Principles of State Policy, which provide guidance to the state for offering economic and social rights to its citizens in a prescribed manner. The term "fundamental" signifies that these rights are inherent, basic, and indispensable for every individual.

It's crucial to note that the rights guaranteed in the Constitution must align with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, as India has ratified these covenants. The justiciability of fundamental rights is guaranteed under the Indian Constitution. The responsibility for enforcing these fundamental rights is assigned to the Supreme Court under Article 32 and to the High Courts under Article 226.

This Act serves a dual purpose: first, it establishes an institutional framework at both the central and state levels, and second, it creates enforcement mechanisms through human rights courts to safeguard human rights.

5.6 CONSTITUTION OF THE NATIONAL HUMAN RIGHTS COMMISSION
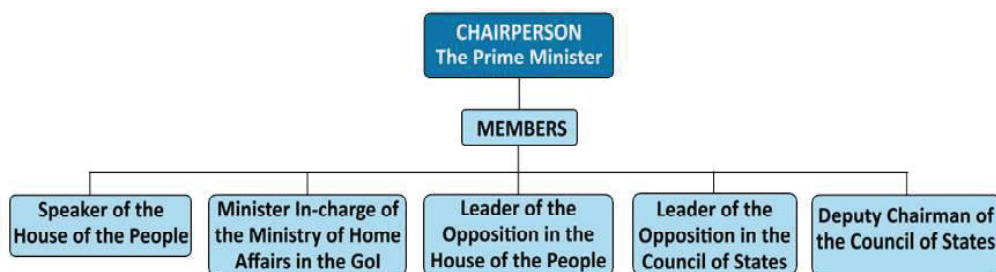
Selection Committee for Appointment of Chairperson and Members of NHRC
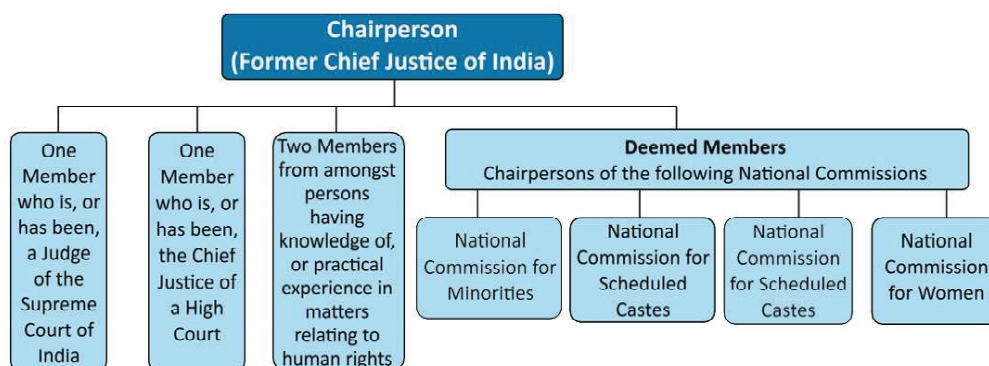
Constitution of NHRC

Section 3 of the PHRA, (amended in 2019) provides for the constitution of a Commission consisting of:

   i. A Chairperson who has been a Chief Justice of India or a Judge of the Supreme Court;

  ii. One Member who is, or has been, a Judge of the Supreme Court;

 iii. One Member who is, or has been, the Chief Justice of a High Court;

  iv. Three Members, out of which at least one shall be a woman, to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

With this amendment the number of Deemed Members of the Commission has increased from five to seven. As per PHRA, (amended) 2019 the seven Deemed Members of the Commission are as under:

i. Chairperson of the National Commission for Scheduled Castes

ii. Chairperson of the National Commission for Scheduled Tribes

iii. Chairperson of the National Commission for Minorities

iv. Chairperson of the National Commission for Women

v. Chairperson, National Commission for Protection of Child Rights.

vi. Chairperson, National Commission for Backward Classes

vii. Chief Commissioner for Persons with Disabilities

This high-level committee, which maintains political balance, in conjunction with the statutory requirements governing the qualifications of the Chairperson and Commission members, contributes to the NHRC's significant credibility.

The Chairperson and the Members of the National Human Rights Commission are appointed by the President of India, on the recommendations of a high-level Committee comprising of the Prime Minister (as Chairperson), the Speaker of the Lok Sabha (House of the People), the Minister in-charge of the Ministry of Home Affairs in the Government of India, the Leaders of the Opposition in the Lok Sabha and Rajya Sabha (Council of States), and the Deputy Chairman of the Rajya Sabha. The Chief Executive Officer of the Commission is the Secretary General, an officer of the rank of Secretary to the Government of India. The Secretariat of the Commission works under the overall guidance of the Secretary General.

The chief executive officer of the Commission is the secretary-general, an officer of the rank of secretary to the Government of India. The secretariat of the Commission work under the general supervision of the secretary-General.

5.7 STATE HUMAN RIGHTS COMMISSION

The National Human Rights Commission was constituted in 1993, in accordance with the Protection of Human Rights Act (PHRA), 1993. In Section 21 (PHRA), provides for constitution of the State Human Rights Commissions (SHRCs) in all the States.

The existence and functioning of a Human Rights Commission in the States will go a long way in the protection of human rights in the remote areas of the country. The Commission has been urging the State Governments, where no State Commission has been constituted, to initiate action to constitute a State Human Rights Commission to fulfill its responsibilities to the people in accordance with the Protection of Human Rights Act (PHRA), 1993 and the 'Paris Principles'.

5.8 RANGE OF FUNCTIONS

The Commission has a wide mandate including civil and political rights, economic, social and cultural, and group rights. Section 12 puts forward that the Commission shall perform all or any of the following functions,

a. inquire, suo motu or on a petition presented to it by a victim or any person on his behalf or on a direction or order of any court, into complaint of

   i. violation of human rights or abetment thereof; or

   ii. negligence in the prevention of such violation, by a public servant.

b. Intervene in any proceeding involving any allegation of violation of human rights pending before a court, with the approval of such court.

c. Visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purpose of treatment, reformation or protection, for the study of the living conditions of inmates thereof and make recommendations thereon to the Government.

d. Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.

e. Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.

f. Study treaties and other international instruments on human rights and make recommendations for their effective implementation.

5.9 ADMINISTRATIVE FUNCTIONING OF THE COMMISSION

There are five divisions in the Commission. Though each of these have been entrusted specific tasks, the Divisions work in close consultation and coordination with each other. These are:

A. Law Division: The Law Division of the Commission basically has been serving as the Registry of the Commission. It receives, scrutinizes and registers complaints from the victims or others on behalf of the victims or intimations from the authorities about custodial deaths, custodial rapes, deaths in encounters or action by police/paramilitary forces or defence forces, references from the Courts. It further processes these complaints/matters by placing them before the Commission for orders/proceedings and ensures that necessary follow up action is taken pursuant to the Commission's orders. It also organizes Camp Sittings, Open Hearings of the Commission, in various parts of the country, to enable the Commission to render justice to the victims at their doorsteps. The Law Division also facilitates the Commission to make interventions in the Court Proceedings, or to respond in the Cases filed against the Commission in the matters of the human rights violations. It also facilitates the Commission in taking suo motu cognizance.

B. Investigation Division: The Investigation Division is headed by an officer of the rank of Director General of Police, assisted by one Deputy Inspector General and four Senior Superintendents of Police. Each Senior Superintendent of Police heads a group of investigative officers (consisting of Deputy Superintendents of Police and Inspectors). The functioning of Investigation Division is analytical and multi dimensional such as follows:-

1. **Spot Enquiries:** The Investigation Division conducts spot enquiries and recommends suitable action in the cases revealing human rights violation.

2. Custodial Deaths: As per the guidelines issued by the Commission to the State authorities, the latter are supposed to intimate the Commission in case of any death occurring in custody (whether in police or judicial custody) within 24 hours

3. Deaths in course of Police firing /encounters: The Commission has laid down detailed guidelines for such cases in which people /criminals/extremists get killed during during a police action such as firing.

4. Fact Finding Cases: The Investigation Division also calls upon the different authorities to submit reports in "Fact Finding" Cases as directed by the Commission. The Investigation Division critically analyzes these reports with a view to assist the Commission in deciding whether there is any violation of Human Rights or not. In cases where reports received are misleading or not factual, the Commission orders a spot enquiry as well.

5. Training: The officers of the Investigation Division deliver lectures in training institutes and other forums, wherever they are invited to spread human rights literacy and promote awareness of the safeguards available for the protection of the human rights.

6. Rapid Action Cell: From the year 2007, the Investigation Division has taken the initiative of making a Rapid Action Cell functional in the Commission. Under RAC cases, the Investigation Division deals with cases which are of a very urgent nature e

7. Debate Competition for personnel of Central Armed Police Forces: In order to promote human rights awareness and spread sensitization towards it among the personnel of the Central Armed Police Forces, the Investigation Division has been regularly organizing a debate competition on such issues every year since 1996.

8. Debate Competition for personnel of State Police Forces: The police today are duty bound to conform to the principles of Human Rights in discharging their duties The lower and middle levels in the police forces are extremely crucial from the viewpoint of human rights because they directly come into contact with general public while discharging their duties

C. Policy Research, Projects and Programmes Division of NHRC undertakes and promotes research on human rights and organizes conferences, seminars and workshops on important human rights issues. Whenever the Commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of importance, it is converted into a project/programme to be dealt with by the PRP&P Division. Besides, it reviews policies, laws, treaties and other international instruments in force for the protection and promotion of human rights. It facilitates in monitoring the implementation of NHRC recommendations by the Central, State and Union Territory (UT) authorities. It further helps the Training Division in spreading human rights literacy and in promoting awareness about the safeguards available for the protection of human rights.

D. Training Division: is responsible for spreading human rights literacy among various sections of the society. As such, it trains and sensitizes various government officials and functionaries of the State and its agencies, non-government officials, representatives of civil society organizations and students on different human rights issues. For this purpose, it collaborates with the Administrative Training Institutions/Police Training Institutions and Universities/Colleges. Besides, it conducts internship programmes for college and university students. The Division is headed by a Joint Secretary (Training & Research), who is supported by a Senior Research Officer (Training), an Assistant, Research Consultant and other secretarial staff.

E Administration Division: looks after the establishment, administrative and related requirements of the Chairperson and Members of the NHRC. Besides, it looks into personnel, accounts, library and other requirements of the officers and staff of the NHRC. The work of the Division is handled by the Joint Secretary (P&A) who is assisted by a Director, Under Secretaries, Section Officers, Assistants and other secretarial staff.

5.10 CRITICAL ANALYSIS

Sumanata Baneerje (2003) argues that in the context of increasing dis- regard for accountability for violations of human rights and international humanitarian laws, we need to take a second look at the National Human Rights Commission. She notes that among the complaints received by the Commission, over 40 per cent are against the police, followed by those against jails which provide a reflection on the state of the penal system in the country. In several cases, it had ordered state governments to pay compensation to victims of police atrocities.. But the state governments also on many such occasions had thwarted the Commission's efforts by approaching the courts and obtaining stay orders, thus denying the complainants their compensation. It highlights the failure of an effective institutional working relationship between the NHRC and the judiciary.

Further, A. G. Noorani (2001) points to the issue of non-compliance with the NHRC's orders. He argues that cases under NHRC are often 'handled' and not concluded and thus becoming just statistics to go under its annual reports. He recommends greater transparency in the work of the NHRC and better communication with NGOs and members of the public, especially with the complainants.

Then U. K. Singh (2018) brings out paradoxical nature of NHRC as on one hand it can be seen as an extension of the arm of the state, with a peculiar function of intervening in the social, political and legal landscape of the country on behalf of the state; or on the other hand, as a body where the struggle for articulating human rights is waged in complex ways and in which competitive claims to authorising rights are made. In this context, it constitutes a site where the state, the "victims" of human rights violations, and civil society organisations are arrayed along complex fault lines. This question would prompt us to look at the institution (the NHRC) itself as a potential variable located within the political process, altering the thresholds of participation and the rules of the game, the contest over which maybe of advantage to some and not to the others. In this sense, the NHRC would constitute an arena of struggle, where the struggle is not only over the way in which the political field in which the NHRC is located is constituted may be altered, but also over the rules of the political game.

5.11 CONCLUSION

In conclusion, human rights stand as a beacon of justice, equality, and dignity for individuals across the world. Rooted in a rich historical context that spans centuries, these universal and inalienable rights are based on the intrinsic worth and unique dignity of every human being. They are not only a framework for mutual respect and responsibility in society but also a powerful force that shapes decision-making processes and empowers individuals through awareness and recognition.

The historical evolution of human rights, from ancient civilizations to pivotal moments like the Magna Carta, the Enlightenment, the American and French Revolutions, and the aftermath of World War II, has laid the foundation for a global commitment to their protection. The Universal Declaration of Human Rights, adopted by the United Nations in 1948, serves as a foundational document for international human rights law and continues to guide the development of human rights worldwide.

In India, the Constitution guarantees fundamental rights and emphasizes the interplay between rights and duties. The establishment of institutional mechanisms like the National Human Rights Commission (NHRC) reflects the nation's commitment to protecting and promoting human rights. These institutions serve as watchdogs, ensuring accountability, offering legal recourse, and advocating for justice and equality.

While the NHRC has made significant strides in addressing human rights violations, it faces challenges such as non-compliance with its orders and the need for improved transparency and communication. It is imperative that these issues be addressed to strengthen the protection of human rights and enhance the institution's effectiveness.

Human rights are not static; they continue to evolve to meet the changing needs and challenges of societies worldwide. They remain fundamental to the pursuit of justice, equality, and the dignity of all individuals. By understanding their historical context and supporting institutional arrangements for their protection, we can strive towards a world where human rights are not just an ideal standard but a lived reality for everyone.

5.12 GLOSSARY

Human Rights: Fundamental rights and freedoms inherent to all individuals by virtue of their humanity, considered universal, inalienable, and based on the intrinsic worth and dignity of every person.

Inalienable: Rights that cannot be taken away or surrendered.

Indivisible: Human rights that are interconnected and interdependent, meaning that one right often depends on the realization of other rights.

Civil and Political Rights: Rights related to individual freedoms and participation in government, including freedom of speech, the right to vote, and the right to a fair trial.

Social, Economic, and Cultural Rights: Rights related to socio-economic well-being, including the right to education, health, and an adequate standard of living.

Mutual Respect: A fundamental principle of human rights, emphasizing the need for individuals in society to respect each other's rights.

Responsibilities: Duties that individuals owe to one another, often tied to the concept of human rights.

Universal Declaration of Human Rights (UDHR): A foundational document adopted by the United Nations in 1948, outlining a comprehensive set of human rights and freedoms.

Magna Carta: A historical document from 1215 that limited the powers of the monarch and introduced the idea that even rulers were subject to the law, marking the beginning of the rule of law.

Enlightenment: A philosophical and intellectual movement of the 17th and 18th centuries that emphasized reason, individual rights, and the importance of democracy.

American Revolution: The revolutionary war in the United States from 1775 to 1783, which led to the Declaration of Independence and the U.S. Bill of Rights.

French Revolution: A period of radical social and political upheaval in France in 1789, leading to the French Declaration of the Rights of Man and of the Citizen.

International Human Rights Law: A body of legal instruments, treaties, and conventions that codify and protect human rights at the international level.

Preamble: The introductory section of a constitution or legal document that provides the foundational principles and objectives of the document.

Fundamental Rights: Rights guaranteed by a constitution or legal document that protect individuals from discrimination and safeguard their personal liberties.

5.13 PRACTICE QUESTIONS

1. What is the significance of the Universal Declaration of Human Rights, and how has it influenced international human rights law?

2. In the context of India, how does the Constitution ensure the protection of fundamental rights and the interplay between rights and duties?

3. Why are institutional arrangements, like the National Human Rights Commission, important for safeguarding human rights, and what challenges do they face in fulfilling their roles?

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UNIT 6
REGULATORY INSTITUTIONS: RESERVE BANK OF INDIA

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Structure

6.1   LEARNING OBJECTIVES

After completing this course, students will:

- Analyse the historical evolution of the central banking system, including the key events and legislative developments
- Evaluate the organizational structure of the central bank, including the composition of the Central Board of Directors, subsidiaries, and various departments
- Explain the role and functions of the RBI within India's current banking system
- Analyse the banking rules and methods employed by the RBI and their impact on various stakeholders

6.2   INTRODUCTION

Trade and finance has existed since the very start of human civilizations, which is essentially the inception of society. When transacting, goods were given and received in a way that benefited all parties. With the changing needs and desires of society, the barter system encountered certain challenges. Therefore, money entered the picture as a solution. Previously merely decorative items, shiny coins and rare metals have become essential to the functioning of entire nations and the accumulation of wealth. This significant shift transformed the world and was akin to a switch in how people conducted business. Still, the story of money and financial systems had just started. As nations gained prominence, they required a means of managing and stabilising their currency. At that point, central banking emerged. Governments took on the duty to defend the financial systems, devising strategies to manage the fluctuations in their respective economies. In this massive money game, the RBI, the central bank of India, is a notable participant. It was founded as India's economy was beginning to recover, and ever since, it has guarded the nation's fiscal stability. It has grown to be a significant contributor to India's economic might by making astute choices and meticulous planning; it knows how to manage finances and foster national development. In this course, as we would move forward, we would learn about this financial institution, its workings, regulations, structure and all other aspects of Indian economy and financial system.

6.3 ORGANIZATIONAL IMPORTANCE OF CENTRAL BANKS

Will Rogers asserted that three significant inventions have existed since the dawn of time: fire, the wheel, and central banking. Although such centralization of banking is typically seen as the top of the money market pyramid, some economists highlight the central bank's various functions in different ways. For instance, a central bank's role as the "lender of last resort" is one of its fundamental qualities, according to R.G. Whawtrey. In line with Kische & Elkin, preserving the "stability of the monetary standard" is the Central Bank's primary duty. However, Shaw, W.R. emphasizes "credit control" as the most prioritized role in contrast. The Bank of England, which was established in 1694, is arguably the oldest central bank that finances government operations. The Federal Reserve, the United States' central bank, entered the central banking scene relatively late—it was founded in 1914. There were just eighteen central banks with the advent of the 20th century. Nowadays, central banks are found in the majority of nations.

1. History of RBI

India's modern financial institutions history began in the eighteenth century with the founding of the several banks. There were three presidential banking institutions established in Madras, Bombay, and Calcutta. These Presidency Banks united in 1921 and converted themselves as one Imperial Bank of India. This bank served as a commercial bank and took on certain central banking responsibilities. Before the Reserve Bank, the Central Government's dual control over currency and the Imperial Bank's credit created difficulties for the banking system in that era. Thus to end this dual control, on recommendations of the Royal Commission on "Indian Currency & Finance" in 1926, RBI was established. In 1927, a bill was filed in the legislature, but it was eventually abandoned. The country's constitutional reform debate got underway in 1930–1931.

After much deliberation, an act namely RBI Act was passed in 1934; portions of it went into effect in 1935 and 1937. Like numerous foreign central banks, the RBI was founded as a banking company with private ownership and started functions with an initial investment of Rupees 5 crore. It took over the Indian Government's duty on money and conducted financial activities as provided by the Act. January 1938 saw

the very first and inaugural currency notes, which came in the values of rupees five and rupees ten. On the very first day of 1949, Indian state centralized the RBI, making it a state-owned financial institution under the terms of the Transfer of Public Ownership Act, 1948. It presently performs the roles of bank manager, trader, and banker. In addition, it affects the world finance in a numerous ways. The Reserve Bank's duties have evolved over time to address changes in the financial sector and business landscape of India.

2. Management of RBI

The functions of the central bank is similar to a business company. It is an ongoing organization with succession and has its own official stamp. It can file or receive a lawsuit in court, just like a business. There is a central board which includes number of directors for the institutional setup. The Transfer of Public Ownership Act specifies how the Indian state is to establish Local Boards and the Central board of directors (CBD). There are currently 20 participants of the central board of directors. Apart from that, the Central Government also appoints four Deputy Governors and the RBI has one Governor. The Deputy Governors are in office for four years, and the Governor is in office for five. The organizational structure also includes Executive Directors.

The RBI Act mandates that the CBD hold meetings at least six times a year and once every quarter. There are 22 Regional Offices of the RBI currently, most of which are located in Union Territories and State Capitals. The RBI Act of 1934 states that all States and Union Territories fall under the RBI's jurisdiction. Four major cities have Local Boards established: Mumbai, Kolkata, New Delhi, and Chennai. The CBD is responsible for directing, regulating, and overseeing the working of the financial institutions through its Governor, Deputy Governors, and other executives. One Director from every board locally is chosen by Indian ruling authority to serve on the CBD. The government selects roughly ten directors and one official.

3. The organisational structure

The Reserve Bank's chief executive is the governor. The Reserve Bank's operations are overseen and managed by the Governor. Executive Directors and Deputy Governors complete out the management group. The CBD is responsible for overseeing and directing the Reserve Bank's operations in general.

6.4 COMPOSITION OF CENTRAL BOARD

The Governor, 4 Deputy Governors, Ten Directors, and Two Government Officials recommended by the Central Government make up the Central Board. The Director and Deputy Governor are allowed in Central Board meetings as participants, but they are not allowed to cast votes. Both the governor and deputy governor are eligible for reinstatement after serving terms of five years in office. The President may elect or dismiss the Directors at any time during their four-year term in office. The Central Board meets for a minimum of six times annually.

6.5 COMPOSITION OF LOCAL BOARD

Every single of the four divisions has a local board, with five members chosen by the central government. A chairperson is chosen by the other members in the board. These members can be chosen again after serving terms of four years in office. The Local Board carries out the tasks assigned to it by the Central Board and provides guidance on issues that are assigned to it.

6.6 FUNCTIONS OF RBI

The central bank is essential to Indian financial system and occupies a prominent position as the nation's highest financial authority. The RBI's primary objectives are outlined in the preamble of the Act, as enumerated:

1. To regulate the currency issuance and

2. The preservation of money guaranteeing liquidity throughout the nation and, overall,

3. Regulate the monetary and financial infrastructure for its beneficial effects.

The following are some of the RBI's primary duties:

6.6.1 Issuing, Printing and Circulation of Currency

It is the only government organisation in charge of minting and managing the monetary assets of the country. Together with the governing body of India, the RBI creates, prints, and maintains the nation's currency with the intention of having a sufficient supply of authentic, fresh notes available. The Paper Currency Act of 1861 gave the Indian government the exclusive right to issue currency, outlawing the issuance of notes by presidency and private banks. From 1861 until 1935, the Indian government was in charge of issuing paper money. When the Reserve Bank of India first opened for business in 1935, it took over this responsibility from the India's Office of the Controller of Currency.

It also ensures that the government produces enough coins and disposes of banknotes and currency that are beyond their useful lives. It guarantees the uniformity of note issuance and upholds public confidence in paper money. The RBI is responsible for putting one rupee coins and notes into circulation, even though the Government of India issues them along with smaller denomination coins. All locations in India accept these banknotes without restrictions. At the moment, the RBI prints notes with values of Rs. 2, 5, 10, 20, 50, 100, and 500. The Issue Department receives eligible assets in exchange for replenishing the currency stock. Examples of these eligible assets include gold coins, foreign securities, bills of exchange, promissory notes, and rupee coins.

6.6.2 Banker, Agent and Financial Advisor to Government

Offering a range of banking services, the RBI serves as a banker for the federal government as well as the state governments. These services include receiving and collecting government payments, processing deposits, permitting cheque withdrawals and transferring money. Legislation mandates that the RBI offer banking services to the Central Government; state governments obtain these services through agreements with the RBI. Since the RBI operates in the gilt-edged market and has extensive knowledge of it, it now manages public debt instead of the government. Regarding the quantity, conditions, terms, and timing of new bond issues, the RBI can provide the government with insightful guidance.

Additionally, the RBI issues bills of exchange on the orders of the government, which account for an important share of the national borrowings. Apart from overseeing the nation's debt, the RBI provides the government with short-term loans to ease short-term financial strains brought on by insufficient revenue. Last but not least, the RBI counsels the government. The RBI can advise the government on banking and financial issues as well as general economic planning because of its multidisciplinary experts. The necessity for coordination between monetary and fiscal policies has made this role more significant.

6.6.3   Supervisor to Banking Institutions

Through on-site inspection and off-site surveillance, the central bank employs a two-pronged approach that is vital to its supervision of the Indian banking system. On a regular basis, the RBI sends teams of supervisors with experience to visit specific banks. These inspections evaluate the bank's internal controls, risk management procedures, financial stability, and compliance with regulations. Inspectors examine a number of factors, including loan portfolios, credit risk, capital sufficiency, adherence to Know Your Customer (KYC) regulations, and anti-money laundering protocols. Upon detecting significant shortcomings, the supervisors have the authority to recommend remedial actions or levy penalties. Furthermore, in order to anticipate early warning indicators of distress in a specific bank, potential issues are identified using sophisticated analytical tools. The RBI can issue directives or take proactive steps to address emerging risks and preserve overall financial stability based on the analysis.

6.6.4   Public Debt Management

On behalf of the national and the state governments, the Reserve Bank oversees public debt management and extends fresh borrowings. It includes the issuance and retirement of loans denominated in rupees, the payment of loan interest, and administrative issues pertaining to debt certificates and their registration. The Union Budget determines the Central Government's annual borrowing requirements. In order to reduce borrowing costs, minimise roll-over risk, improve the depth and liquidity of the government securities markets, and stabilise the debt maturity structure, the Reserve Bank's debt management strategy aims to establish an active secondary market.

6.6.5 Licensed Authority

The Section 22 of the Banking Regulation Act, 1949 states that anyone wishing to establish a bank in India, be it a person, organisation, or enterprise, must obtain authorization or a licence from RBI. It also grants licences for the establishment of extension counters, the closure of current branches, and the opening of new branches. This jurisdiction guarantees that only qualified people or entities enter the banking industry and assists the RBI in preventing needless competition among various banks in a given area.

A petition filed under Article 226 of the Indian Constitution questioned the legality of Section 22 of the 1949 Banking Companies Act. This section mandates existing banks to seek a license within six months from the Act's commencement and empowers the Reserve Bank of India (RBI) to issue such licenses. The petitioner argued that Section 22 encroaches upon fundamental rights to business and trade guaranteed by the Constitution. However, the High Court recognized the RBI's critical role in fostering national economic stability and upheld the constitutionality of Section 22, dismissing the petition.

6.6.6 Credit Control

Controlling credit is becoming one of a reserve bank's most significant responsibilities. The Reserve Bank employs both quantitative and qualitative controls to monitor and regulate the flow and magnitude of credit. Using the bank rate policy, conducting open market operations, and adjusting the reserve ratio are examples of quantitative controls. Conversely, qualitative controls entail taking specific actions, implementing credit rationing, establishing margin requirements, employing moral persuasion, and taking direct action. We will read about it in much details later in the course. In addition to the aforementioned duties, RBI also has certain promotion and supervision obligations. It facilitates the expansion of credit in rural areas, backs industry development, and advances agriculture.

6.6.7 Banker's Bank

The RBI safeguards commercial financial institutions in a protective manner. These banks are mandated to deposit a specific level of cash reserves with RBI. It also facilitates this process by opening current accounts for banks, which enable them to maintain cash reserves and conduct business with one another through these accounts.

Additionally, by transferring funds via computerised systems like the Real Time Gross Settlement System, they are able to settle these interbank accounts. To make it easier for banks to check and transfer money between various Deposit Accounts Departments (DADs), the Reserve Bank launched the Centralised Funds Management System (CFMS). Because they can view information about their balances in one location, banks are able to control their resources more effectively.

As a banker to banks, it helps particular banks meet financing objectives and extend credit to important industries by providing short-term loans when needed. This guarantees that credit moves freely throughout the economy. As an essential reserve for the whole financial system, the RBI also protects a portion of bank deposits. You can take money out of this fund when you need it to keep things resilient and stable. Additionally, the RBI provides solvent banks experiencing transient capital shortages with a ray of stability. As a lender of last resort, it is prepared to offer financial support in order to avert possible crises and preserve the general stability of the banking system.

6.6.8 Control and Monitoring of NBFCs

As the guardian of India's financial system, the RBI plays a crucial role in controlling and monitoring Non-Banking Financial Companies (NBFCs). It starts with licensing, where NBFCs are categorized based on size and activity, each facing tailored regulations and oversight. According to RBI Act of 1934 Section 45-IA, registration of NBFCs with RBI is mandatory. The RBI has the authority to set policy and give instructions to non-banking financial companies. It also has the power to regulate or forbid the issuance of prospectuses or advertisements asking for deposits from NBFC companies. To ensure financial health, the RBI sets rigorous standards for capital adequacy, loan provisioning, and income recognition. These are complemented by regular on-site inspections and off-site data analysis, where the RBI assesses risk management practices and adherence to regulations.

6.6.9 Regulation and Supervision of Co-operative Banks

Urban cooperative banks are subject to regulation and supervision by the RBI. The entry regarding cooperative societies is in the State List, whereas the entry regarding banking is in the Union List. Therefore, the Registrar of Cooperative Societies, under the relevant State Cooperative Societies Act of the State in question, and the Reserve Bank of India, under the Banking Regulation Act of 1949, have independent jurisdiction

over cooperative banks. Section 56 of the Banking Regulations Act, 1949 applies to cooperative societies that work in the banking sector. The RBI has the power to control loans and advances, inspect cooperative banks, revoke licences for cooperative banks, replace boards, and issue directives to cooperative banks in the public interest and in accordance with banking policy.

6.6.10 Foreign Exchange Manager

The Foreign Exchange Management Act (FEMA), which replaced the earlier FERA Act, shapes the foreign exchange environment in India. This law gives the Reserve Bank of India (RBI) the crucial responsibility of "exchange control." This translates into a complex duty of promoting and policing the foreign exchange market. The RBI's mission goes beyond simple oversight. In accordance with FEMA regulations, it actively strives to keep the Foreign exchange market steady and organised. Another primary goal is to enable smooth international trade and payments. To further ensure their best use and investment, the RBI also serves as the custodian of the country's foreign exchange reserves. The RBI's role as a market stabiliser has become even more important with the transition to a floating exchange rate system and the partial convertibility of the rupee for trade and current account transactions. It continues to be watchful in making sure that the foreign exchange ecosystem is strong and dynamic, meeting the needs of the domestic and global economies.

Both independently and on behalf of the government, it manages foreign exchange transactions. When interacting with the public, it carries out these transactions both directly and through approved dealers (Ads). To ensure that different currencies are actively traded, the RBI supervises, tracks, and regulates the foreign exchange market. This keeps it active and involves importers, exporters, and advertisers. Customers benefit from having good quotes with few rate variations thanks to this. The RBI wants to turn the foreign exchange forward market into a helpful tool that helps importers and exporters manage all of their exchange risks. The rules are intended to guarantee that forward market facilities are utilised for legitimate needs rather than for speculation.

6.6.11 Developmental Role

The Reserve Bank of India (RBI) assumes a pivotal role in the developmental trajectory of the nation, actively fostering comprehensive growth and financial prosperity throughout the country.

6.7 ADVANCING FINANCIAL INCLUSION

Microfinance: Encouraging the development of microfinance institutions, the RBI facilitates the provision of loans and credit to marginalized communities, with a particular focus on women and rural populations. This empowerment enables individuals to initiate businesses, invest in education, and fortify their financial resilience.

Financial Literacy: At the forefront of financial literacy initiatives, the RBI spearheads programs that educate diverse segments of the population on fundamental banking, saving, and investment principles. This heightened awareness empowers individuals to make well-informed financial decisions and optimize the utilization of financial services.

Priority Sector Lending: Mandating banks to allocate a portion of their credit to strategically identified sectors pivotal for development, such as agriculture, small-scale industries, and infrastructure, the RBI ensures ample funding for these sectors, propelling economic growth and job creation.

Promoting Innovation and Technology:

Payment Systems: Actively endorsing the development of efficient and inclusive payment systems such as Unified Payments Interface (UPI) and mobile banking, the RBI facilitates cashless transactions, fosters financial inclusion, and stimulates economic activities across all strata.

Fintech Ecosystem: Nurturing the fintech ecosystem through the provision of regulatory frameworks and encouragement of innovation in financial services, the RBI cultivates the creation of novel products and services tailored to diverse needs, thus accelerating growth within the financial sector.

Cybersecurity: Recognizing the escalating reliance on digital financial services, the RBI leads initiatives to elevate cybersecurity standards and safeguards within the banking system, ensuring the protection of financial data and instilling trust in digital transactions.

Championing Sustainable Development:

Environmental and Climate Risks: Integrating considerations of environmental and climate change into its regulatory framework and supervisory practices, the RBI

motivates financial institutions to adopt sustainable practices and effectively manage climate-related risks.

Green Finance: Advocating for green finance initiatives, including green bonds and climate-focused investment funds, the RBI channels capital towards renewable energy, energy efficiency, and other sustainable infrastructure projects, contributing to the realization of a greener future.

Cultivating a Resilient Economy:

Disaster Risk Management: Collaborating with other agencies, the RBI actively participates in the development of financial instruments and preparedness strategies for managing natural disasters, thereby mitigating economic losses and facilitating swift recovery in affected areas.

Financial Stability Measures: Implementing various measures to uphold financial stability and avert systemic risks, the RBI safeguards depositors, ensures the seamless functioning of the financial system, and contributes to overall economic stability.

Promotional role

The RBI is now in charge of tasks beyond money management. Apart from safeguarding credit and currency to maintain the rupee's value and price stability, it also acts as a backbone for financial institutions, which are indispensable for fulfilling the distinct financial needs of developing countries. Upon the establishment of the Reserve Bank in 1935, the country did not have a robust commercial banking industry, a developed money market, or a substantial industrialization. Following its independence, India started a methodical and planned process of economic development, which is still ongoing. In addition to following government directives and policies, these changes mandated that the Reserve Bank follow appropriate credit and monetary policies and take necessary steps to ensure rapid growth and development for the economy as a whole.

Powers of RBI

A significant player in the Indian economy, the RBI is a strong organisation. Its authority is necessary to uphold economic stability, encourage economic expansion, and safeguard investors' and customers' interests. The R.B.I. has the following different powers:

6.8 ISSUE LICENSE

As the guardian of India's financial landscape, the RBI wields the critical power of issuing licenses. From authorizing banks to operate and expand their branches to granting licenses for NBFCs and microfinance institutions, the RBI ensures stability and diversity within the financial ecosystem. This power is exercised meticulously, with stringent eligibility criteria and continuous oversight protecting depositors and promoting sound financial practices. The RBI's licensing power plays a pivotal role in shaping a healthy and inclusive financial future for India.

Bank Operations coverage

RBI guarantee that banks are properly structured and run their operations on stable financial foundations. The Regulation Act has established minimum requirements for paid-in capital, reserves, cash reserves, and other liquid assets, which vary based on the bank's operational coverage geographical area. It also has the duty of monitoring the fulfilment of these mandates.

Bank branches expansion

Through strategic policies, the RBI directs banks to establish new branches in unbanked and underserved areas, particularly rural regions. This expansion isn't just about numbers; it's about empowering communities. Increased access to financial services like savings accounts, loans, and insurance fosters financial inclusion, ignites entrepreneurial spirit, and fuels local economic growth. The RBI's calculated branch expansion strategy is like planting the seeds of financial prosperity across India, one branch at a time.

Weak Banks liquidation

Additionally, in order to bolster the nation's commercial banking sector, it has the authority to compel the forced closure of banks experiencing financial distress or their merger into stronger banks. It has the authority to conduct audits, investigations, and any other necessary actions to raise the operational effectiveness of the bank. Likewise it has the authority to compel a business stoppage.

Issue directions on Credit Control

Through its credit control measures, the R.B.I. is able to give instructions to commercial banks. By doing so, RBI increases the sectoral distribution of bank credit in favour of priority sectors like agriculture, small businesses, self-employed individuals, etc. and to provide more credit to small borrowers by improving the functional coverage of banks.

Bank Personnel trainings

RBI has set up a number of training facilities around the country to help with the instruction and preparation of different types of bank employees. The primary training facilities include the Staff Training College in Chennai, the Bankers Training College in Mumbai, the National Institute of Bank Management in Mumbai, the Cooperative Bankers Training College in Pune, the College of Agricultural Banking in Pune, and the zonal training centres for staff in Mumbai, Kolkata, Chennai, and New Delhi. The Reserve Bank of India (RBI) has set up a number of training facilities around the country to help with the instruction and preparation of different types of bank employees.

Banking promotion

In 1962, RBI established a Deposit Insurance Corporation as a subsidiary to encourage increased public confidence and, consequently, the spread of banking practices throughout the nation, particularly among the poorer segments of society. A later year saw the extension of the deposit insurance programme to regional and cooperative rural banks. There have been periodic revisions to the amount eligible for insurance coverage. It was set at Rs. 30,000 for every depositor in every bank on July 1, 1980.

6.9 MONETARY POLICY BY RBI

India's economic compass is largely guided by the Reserve Bank of India's (RBI) monetary policy. This set of regulations acts as a blueprint for banks, determining key aspects like interest rates, financial inclusion, and systemic stability. In essence, the RBI wields the magic wand that orchestrates how money flows within the country. The RBI unveils its annual monetary policy statement in April, outlining its vision for the year. Regular updates in July, October, and January keep stakeholders informed, with

additional pronouncements possible if circumstances demand. This policy document consists of two parts: Part A delves into major financial and economic trends, while Part B unveils new initiatives and actions.

The following are the goals of the RBI's monetary policy:

1. Maintaining price stability,

2. Ensuring a sufficient flow of credit to the economy's productive sectors to support economic growth, and

3. Ensuring financial stability.

The Reserve Bank of India (RBI) pursues its monetary policy goals, which are mainly to preserve price stability and promote economic growth, by using both quantitative and qualitative tools.

a. Quantitative or General tools:

6.9.1 Reserve Ratios

- **Cash Reserve Ratio (CRR):**

  This refers to the proportion of consumer deposits that financial institutions are required to keep as reserves with the RBI. Increasing the CRR reduces the amount of money available for lending by banks, thereby tightening money supply and controlling inflation. Conversely, decreasing CRR increases lending capacity and boosts money supply.

- **Statutory Liquidity Ratio (SLR):**

  This is the minimum percentage of a bank's liabilities that must be invested in approved government securities like bonds and treasury bills. Similar to CRR, adjusting SLR impacts the amount of credit available for lending.

6.9.2 Liquidity Adjustment Facility (LAF):

- **Repo Rate:**

  The rate at which commercial banks borrow overnight funds from the RBI through repurchase agreements. Increasing the repo rate discourages borrowing and slows down money supply, while decreasing it encourages borrowing and boosts money supply.

- **Reverse Repo Rate:**

  The rate at which the RBI borrows overnight funds from commercial banks. Increasing the reverse repo rate makes it more attractive for banks to park their funds with the RBI, reducing liquidity in the system.

6.9.3 Open Market Operations (OMO):

- The RBI buys and sells government securities in the open market. Buying government securities injects money into the system, while selling them absorbs money. This tool effectively manages liquidity and influences interest rates.

6.9.4 Marginal Standing Facility (MSF):

- A window for banks to borrow overnight funds from the RBI at a higher rate than the repo rate, acting as a last resort for emergency liquidity needs. This facility helps maintain financial stability in times of stress.

  These are some of the main quantitative instruments used by RBI. It's important to note that RBI often uses a combination of these tools to achieve its desired monetary policy objectives.

6.10 QUALITATIVE OR SELECTIVE TOOLS

In contrast to quantitative instruments, qualitative or selective tools employed by the RBI focus on directing the flow of credit towards specific sectors or purposes, rather than affecting the overall money supply. These tools are often used alongside quantitative measures for a more nuanced and targeted approach to monetary policy.

6.10.1 Moral Suasion:

- The RBI utilizes persuasive communication and informal guidance to encourage banks to prioritize lending to certain sectors like agriculture, small and medium-sized enterprises (SMEs), or infrastructure development. While not mandatory, moral suasion carries significant weight due to the RBI's regulatory authority.

6.10.2 Selective Credit Control:

- This involves imposing specific regulations or guidelines on lending in particular sectors or for specific purposes. Examples include setting maximum loan amounts for luxury goods purchases, prescribing minimum capital adequacy ratios for lending to specific industries, or imposing restrictions on credit for speculative activities.

6.10.3 Margin Requirements:

- These specify the minimum amount of funds that borrowers must invest from their own resources when taking out a loan for certain assets, like stocks or commodities. Increasing margin requirements discourages borrowing and dampens potential speculative bubbles in specific markets.

6.10.4 Consumer Credit Regulation:

- The RBI issues guidelines and regulations for lending practices in the consumer credit market, such as setting limits on credit card interest rates, regulating debt-to-income ratios, and promoting financial literacy. These measures aim to protect consumers from excessive debt and promote responsible borrowing.

6.10.5 Credit Rationing:

- As a last resort, the RBI can wield a powerful tool: directly setting credit limits for specific sectors or borrowers. This drastic measure is reserved for exceptional circumstances, like tackling urgent issues or safeguarding the entire financial system from cascading risks.

These are just some examples of qualitative tools used by RBI. Choosing the right tool and calibrating its intensity depends on the specific economic goals and challenges the RBI seeks to address.

6.11 CONCLUSION

In conclusion, the Reserve Bank of India (RBI) is a steadfast pillar of financial stability, economic resiliency, and visionary governance. Through its unwavering dedication to monetary policy, regulatory expertise, and technological innovation, the RBI has protected the nation's economic interests while guiding India towards becoming a major player in the global financial system. The central bank plays a crucial role in maintaining price stability, proactively promoting inclusive growth, and skillfully managing challenges, all of which serve to underscore its significance to the economy. Furthermore, the monetary policy-making RBI has demonstrated an impressive ability to adjust to the shifting dynamics of the world financial system. The central bank has consistently demonstrated its vision and flexibility, whether it is embracing technological advancements or making adjustments to increase transparency. In addition to being a regulator, the RBI also acts as a protector of financial institutions, a creator of financial inclusion, and a catalyst for steady, long-term economic growth.

6.12 PRACTICE QUESTIONS

1. What is the role of the RBI in formulating and implementing monetary policy?
2. Explain the importance of maintaining financial stability and why the RBI monitors banks' activities.
3. How does the RBI accord to the development of the banking sector in the country?
4. Examine the relationship of central government and the Reserve Bank of India.

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NOTES

UNIT 7
TRANSPARENCY AND ACCOUNTABILITY
A.   COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG)

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Structure

7.1   LEARNING OBJECTIVES

In this lesson students will be able to understand:

- Meaning of CAG and its responsibility

- Function of Comptroller and Auditor General

- CAG Constitutional and contemporary status

7.2 INTRODUCTION

Accountability means determining the responsibility of a particular person or organization for possible failures or procedural errors related to some work. The concept of accountability involves two stages, the first is accountability and the second is enforcement. Accountability means providing information as well as revealing the facts (rationale) for the decisions and actions of government institutions. Secondly, enforcement means that institutions can call (sanction) the violating party for accountability. Transparency means openness in the decision-making process and the right to information, that is, the simpler and clearer decision-making process and the process of providing information will be for the general public. There will be equal transparency in the institutions. There are some institutional means to bring transparency such as independent judiciary, good governance, ombudsman and Comptroller and Auditor General of India. In the absence of transparency the government becomes inefficient, slow and corrupt.

According to Abraham Lincoln, democracy is "government of the people, by the people and for the people". It can be said that accountability and transparency of government and government institutions towards the public are the basic values of a democratic system. To ensure that power and authority are exercised appropriately and responsibly, all democratic countries have developed processes of checks and balances. Transparency makes government more accountable and participation contributes to strengthening democracy. That is why the parliamentary system was adopted in the Indian Constitution so that greater accountability and stability could be maintained.

Kautilya believes that humans are naturally corrupt. Corrupt people, officials and institutions are like fishes, while drinking water it is impossible to find out that the fish is drinking water. Similarly, it cannot be found out how and in what manner the corrupt officials and institutions are being embezzling government capital. Therefore, to ensure accountability and transparency in a democratic country like India, constitutional bodies like Comptroller and Auditor General, Election Commission and Central Vigilance Commission have been formed. The extent to which corruption is prevalent in India can be assessed. It can be seen that since independence, a list of more than 86 political scams and corrupt leaders has been exposed on a large scale. This includes a long list ranging from 2G scams to coal scams. Therefore, in a developing

country like India, institutions like CAG have been established to curb political corruption.

Political corruption is the biggest problem as well as the biggest challenge of India in contemporary times. Corruption has taken root in the entire system. Corruption is prevalent in the system from top to bottom. The Government has established the Comptroller and Auditor General of India as constitutional institutions to fight political corruption. The Comptroller and Auditor General of India has been established as an anti-corruption constitutional institution, which is one of the oldest institutions. CAG is the supreme audit institution of India. This institution in India is a gift of the British Government. The British Government established it in India in the year 1858. As a constitutional institution, provision for the Comptroller and Auditor General of India has been made in Part 5 of the Constitution from Article 148 to Article 151. The purpose of establishing this institution is to ensure financial accountability.

Therefore, along with being the highest audit institution of India, CAG is also an independent constitutional post. CAG performs audit work for the Center as well as for the States, which is a unique feature of the Indian federal system.

7.3   WORK

Article 148 of India provides for the independent post of Comptroller and Auditor General, which is briefly called 'Auditor General'. Under Article 149, there is a provision to determine the powers, functions and duties of CAG by making a law by the Parliament. In 1971, Parliament, through the DPC Act, laid down the powers and functions of the CAG. By enacting this Act, the Government has established the CAG as a powerful institution by empowering the CAG to audit all the expenditure of the Government. Three types of audits are conducted by CAG.

TYPES OF AUDIT

1. Compliance Audit
2. Financial Audit
3. Performance Audit

Compliance audit is an assessment of whether the provisions of applicable laws, rules and regulations and various orders and instructions issued by the competent

authority are being complied with. A financial audit focuses on whether financial information is presented in accordance with the financial reporting and regulatory framework. Performance audit focuses on whether the organization is functioning with efficiency and effectiveness. Compliance and financial audit are mandatory while performance audit is discretionary. To make CAG's audit effective, details of all expenditure of the government need to be made available to CAG so that CAG can effectively prepare effective audit reports. In short, it is the custodian of public finances as well as the controller of the entire financial system of the country. The main duty of the CAG is to monitor financial administration under the Constitution of India and parliamentary law.

Therefore, along with implementing the democratic system in the financial sector, CAG acts as the guardian of public finances. Thus, through the report of the CAG, the accountability of the executive (Council of Ministers) to the Parliament for financial administration is ensured.

7.4 IMPORTANCE

India is a developing country where sustainable use of resources is a challenging task, hence it is necessary that an independent constitutional body ensures that resources are deployed for the development of the country without corruption. The role of CAG is more important than anti-corruption agencies like CBI and CVC. The scope of work of CAG is much wider as compared to CVC, where CVC can take action only against Group "A" officers and above, whereas CAG is more capable of maintaining financial security and accountability, which gives importance to the usage of fundsand curbs corruption. If we see on a larger scale, this is the work of CAG. After analysing the importance of this institution, the creator of the Constitution, Baba Saheb, Dr. Bhim Rao Ambedkar had said that "The Comptroller and Auditor General of India is probably the most important officer of the Constitution of India. He is a person who sees that money is not spent in excess of the limit of expenditure estimated by the Parliament or that the money is spent only on the items prescribed by the Parliament in the Appropriation Act.

The Comptroller and Auditor General of India, as a constitutional institution ensuring financial accountability of the country, has exposed several political scams, including the Bophors defense scam, 2G spectrum scam, telecom license scam, coal

mining scam and National Collegiate Sports Project scam. CEG has exposed many scams through its audit reports. The role of the constitutional institution CAG has appeared to be more important in protecting economic development in the era of coalition government politics.

As a constitutional body, the oath prescribed for the CAG is similar to that of a Supreme Court judge, stating "I will uphold the Constitution and the rule of law," while the oath of ministers states "I will uphold the Constitution and the rule of law." I will administer justice as per the Constitution and law". The importance of CAG can also be gauged from the fact that the scope of work of CAG is increasing with time. Along with the revenue examination, CAG has also started the examination of big enterprises working under the state and central government like SEBI, Transport Department, Housing Department,Metropolitan Department. CAG conducts examinations keeping in view the internationally accepted standards set by INTOSAI. After examining its importance, the Speaker of the Constituent Assembly, Dr. Rajendra Prasad, had said that the CAG has the power to ensure accountability of any officer, no matter how high a position he holds, in relation to the funds of the state. The CAG, through its audit, acts as a guide to ensure financial accountability and accountability of the executive to the Parliament**.**

7.5   PUBLIC AWARENESS

The issue of corruption as a topic remained at the center of electoral politics in the 2014 Lok Sabha elections. The work of making citizens aware against corruption and scams has been done by the Comptroller and Auditor General of India through its audit reports. In the Anna movement, citizens and civil societies united and started a mass movement against corruption at the national level and opposed the government involved in corruption. In the early part of the 21st century, the Comptroller and Auditor General of India has been proactive in assessing corrupt activities in national policies and development projects in the coalition-based Congress Party government through its audit reports and has identified several scams and corruption cases exposed. As a result, the Congress Party government, which ruled the country for many decades, was thrown out of power due to corruption and scams and the National Democratic Alliance (NDA) got an absolute majority in power in the country. Therefore, in 2014, the people angry with corruption changed the political system of the country through

democratic means. In the year 2014, corruption remained the focus of politics in the Lok Sabha elections, which increased people's awareness about democracy and corruption.

That is why the Comptroller and Auditor General, the constitutional institution of India, while ensuring financial administration, exposed all the scams through its audit reports. And in the response, political parties always questioned the constitutional status and credibility of this institution. As an powerful institution, CAG's approach to corruption also democratically empowers the public.

7.6 HISTORY

The Comptroller and Auditor General of India is an independent authority under the Constitution of India. To ensure accountability and responsibility, this institution ensures accountability of the government and other authorities (spenders of public money) to the Parliament and Legislatures and provides this information to the general public. CAG in India is the gift of the British Government. The office of the Accountant General was established by the British Government in the year 1858, the same year when the British took over the administrative control of India from the East India Company. In the year 1860, Sir Edward Drumms was appointed as the first Auditor General. Shortly thereafter, it came to be known as the Auditor General of India. In the year 1866 the name of this post was changed to Comptroller and Auditor General and in the year 1884 it was re-designated as Comptroller and Auditor General of India. Under the Government of India Act, 1919, the Auditor General was freed from government control and the post was given statutory status. The Auditor General began to be appointed by the Secretary of State in India. The post of Auditor General was empowered by making provisions for provincial auditors in the federal structure of the Government of India Act, 1935. According to this, the Auditor General was appointed by the Emperor. This Act also mentioned the appointment and service procedures and briefly described the duties.

After independence, Article 148 of the Indian Constitution made a provision for the appointment of an independent Constitutional Comptroller and Auditor General by the President of India. From 1947 to 1971, the CAG continued to function independently under the Audit Codes. In the year 1971, the powers, services and

duties of the CAG were defined. The Central Government enacted the Comptroller and Auditor General (Duties, Powers and Conditions of Service) Act, 1971. This Act provided the CAG accounting and audit responsibilities for the State Governments and the Central Government. In the year 1971, CAG was retired from accounting functions.

This history of 150 years of CAG seems appropriate and glorious. CAG is a symbol of those many inspirations which took the country towards the global economy by auditing the public sector institutions and prepared the audit report of public finance and governance in an independent and impartial manner. Through these functions and powers, CAG has maintained transparency and accountability in good governance in the present public administration.

7.7 CONSTITUTIONAL STATUS

After independence, the Constitution has provided for the Comptroller and Auditor General of India from Article 148 to Article 151 as an anti-political corruption institution. Article 148 deals with the appointment, oath, tenure and removal of the Comptroller and Auditor General of India, while Article 149 throws light on the duties and powers of the Comptroller and Auditor General of India. Article 150 states that the Union and the States shall maintain their accounts as prescribed by the President (on the advice of the CAG). Article 151 states that the report of the CAG relating to the accounts of the Union shall be submitted to the President, which shall be laid on the table of each House of Parliament. Also, the report of the CAG relating to the accounts of the States shall be submitted to the Governor of the State, who shall be laid before the Governor will have to be presented before the State Legislature. Further, Article 279 of the Constitution provides that the calculation of the net income of any tax or duty shall be certified by the CAG whose certificate shall be deemed final (Article 279). 'Net income' means the income of any tax or duty less the cost of collection. Also, the third Schedule of the Constitution provides for the oath to be taken by the CAG at the time of assuming office.

Many provisions have been made in the Constitution for the independence and autonomy of CAG. There shall be a Comptroller and Auditor-General of India, who shall be appointed by the President by warrant under his hand and seal and who shall

be removed from his office only in the same manner and on the same grounds as a Judge of the Supreme Court. -The salary and other conditions of service of the Auditor General shall be determined by Parliament by law. CAG is an important link in India's democratic system. Neither the salary of the Comptroller and Auditor General nor his rights in respect of leave of absence pension or age of retirement can be changed to his disadvantage after his appointment. The conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor General are determined by rules made by the President after consultation with the Comptroller and Auditor General. The administrative expenses of the Office of the Comptroller and Auditor-General, including salaries, allowances and pensions payable to or in respect of persons serving in that office, are charged on the Consolidated Fund of India.

Therefore, as a constitutional institution, the CAG is an efficient and powerful institution which has been made binding by making important provisions in the Constitution so as to ensure public awareness and participation while protecting the fundamental values of democracy.

7.8 ROLE OF CAG

The role of his office is to maintain the provisions of the Indian Constitution and laws enacted by the Parliament in the field of financial administration. The accountability of the executive (i.e. the Council of Ministers) to Parliament in the area of financial administration is secured through CAG reports. The Office is responsible to, and is the agent of, Parliament and audits expenditure on its behalf. The CAG is to 'ascertain whether the money shown in the accounts, which have been distributed, were legally available and applicable for the service or purpose for which they were applied or charged and whether the expenditure has been done in accordance with the authority which controls it.' The CAG has to ascertain whether the money shown in the accounts which has been distributed is legally available to serve or serve the purpose for which it was applied or charged and whether it is in accordance with the authority in question, who controls it.

The office can conduct propriety audit, that is, it can look into the 'wisdom, honesty and economy' of government expenditure and comment on the extravagance of such expenditure. However, unlike legal and regulatory audits, which are mandatory

on the part of the CAG, propriety audits are discretionary. The Constitution of India sees this office as the Comptroller as well as the Auditor General. However, in practice the present officers are performing only the role of Auditor General and not that of Comptroller. The powers of the CAG with respect to audit are provided in the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. According to this Act, CAG can audit:

1. All receipts and expenditure from the Consolidated Fund of India and of the States and Union Territories.

2. Transactions relating to contingency fund and public accounts.

3. All stores and stocks of all government offices or departments.

4. Accounts of all Government companies established under the Indian Companies Act, 1956.

5. Accounts of all Central Corporations for whom, Acts provide for audit by CAG.

6. The accounts of all authorities and bodies which are substantially funded from the Consolidated Fund, including the accounts of any authority not substantially funded by the Government, at the request of the Governor/President or on the CAG's own initiative.

To develop the nature of accountability and responsibility of financial administration, the Comptroller and Auditor General of India, as a constitutional institution ensuring financial accountability of the country, has exposed several political scams including Bofors defense scam, 2G spectrum telecom license scam, etc. Many political scams like allocation scam, coal mining scam have been exposed through its audit reports. By making the public aware against corruption, corruption has been presented before the public as a serious problem. The national movement against corruption in 2011, also known as Anna Movement, was based on the audit reports presented by this constitutional body on scams. On the basis of audit reports, Anna movement against corruption was started at the national level, which aroused public anger and resulted in political and social change. In 2014, people angry with corruption brought about a change in the country's politics through democratic means. In 2014, Lok Sabha elections, the issue of corruption as a topic remained at the center of electoral politics, whereas in the year 2009, the Lok Sabha elections were based on issues related to public policies, whereas in the year 2014, 'corruption' became the center point of the politics of the Lok Sabha elections. Along with the public, civil society also started expressing their dissatisfaction against corruption, the result of

which emerged in the form of Anna Movement. Through the Anna Movement, the public and civil society united and opposed the government engaged in corruption by inspiring a mass movement against corruption at the national level. The biggest exercise of democracy was done by the citizens of India in the Lok Sabha elections. After almost three decades, no political party in Indian politics got an absolute majority in the Lok Sabha. The absolute majority given by citizens to the National Democratic Alliance, led by the Bharatiya Janata Party, was a result of discontent against the Congress Party. Along with the public, civil society also started expressing their dissatisfaction against corruption, the result of which emerged in the form of Anna Movement. As a constitutional institution of India in the early decade of the 21st century, the Comptroller and Auditor General of India has been proactive in assessing corrupt activities in national policies and development projects under the coalition-based Congress Party government through its audits. Widespread scams like 2G scam, telecom license allocation scam, National Sports Board organizing scam, coal mining allocation scam and model housing scam were exposed. In short, due to the scams in the CAG audit report, the Congress Party government was thrown out of power in the country due to its corrupt character and the National Democratic Alliance came to power in the form of an absolute majority. The Comptroller and Auditor General of India, while ensuring its financial accountability, has identified scams in audit reports.

7.9 CRITICAL ASSESSMENT

The real fundamental reality of India's public institutions is that they are going through a severe legitimacy crisis. As a result of this crisis, a situation of quantitative as well as qualitative deficiency is arising even in an institution like CAG. There are quantitative crises such as decline in numbers and vacant public posts as well as qualitative crises such as lack of adequate skills and training.

CAG is criticized on the basis of its selection process. It is unfortunate that the process through which the government appoints the CAG is a completely secret and opaque process. The process of appointment of CAG appears to be completely confidential and opaque. There is no clear process and criteria to be followed for appointment. At the international level, most of the countries have made some plans

for the appointment of the head of SAI (supreme auditing institution). In the UK, the CAG is selected by the PM and confirmed by the House of Commons, whereas in the US, the Comptroller is appointed only after the consent of the Senate and in Canada, the appointment is made by the Senate and the House of Commons, but Due to the absence of any transparent process for the appointment of CAG in India, the credibility of CAG has been questioned.

The organization has also been controversial regarding CAG's selective activism. A 2021 RTI application by New India Express shows that the number of CAG reports from central ministries has declined from 55 in 2015 to only 14 in 2020. CAG has also been accused of being less active in such cases where the government's problems increase, that is why CAG, like CBI, is sometimes called the government's parrot. Based on audit, it is believed that according to IOSAI, 50% of CAG reports are not supported or certified by witnesses. Therefore, despite CAG being a constitutional institution in a democratic country, it has been a victim of criticism which not only questions its credibility but also damages the basic values of Indian democracy.

7.10   CONCLUSION

In India, as a democratic country, the post of CAG is considered very important as an anti-corruption institution. Expressing the importance of CAG, former CAG Vinod Rai has described CAG as the fifth pillar of Indian democracy. He has demanded reforms to make the appointment process in CAG fair so that CAG can fulfill its constitutional responsibilities more effectively.

7.11   PRACTICE QUESTIONS

1. Briefly explain Comptroller and Auditor General of India.
2. Analysis various power and function of CAG.
3. Describe role of Prescribed to CAG in India.

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UNIT 7
TRANSPARENCY AND ACCOUNTABILITY
B. CENTRAL VIGILANCE COMMISSIONER (CVC)

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Structure

7.1   LEARNING OBJECTIVES

- What is corruption and what are the anti-corruption measures in India?

- What are the key functions of the Central Vigilance Commission (CVC) in promoting integrity and transparency in government activities?

- What is the significance of the CVC in ensuring accountability and probity in the functioning of government agencies?

7.2   INTRODUCTION: TRANSPIRANCY AND ACCOUNTABILITY

Amitabh Mukhopadhyay says, "Any Kind of trust creates its own vulnerabilities for those who trust". In this light, Parliamentary democracy become the form of popular

trust in a framework for responsible government in the post -World war era. However, it has been discredited and pilloried due to obnoxious lordliness by most parliamentarians as well as widespread corruption among them. At the heart of a resilient and democratic society lies the pivotal partnership between transparency and accountability, nurturing the bond of trust between citizens and their governing bodies. These foundational principles are imperative for the efficient operation of governments and the advancement of societal well-being. In the governance context, Transparency pertains to the accessibility and openness of information held by public authorities. It posits that citizens possess the right to obtain information about government actions, decisions, and policies. Transparent governance empowers an informed citizenry, enabling active participation in democratic process and fostering the responsibility of authorities to answer for their actions. This openness is not only essential for upholding public trust but also for thwarting corruption and preventing the misuse of power. Whereas Accountability entails the obligation of individual and institutions to justify their actions and decisions. In the governance context, it signifies that those in power are answerable for their decisions, and mechanism exits to ensure consequences for any abuse of authority. Accountability acts as a check on power, safeguarding the public interest.

7.3 CORRUPTION AND ANTI-CORRUPTION MEASURES

Mrs. Indira Gandhi once opined that "Corruption is a global phenomenon". Instances of large-scale corruption have come to light even in the developed countries. Corruption at its core, refers to the abuse of power or position for personal gain, often at the expense of the common good. This multifaceted and complex issue manifests in various forms, permeating both public and private sectors, undermining institutions, eroding public trust, and hindering socio-economic development. This betrayal of public trust takes many shapes, including bribery, embezzlement, nepotism, extortion, cronyism, and fraud. Each of these forms represents a breach of integrity, distorting the principles of fairness, justice, and equity that underpin the fabric of a just society.

Any analysis of accountability and corruption in India often identifies the increasingly large sums of money spent on elections as the main cause of the problem. As the second administrative reform commission (ARC) puts it, 'abnormal election expenditure has to be recouped in multiples to sustain the electoral cycle...cleansing

elections is the most important route to improve ethical standards in politics, to curb corruption and rectify maladministration'.

Addressing corruption demands a concerted effort, involving legal, institutional, and societal change, by fostering a culture of transparency, accountability, and ethical governance, societies can hope to mitigate the corrosive impact of corruption and build a foundation for sustainable development and social justice. According to bureaucrat S.K Das the Institutions of internal accountability are essentially about ensuring the accountability of the executive. He discussed three such institutions: the Comptroller and Auditor General (CAG), the Central Bureau of Investigation (CBI), and the Central Vigilance Commission (CVC). Among these, the CVC's domain is the more limited, it only exercises original jurisdiction over Group 'A' officers, or those who occupy the senior-most positions in government. He also found that the CVC has been ineffective as an anti-corruption institution, largely because personnel and institutions such as the Chief Vigilance Officers (CVO) and the CBI, which has been designed to support it, have not done so adequately. Because the CVC does not have any substantive agency of its own to conduct inquiries and investigations. He argued that the CBI itself was too close to the political executive to be uncompromised and to do a professional job.

Whistle Blowers Act, 2011

In order to establish a mechanism to receive complaints relating to disclosure on any allegation of corruption or wilful misuse of power of discretion against any public servant and to inquire or cause an inquiry into such disclosure and to provide adequate safeguards against victimization of the persons making such complaint, the Government introduced "The Public Interest Disclosure and Protection to Persons Making the Disclosure Bill, 2010" in the Lok Sabha on 26th August 2010. The Bill was referred to the Department related Parliamentary Standing Committee. The recommendations of the Parliamentary Standing Committee were considered and the Cabinet in its meeting held on 13th December 2011 approved official amendments to the Bill which included renaming it as "The Whistle Blowers Protection Bill, 2011". The Bill was passed by both the houses and received the assent of the President on 9th May,2014.

As Kapur and Mehta have highlighted that the very inadequate efforts of the Indian Parliament in enforcing the accountability of the executive have made. Meanwhile in order to strengthen the institutional mechanism of its kind, the CVC had launched a project (vigEYE) to enlist the support of citizens in its fight against corruption. The

Commission started celebration of Vigilance Awareness Week (VAW) every year in the last week of October that coincides with the birthday of Sardar Vallabhbhai Patel, a man of integrity.

7.4 CENTRAL VIGILANCE COMMISSION: A HISTORICAL DEVELOPMENT

In the Parliamentary debate in June 1962, Members of Parliament expressed serious concern on "Growing menace of Corruption in Administration" which culminates in the formation of a Committee on Prevention of Corruption, popularly known as Santhanam Committee. The Committee observed that, Corruption as a persistent disease in our body politic that had been gradually leading to a multi-organ failure in governance. The Committee raised an important issue that the Administration could not be a judge in its own conduct. So, on the recommendation of the Committee on prevention of Corruption which is headed by parliamentarian Shri K. Santhanam as the Chairman, four other MPs and two senior officers as members, was appointed by Government of India in 1962, conceptualized Central Vigilance Commission as an apex body for exercising general superintendence and control over vigilance matters in administration under government of India.

The Central Vigilance Commission is the main agency for preventing corruption in the central government. It was established in 1964 by an executive resolution of the central government. Nittoor Srinivas Rau selected as the first Chief Central Vigilance Commission, appointed in February 1964. Later in 2003, the Parliament enacted a law conferring statutory status to CVC. In 2004, the CVC has been designed as the agency to receive and act on complaints or disclosure on any allegation of corruption or misuse of office from whistle blowers under the "Public Interest Disclosure and Protection of Informers' Resolution" (PIDPI), which is popularly known as "Whistle Blowers" Resolution.

The CVC is conceived to be the apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organisations in planning, executing, reviewing and reforming their vigilance work.

7.4.1   Structures

The Central vigilance Commission was accorded Statuary status through an ordinance dated 25th August 1998. The CVC Act, 2003 envisaged to be a multi-member body consisting of a Central Vigilance Commissioner (Chairperson) and not more than two vigilance commissioners. They are appointed by the President of India by warrant under his hand and seal on the recommendation of a three- member committee consisting of the Prime Minister as its head, the Union Minister of home affairs and the Leader of Opposition in the Lok Sabha. They hold office for a term of four years or until they attain the age of sixty-five years, whichever is earlier. After this tenure, they are not eligible for further employment under the Central or a state government.

The president can remove the Central Vigilance Commissioner or any vigilance commissioner from the office under the following circumstances:

a. If he is adjudged an insolvent; or

b. If he has been convicted of an offence which involves a moral turpitude; or

c. If he engages, during his term of office, in any paid employment outside the duties of his office; or

d. If he is in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body; or

e. If he has acquired such financial or other interest as is likely to affect prejudicially his official functions.

In addition to these, the president can also remove the Central Vigilance Commissioner or any vigilance commissioner on the ground of proved misbehaviour or incapacity. However, in these cases, the president has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court, after the enquiry upholds the cause of removal and advise so, then the president can remove him.

The salary, allowances and other conditions of service of the Central Vigilance Commissioner are similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC i.e. drawn from Consolidate fund of India.

The CVC has its own Secretariat, Chief Technical Examiners' Wing (CTE) and a wing of Commissioners for Departmental Inquiries (CDIs). The CDIs function as Inquiry Officers to conduct oral inquiries in departmental proceedings initiated against public servants.

The CVC has to present annually to the President a report on its performance. The President places this report before each house of Parliament.

7.4.2 Functions and Power

The Central Vigilance Commission plays a major role upholding the integrity of public administration in India by addressing corruption and promoting ethical conduct among government officials. Its multifaceted functions and powers empower it to act as a vigilant watchdog, ensuring accountability and transparency in the functioning of government organizations.

Functions of the Central Vigilance Commission:

The CVC acts as an advisory body, offering guidance to Central government agencies and organisations on policies and practices to prevent corruption and promote good governance. The Commission has the authority to conduct investigation into complaints of corruption and misconduct against public servants working under the Central government. It can order inquiries and recommend appropriate actions based on its findings. The CVC monitors the implementations of anti- corruption measures in government organizations and advises them on effective vigilance practices to prevent corruption. The CVC oversees the protection of whistleblowers who report corruption or wrongdoings. It ensures that individuals who exposes corruption are safeguarded from victimization or harassment. Also, in order to build capacity, the Commission emphasizes preventive vigilance by providing training and awareness programs for government employees to foster a culture of integrity and ethical behaviour.

Powers of the Central Vigilance Commission:

The CVC exercise superintendence over the functioning of the Central Bureau of Investigation (CBI) in cases related to corruption. While the CBI is an independent investigative agency, the CVC ensures its accountability and adherence to ethical standards. The Commission can recommend disciplinary action against public servants found guilty of corruption or misconduct. It has jurisdiction over autonomous bodies and corporations under the Central government. The Commission has the power to review the progress of ongoing investigations into corruption cases and provide necessary guidance to ensure thorough and impartial inquiries. The Commission submits periodic reports and recommendations to the President of India and the Union

Government on measures to enhance transparency, efficiency, and the integrity in public administration, but it does not reach its logical conclusion as there is little debate and discussion for eliciting preventing and corrective actions required on the findings and recommendations of the Commission.

7.4.3   Limitations

CVC is only an advisory body. Central government departments may or may not accept its advice. It does not have adequate resources to cater to the number of complaints that it receives. It does not have powers to register criminal cases. It can deal only with vigilance or disciplinary cases. It cannot on its own direct CBI to initiate inquiries against any officer of the level of Joint Secretary and above. The concerned department has to give permission for the same. It is a very small set up with limited staff strength of around 299, as compared to more than 1500 central government establishments it supposed to overview.

7.5   CONCLUSION

The Central Vigilance Commission (CVC) plays a crucial role in upholding integrity and combating corruption within public administration in India. Endowed with diverse functions, its primary responsibilities encompass providing guidance to government entities, ensuring transparency, and investigating allegations of corruption. The CVC is vested with the authority to examine complaints, suggest penalties, and advocate ethical conduct. Its jurisdiction spans across various sectors, amplifying its efficacy in addressing corrupt practices. The commission is instrumental in fostering an environment free from corruption and collaborates with other agencies to fortify the broader anti-corruption framework in India. Though, Administrative vigilance either of the preventive kind, where systems and procedures are strengthened and transparency enhanced, or punitive vigilance through examination of files by the CVOs, has its inherent limitations in uncovering and proving malfeasance. This cannot help in cases where money changes hands for officials doing the 'right thing'. Despite facing challenges, the CVC remains a pivotal institution with substantial potential to enhance accountability and promote good governance throughout the nation.

7.6   PRACTICE QUESTIONS

1. Under which legislation does the Central Vigilance Commission operate?
    a. Prevention of corruption Act
    b. Right to Information Act
    c. Central Vigilance Commission Act
    d. National Security Act

2. Which amendment expanded the jurisdiction of the CVC to cover public sector undertakings?
    a. 73rd Amendment
    b. 86th Amendment
    c. 97th Amendment
    d. 103rd Amendment

3. What is the primary role of the Central Vigilance Commission (CVC) in the Indian   governmental system?

4. Can you name some key powers and functions vested in the Central Vigilance Commission according to its establishment?

5. How does the Central Vigilance Commission collaborate with other anti-corruption   agencies to ensure a coordinated effort in combating corruption?

7.7   REFERENCES

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