

ARC Report-notes

# Chapter 1

## Right to Information

### 1.1 What is RTI

- ◇ Right to information opens up government's records to public scrutiny, thereby arming citizens with a vital tool to inform them about what the government does and how effectively, thus making the government more accountable.
- ◇ In a fundamental sense, right to information is a basic necessity of good governance.
- ◇ The Right to Information Act has a non-obstante clause: "Sec. 8(2): Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with subsection (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests"
- ◇ 1 The most contentious issue in the implementation of the Right to Information Act relates to official secrets.
- ◇ Thus OSA would not come in the way of disclosure of information if it is otherwise permissible under the RTI Act.
- ◇ The **Official Secrets Act, 1923** (hereinafter referred to as OSA), enacted during the colonial era, governs all matters of secrecy and confidentiality in governance.
- ◇ The word "secret" or the phrase "official secrets" has not been defined in the Act. Therefore, public servants enjoy the discretion to classify anything as "secret".
- ◇ This tendency was buttressed by the Civil Service Conduct Rules, 1964 which prohibit communication of an official document to anyone without authorization.
- ◇ The Official Secrets Act, 1923 is the main statute for fighting espionage activities which vitally affect the national security.
  1. "spying", or entry into a prohibited place etc.
  2. wrongful communication
  3. harbouring spies
  4. unauthorized use of uniforms, falsification of reports etc.
  5. interference with the police or military, near a prohibited place.
- ◇ The Unlawful Activities (Prevention) Act, 1967 was passed for the effective prevention of disruptive activities, whether they are in support of secession of a part of the territory of India, or in support of the secession of a part of the territory of India from the Union, or otherwise disclaim, question or disrupt the sovereignty and territorial integrity of India.
- ◇ The National Security Act (NSA), subsequently enacted in 1980, essentially replaced the earlier Maintenance of Internal Security Act and deals only with preventive detention.

### 1.1.0.1 Recommendations:

- ◇ Chairmanship of Shri H. D. Shourie on “**Right to Information and Transparency, 1997**” (hereinafter referred to as the ‘**Shourie Committee**’)
- ◇ The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act
- ◇ It is the Official Secrets Act that has been regarded in many quarters as being primarily responsible for the excessive secrecy in government.
- ◇ The Shourie Committee recommended a comprehensive amendment of Section 5(1) to make the penal provisions of OSA applicable only to violations affecting national security.
- ◇ The **National Commission to Review the Working of the Constitution (NCRWC)**, while examining the Right to Information had the following to say:

\* “In fact, we should have an oath of transparency in place of an oath of secrecy”.

## 1.2 Exempted Organizations:

- ◇ 24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule,
  - \* Border Security Force (BSF), Central Reserve Police force (CRPF), Assam Rifles etc.,
- ◇ The Commission feels that the Armed Forces should be included in the list of exempted organization
- ◇ By including Armed Forces in the IIInd Schedule, while national security is safeguarded, disclosure is still mandatory when public interest demands it.

## 1.3 The Central Civil Services (Conduct) Rules:

- ◇ The Central Civil Services (Conduct) Rules prohibit unauthorized communication of information
- ◇ The Central Civil Services (Conduct) Rules were formulated when the RTI Act did not exist
- ◇ The Act also defines “information” to mean any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.
- ◇ With the emergence of an era of freedom of information, these Rules would have to be recast so that dissemination of information is the rule and holding back information is an exception

## 1.4 Implementation of the act

- ◇ Rights and Obligations Under the Act:
  1. Building institutions:
    - (a) Information Commissions
    - (b) Information Officers and Appellate Authorities.
  2. II. Information and record-keeping:

- (a) Suo motu declaration under Section 4.
- (b) Public Interest Disclosure.
- (c) Modernizing recordkeeping.

3. Capacity building and awareness generation:

4. Creation of monitoring mechanisms:

#### **1.4.1 Information Commissions:**

- ◇ Central Information Commission (CIC) with a Chief Information Commissioner and four Information Commissioners
- ◇ At least half of the members of the Information Commissions should be drawn from non civil services background
- ◇ The Act provides for selection of CIC and SICs in a bipartisan manner, and involves the Leader of the Opposition in the process
- ◇ Designating Information Officers and Appellate Authorities:
- ◇ All Union Ministries/Departments have designated PIOs thus complying with the stipulation of designating PIOs.
- ◇ Ideally the PIO should be of a sufficiently senior rank to be able to access information and furnish it in an intelligible and useful manner.

#### **1.4.2 Recommendations:**

- ◇ Section 12 of the Act may be amended to constitute the Selection Committee of CIC with the Prime Minister, Leader of the Opposition and the Chief Justice of India.
- ◇ The Law Commission, in its 179th report (2001) recommended enactment of Public Interest Disclosure (Protection) Law
- ◇ This Commission fully endorses the view and recommends a suitable legislation to protect whistle blowers.
- ◇ Perhaps the weakest link in our information system is the total neglect of record keeping.
- ◇ . Land records are probably the most important public documents in any governance system.

### **1.5 Organising Information and Record Keeping:**

- ◇ Naturally, access to land records will constitute bulk of the requests for information under the Act at grass roots level.
- ◇ Unfortunately, land records updating and maintenance has suffered great neglect after Independence.
- ◇ The Act emphasises suo motu disclosure and stipulates publication of prescribed information by all public authorities.
- ◇ In many subordinate offices/ agencies of GOI and State Governments, record keeping procedures often do not exist.
- ◇ In respect of electronic disclosures, it is necessary to provide a single portal through which disclosures of all public authorities.

- ◇ One important class of disclosures not covered under the Act is public interest disclosure.
- ◇ Public Records Offices should be established as an independent authority in GOI and all States.
- ◇ Right to Information would be honoured only if the information exists and when it exists, it is easily retrievable and intelligible.

## 1.6 Capacity Building and Awareness Generation:

- ◇ The enactment of Right to Information Act is only the first step in promoting transparency in governance.
- ◇ Suo motu disclosures

### Recommendations:

- ◇ All government functionaries should be imparted atleast one day training on Right to Information within a year
- ◇ Awareness generation
- ◇ Awareness campaigns may be entrusted to credible non profit organizations at the State level
- ◇ They should design a multi media campaign best suited to the needs, in the local language.

## 1.7 Monitoring Mechanism:

- ◇ This monitoring should be done at several levels –within the public authority, for a group of authorities in a territory, for a whole state and the country.
- ◇ A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner
- ◇ Need for a coordination mechanism
- ◇ the State Information Commissions are independent of the Central Information Commission

### Recommendations:

- ◇ The CIC and the SICs may be entrusted with the task of monitoring effective implementation of the Right to Information Act in all public authorities.
- ◇ Large number of PIOs.

## 1.8 Issues of Implementation

1. Facilitating Access:
2. Complicated system of accepting requests.
3. Insistence on demand drafts.
4. Single Window Agency at District Level
5. All these offices are often dispersed and most citizens would be unaware of their location. Under such circumstances it becomes difficult for an applicant to identify the Public Authority and to locate it.
6. Application to Non Governmental Bodies:

## **Recommendations**

- ◇ Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies
- ◇ Time Limit for Information Beyond 20 Years
- ◇ The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period.
- ◇ Mechanism for Redressal of Public Grievances
- ◇ A successful example of this mechanism is the Public Grievances Commission (PGC) set up by the Delhi Government in 1997
- ◇ PGC has become an effective “single window” authority which facilitates access to information and when required provides a platform for redressing the citizen’s grievances as well

## **1.9 Application of the Act to Legislative and Judiciary**

- ◇ The Legislature and Judiciary are also covered by the Act.
- ◇ The Legislatures and the Judiciary in India already operate within the public eye to a far greater extent than the Executive
- ◇ As Woodrow Wilson once observed, “Congress in session is Congress on exhibition; Congress in Committees is Congress at work”.
- ◇ most of the important legislative work is conducted in the Committees, away from partisan influences and transient emotions.

### **Recommendations:**

- ◇ A tracking mechanism needs to be developed so that the action taken by the executive branch on various reports like CAG, Commissions of Enquiry and House Committees is available to legislators and public, online.
- ◇ The working of the legislative committees should be thrown open to the public.

# Chapter 2

## Organization of the Government

### 2.1 Introduction

- ◇ India has taken several significant initiatives to improve the quality of governance
- ◇ These include the 73rd and the 74th constitutional Amendments
- ◇ The 97th constitutional Amendment which limited the size of the council of Ministers, the new Value Added Tax regime and the Right to Information Act etc.

### 2.2 Reorganising government - International experiences

- ◇ The reasonably swift and efficient response of our administration to a series of major natural calamities e.g. the Tsunami in December 2004, and the earthquake in Jammu & Kashmir - demonstrates that in times of crisis we are able to marshal our resources effectively.
  - \* increasing lawlessness in several pockets of the country
  - \* a lot more remains to be done.
  - \* armed groups are resorting to violence with impunity
  - \* state apparatus is generally perceived to be largely inefficient,
  - \* The bureaucracy is generally seen to be tardy, inefficient, and unresponsive
  - \* corruption is all-pervasive
  - \* criminalization of politics
- ◇ It is unlikely that a single design of the administrative machinery will fill all bills.
- ◇ There is high degree of volatility in society on account of poor implementation of laws and programmes and poor delivery of public services leading to unfulfilled expectations.
- ◇ The 'non-negotiable' role of the state lies in four broad areas:
  1. Public order, justice and rule of law.
  2. Human development through access to good quality education and healthcare to every citizen.
  3. Infrastructure and sustained natural resource development.
  4. social security
- ◇ We need to truly redesign government on the basis of the principle of subsidiarity.
- ◇ Further de-regulation may be required to foster economic growth, and the state may need to withdraw from some of the commercial activities that it is currently engaged in.

- ◇ Some de-regulation can reduce corruption, but other regulations may have to be put into place to fight corruption.
- ◇ Models of Structural Reforms in Government

## 2.3 Three models of public administration reforms

- ◇ as distinguished by Romeo B. Ocampo.

### 1. Reinventing Government (Osborne and Gaebler), 1992

- (a) It should steer rather than row.
  - (b) The government should empower communities to serve themselves rather than the government itself getting involved in community service activities.
  - (c) The government should become more business-like, and try and earn what it spends on its various activities.
  - (d) Create competition in public service delivery
  - (e) The government should concentrate on prevention rather than cure, and learn to anticipate problems.
  - (f) The government should decentralize its operations and learn to get its work done through participative management and teamwork rather than hierarchically through the orders of bosses
- ◇ The NPM initiatives in the US cannot be considered an unqualified success particularly due to the perils of indiscriminate deregulation.
  - ◇ NPM in some form or other, is gaining currency in developing countries with the objective of improving public administration.
  - ◇ A 1999 survey indicated that in the last two decades, some 40% of the world's largest 123 countries had at least one major reform movement that was influenced by NPM,
    - \* NPM is not an alien system grafted on unwilling cultures nor is NPM a rigid formula

### 2. Re-engineering or BPR

- (a) fundamental rethinking and radical redesign of business processes to achieve dramatic improvements in critical contemporary measures of performance, such as cost, quality, service, and speed"
- (b) BPR has been extensively applied in private business, but only to a limited extent in the public sector.

### 3. NPM

- (a) A shift from focus on inputs and procedures alone to include outputs and outcomes.
- (b) Steering functions
- (c) Shift towards greater measurement in terms of standards
- (d) devolving authority, providing flexibility;
- (e) ensuring performance, control, accountability;
- (f) Preference for 'lean', flat' specialised and autonomous organizational forms
- (g) improving the management of human resources;
- (h) optimizing information technology;
- (i) Widespread substitution of hierarchical relations by contractual relations



- (j) developing competition and choice
- (k) improving the quality of regulation;
- (l) Much greater use of market or market-like mechanisms
- (m) Provide responsive service.
- (n) Much stronger emphasis on efficiency and individual initiative.
- (o) Greater ability to discharge government functions effectively

## 2.4 Origins of NPM

- ◇ Also called as Market-based public administration, managerialism, reinventing government, and post-bureaucratic model.
  - \* several developing countries like Ghana, Malaysia, Thailand, and Bangladesh.
- ◇ Growth can be traced to the relatively minimalist, non-interventionist state ideology of the late 1970s and early 1980s
  - \* the basic approach of NPM was later adopted by a number of countries that did not necessarily share this ideology.
  - \* NPM sought to bring management professionalism to the public sector without necessarily discarding the active role and welfare goals of the state.
  - \* Most countries have been selective in incorporating those elements of NPM that they felt were best suited to their individual administrative milieu, economic and social condition, and governance
- ◇ Believes in downsizing..., deregulation, and employee empowerment in the public sector;

### 2.4.1 Public Administration in the USA

#### Robert McNamara

- ◇ ‘managerialism’ in the US Department of Defense when he became Defense secretary under President Kennedy
  - \* When he joined the government, he found that the three services – Army, Navy, and Air Force – pursued their own agendas with little coordination and much rivalry
  - \* using techniques like project evaluation and review (PERT) and critical path method (cPM) to cut costs and delivery times
  - \* This managerial culture gradually spread to several other departments of the federal government.
- ◇ A welfare state is expensive. The average percentage of state expenditure to GDP in the West is around 40%.

#### Reagan

- ◇ In the 1980s, President Reagan rode to power on the slogan of cutting down the “big, bad, wasteful state”.
- ◇ (President Reagan) and the UK (Prime Minister Thatcher)
- ◇ **The Grace commission**, set up in 1982, was a major initiative of President Reagan for securing government reform as desired by the private sector.

◇ President Clinton launched his own reinventing initiative called National Performance Review (NPR).

\* shift the federal government's focus from red tape to results by reinventing and redesigning government systems

## 2.5 Link between Governance and Growth

◇ IMD (International Institute for Management Development) (2006), developed a system for ranking nations on 'competitiveness'.

◇ Its four components are:

1. economic performance,
2. government efficiency,
3. business efficiency, and
4. infrastructure.

### 2.5.1 World Bank's Recommendations for Improving Governance Capacity

◇ The World Bank came out with a number of prescriptions for increasing governance capacity

#### A two-part strategy for increasing the effectiveness of the state.

1. Part one requires narrowing the gap between the demands on a state and its capabilities to meet these demands, through greater selectivity in the state's priorities.

(a) Redefining of priorities for State action:

- i. Establishment of a foundation of law and prevention of lawlessness;
- ii. macro-economic stability
- iii. investment in basic social services
- iv. protection of the vulnerable segments of society
- v. protection of the environment

(b) creation of alternative providers of infrastructure, social services, etc.

(c) Self-restricting rules that precisely specify the ambit of a policy, and make it irreversible or costly to reverse, can be harnessed.

2. Part two requires increase in the capability of the state to manage collective actions efficiently by recharging public institutions.

(a) Strengthening of the state's institutional capability

(b) Provide incentives to public officials to perform better

- i. create an independent judiciary

(c) Deliver needed services by subjecting the state's services to increased competition from agencies both within and outside the state.

(d) Give people voice in the affairs and activities of the state,

(e) Devolve authority from the central government to regional and local governments,

(f) Ensure broad-based public discussion of key policies and priorities

## 2.5.2 Global Lessons

1. Political Commitment
2. Focusing on the Core Functions of Government: Right-sizing, Outsourcing
  - (a) There are many ways of outsourcing.
    - i. contracting with private vendors of services;
    - ii. franchising;
    - iii. subsidizing private bodies to carry out government activities;
    - iv. vouchers to most needy buy, e.g. medicine, from a list of approved outlets, etc.
  - (b) corporatizing even a not-for-profit government service offers some advantages
    - i. It sends a clear message to its management that the service is to operate on economic lines
    - ii. Since it is a corporation, it has a different legal structure than a government department
    - iii. It would have flexibility in terms of raising financial resources
    - iv. The **golden share device**, to the award of a management contract to a private party without relinquishing government ownership
- ◇ Privatization is not a panacea for improved governance performance.
3. Competition in Delivery of Public Services - Dismantling Monopolies
4. Administrative reform commission with a constitutional mandate
5. Ownership of change across the entire public service is important
6. Decentralization, Delegation and Devolution
7. Strengthening Accountability Mechanisms
8. Public-Private Partnerships
9. Performance Management System (PMS)
10. Process Simplification - Deregulation
11. Empowering the Citizen-customer
12. Promotion and Diffusion of Good Governance Practices
13. Policy Evaluation and Regulatory Impact Assessment
14. Governance Indices

## 2.6 Existing structure of Government of India

### 2.6.1 The Constitutional Provisions

- ◇ The Executive Power of the union vests in the President and is exercised by him either directly or through officers subordinate to him in accordance with the constitution (Article 53)
- ◇ Article 74 provides that there shall be a council of Ministers with the Prime Minister as the Head to aid and advise the President who shall, in the exercise of these functions, act in accordance with such advice.
- ◇ **Article 77** provides for the conduct of Government Business:

- \* 77 (3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for allocation among Ministers of the said business.”
- \* Exercising powers vested by virtue of Article 77, the President has made the “The Government of India (Allocation of Business) Rules”.
- \* The Rules stipulate that the business of the Government of India shall be transacted in the Ministries, Departments, secretariats and Offices specified in the First schedule to these rules.
- \* The manner in which the officers are required to help the Minister in discharge of his/her executive functions is governed by the Government of India (Transaction of Business) Rules
- \* These Rules also provide for the constitution of the following standing committees of the cabinet
  - ▷ Cabinet committees on Economic Affairs, on Management of Natural calamities, on Parliamentary Affairs, etc.

### 2.6.2 The Structure of a Department

- ◇ The work of Government of India is distributed into different Ministries/ Departments.
- ◇ A department is responsible for formulation of policies of the government in relation to business allocated to it and also for the execution and review of those policies.
- ◇ For the efficient disposal of business allotted to it, a department is divided into;
  1. wings,
  2. divisions,
  3. branches and
  4. sections.
- ◇ **Secretary**
  - \* The secretary is the administrative head of a Department and in a Department, the structure may comprise special secretaries, Additional secretaries, Joint secretaries, Directors, Deputy secretaries, under secretaries and section Officers
  - \* He is the principal adviser of the Minister on all matters of policy and administration within his Ministry/ Department
- ◇ **Special Secretary/Additional Secretary/Joint Secretary**
  - \* When the volume of work in a Ministry exceeds the manageable charge of a Secretary, one or more wings may be established with Special Secretary/Additional Secretary/Joint Secretary, incharge of each wing.
- ◇ **Director/Deputy Secretary**
  - \* Director /Deputy Secretary is an officer who acts on behalf of the Secretary. He holds charge of a Secretariat Division and is responsible for the disposal of Government business dealt within the Division under his charge.
- ◇ **Under Secretary**
  - \* An Under Secretary is in charge of the Branch in a Ministry consisting of two or more Sections and in respect thereto exercises
- ◇ Each Department may have one or more attached or subordinate offices.

### ◇ **Attached and Subordinate offices -**

- \* Where the execution of the policies of the government requires decentralisation of executive action and/or direction, a department may have under it executive agencies called 'Attached' and 'Subordinate' offices.
- \* Attached offices are generally responsible for providing executive direction required in the implementation of the policies laid down by the department to which they are attached.
- \* They also serve as repository of technical information and advise the department on technical aspects of question dealt with by them.
- \* Subordinate offices generally function as field establishments or as agencies responsible for the detailed execution of the policies of government. They function under the direction of an attached office,

◇ Besides, the attached and subordinate offices there are a large number of organizations which carry out different functions assigned to them.

- \* Constitutional Bodies
- \* Statutory Bodies :
- \* Autonomous Bodies: Memorandum of Associations etc., but the Government's control exists since these are funded by the Government of India.
- \* Public Sector Undertakings:

## **2.7 Reforms since Independence**

◇ In 1952, a special Reorganisation unit was constituted to economise on staff.

- \* 'work study' techniques

◇ In 1954, a central Organisation and Management (O&M) Division was set up in the cabinet secretariat.

- \* The main purpose of establishing these divisions was to streamline procedures and improve efficiency.

◇ The Government created the Department of Administrative Reforms within the Ministry of Home Affairs, in 1964.

◇ During 1966, the First Administrative Reforms commission undertook a comprehensive task of examining the machinery of Government of India and its procedures of work.

- \* The three-tier system in the ministerial set-up, comprising Cabinet Ministers, Ministers of State and Deputy Ministers, may continue.

◇ The Fifth central Pay commission laid emphasis on downsizing of the government.

### **The Expenditure Reforms commission (2000)**

◇ entire gamut of the union Government functioning on the civilian side had to be examined de novo and redetermined in the light of four key criteria

1. Does this need to be done;
2. Does this need to be done by government;
3. Does this need to be done by the union Government;

4. If it is to be done by the union Government, which ministry/ department/ organisation is best suited for doing it.

◇ The sixth central Pay commission (2008)

- \* It introduced the concept of running pay bands.
- \* Government will have the flexibility to remove layers by removing specific grade pay.

## 2.8 Strengths and Weaknesses of the Existing Structure

### Strengths

1. Time Tested System – adherence to rules and established norms
  - ◇ These have ensured stability both during crises as well as normal times.
2. Stability
  - ◇ This has contributed to the maturing of our democracy.
3. Commitment to the Constitution political neutrality
  - ◇ The well laid down rules and procedures of government have upheld the neutrality of the civil services and prevented politicisation of government programmes and services.
4. Link between policy making and its implementation:
  - ◇ promoted the concept of cooperative federalism.
5. A national outlook amongst the public functionaries:
  - ◇ This has contributed to strengthening national integration.

### Weaknesses

1. Undue emphasis on routine functions:
  - ◇ Often, functions which are best carried out by the state or local Governments or could easily be outsourced continue to be retained with the union Government.
2. Proliferation of Ministries/Departments - weak integration and coordination:
  - ◇ compulsion of coalition politics has led to illogical division of work
3. Absence of team work:
4. An extended hierarchy with too many levels:
5. Risk avoidance:
6. Fragmentation of functions:
  - ◇ divide and subdivide functions making delivery of services inefficient and time-consuming.
7. Except in the case of a few committees and boards, there has been considerable weakening of the autonomy conceived at the time of their formation.

### 2.8.1 Core Principles of Reform

- ◇ Over the years, the weaknesses listed in the previous chapter have become stronger and the strengths have been diluted.
- 1. The union Government should primarily focus on the following core areas:
  - (a) Defence, International Relations, National security, Justice and rule of law
  - (b) Human development through access to good quality education and healthcare to every citizen
  - (c) Infrastructure and sustainable natural resource development
  - (d) social security and social justice
  - (e) Macro-economic management and national economic planning
  - (f) National policies in respect of other sectors
- 2. The principle of subsidiarity should be followed to decentralise functions to state and local Governments.
- 3. Subjects which are closely inter-related should be dealt with together:
- 4. Separation of policy making functions from execution:
- 5. Coordinated implementation:
- 6. Well defined accountability:
  - ◇ fragmented decision making leads to a culture of alibis for non- performance
- 7. Flatter structures - reducing the number of levels and encouraging team work:
- 8. Appropriate delegation:
- 9. Criticality of operational units:

### 2.9 The Structure at Apex

- ◇ Government in the pre-Independence period was primarily concerned with enforcement of law, collection of taxes, defence and administration of justice
- ◇ After Independence, the constitution provided the framework for a democratic welfare state with the Directive Principles providing the essence of good governance
- ◇ In general, there was a wide expansion in the role, function and structure of government.
- ◇ This expansion was necessitated because of the following reasons:
  - 1. to fulfil the mandate given by the Directive Principles
  - 2. to attend to special problems of a region or a particular section of the society.
  - 3. to expand the reach of government.
  - 4. to provide a fillip to the economy.
  - 5. to meet the emerging challenges.
- ◇ Economic liberalization, the span of the regulatory role of the government gets reduced while that of facilitating role is enhanced – government need not row the ship but merely steer it.

### 2.9.1 Independent Departments of Government (other than Ministries)

1. Department of Atomic Energy
2. Department of space
3. cabinet secretariat
4. President's secretariat
5. Prime Minister's Office
6. Planning commission

#### Recommendations

1. The Government of India should primarily focus on the core functions
2. Government at all levels should be guided by the principle of subsidiarity.
3. There is need to carry out a detailed analysis of the functions/activities in each Ministry/Department

### 2.9.2 Rationalising the Size of Government

- ◇ The issue of overstaffing in government was examined by the Fifth central Pay commission.
  - \* Accordingly, it recommended a freeze on recruitment after abolition of 3.5 lakh vacant posts, across the board
- ◇ The commission is of the view that an optimum size of government workforce is essential for its effective functioning.
- ◇ In 1947, the council of Ministers comprised 16 members including the Prime Minister and Deputy Prime Minister.
- ◇ In order to restrict the size of the council of Ministers to a reasonable limit, the constitution (**Ninety-first Amendment) Act, 2003**, provided that the strength of the council of Ministers shall not exceed 15% of the number of Members of Parliament in the lok sabha.
- ◇ As can be seen, there has been significant proliferation of the Ministries and Departments in the Government of India since Independence.
  - \* Energy is now being handled by at least four different departments i.e. the Ministry of Power, coal, Non-conventional Energy sources, Petroleum and Atomic Energy
  - \* In the UK, there is a single secretary of state (cabinet Minister) for Transport and a single secretary of state for Energy.

### 2.9.3 Suggested Ministries and Departments

- ◇ It would also be unrealistic to expect for curtailment in the size of the council of Ministers in an era of coalition politics.
- ◇ Instead, a more pragmatic approach would be to retain the existing size of the council of Ministers but increase the level of coordination among the departments by providing for a senior cabinet Minister to head each of the 20-25 closely related Departments.
- ◇ “**First or coordinating Minister**” (or any other suitable nomenclature) and would coordinate and provide the overall lead for the entire group of departments.



◇ In the new dispensation, a Ministry would mean a group of departments whose functions and subjects are closely related and is assigned to a First Minister or coordinating Minister for the purpose of providing overall leadership and coordination.

\* Ministry of Energy could include the following Ministries/Departments:

▷ New and Renewable Energy, Petroleum and Natural Gas, Power

## **Recommendations**

◇ The concept of a Ministry would have to be redefined.

◇ Individual departments or any combination of these could be headed by the Coordinating (or First) Minister, other Cabinet Minister(s)/ Minister(s) of State.

### **2.9.4 Recasting the Allocation of Business Rules**

#### **Recommendations**

1. There is need to recast the Allocation of Business Rules to make them more focussed on the goals and outcomes of each Ministry/Department

2. The Allocation of Business Rules should first provide a Statement of the mission of the department

3. There is need to bring greater uniformity in the description of the roles and functions of various Ministries/Departments.

4. Ministries/Departments should maintain a master list of all laws pertaining to the subjects dealt with in that Ministry/Department instead of mentioning them in the Allocation of Business Rules.

5. Instead of naming the individual PSUs and autonomous organizations under each Ministry;

◇ the Rules should merely have a generic entry to the effect that all PSUs and Autonomous Organizations whose functioning is directly related to subject(s) of the concerned Ministry would be under its jurisdiction

◇ However, in cases where activities of a PSU or an autonomous organization relates to more than one Ministry/Department, then it may be advisable to list out such PSUs under a particular Ministry/ Department.

## **2.10 Ministries and Departments to Primarily Focus on Policy Analysis**

### **2.10.1 Policy Analysis in Government**

◇ There are two broad tasks of the government.

1. Formulating policy in pursuance of objectives that the political leadership specifies,

2. Implementation of that policy.

◇ In the UK, the Performance and Evaluation unit has been set up in the government to tackle areas selected by the Prime Minister where policies spread across a number of departments and where delivery mechanisms are divided between different parts of the government.

## 2.10.2 Policy Making to Policy Planning

- ◇ Policy planning is an improvement on policy making and came into vogue in the 1960s.
- ◇ Policy planning takes into account the present national and international scenarios as also the likely future contingencies in a given area of interest,
  - \* provides a menu of choices enabling the organisation, whether it is the government or any category of enterprise, to prepare itself in advance to meet those situations.
- ◇ Whereas, policy making is working out the response when one is face-to-face with a situation.
- ◇ Policy planning is of help in shaping events along directions conducive to best results while policy making caters to a current requirement in an existing context.
- ◇ There is all the difference between dealing with a looming crisis by anticipatory action and reacting to a crisis that has already occurred — in short, between fire-proofing and fire-fighting.

## 2.10.3 Policy-Making in India

- ◇ The union Government at present has about 55 ministries
- ◇ The existing structure in Government of India combined with the allocation of powers and functions severely constrains the policy making role at the apex level.
  - \* This is because Ministers as well as secretaries to government, both at the Government of India and state levels, have multiple and demanding responsibilities pertaining to a wide range of policy, administrative and implementation activities.
  - \* The time they can devote to each of these functions is seriously limited and they often do not find sufficient time to reflect on important policy and strategic issues

## Recommendations

- ◇ The general principles to govern the extent of delegation from Departments to their attached and subordinate offices (executive agencies) may be incorporated in the Transaction of Business Rules.
  1. Policy analysis, planning, policy making and strategic decisions
  2. Budgeting and Parliamentary work
  3. Monitoring of implementation through systems and procedures
  4. Coordination, Recommendation, Evaluation
- ◇ Attached and subordinate offices should serve as the executive agencies of the ministries and concentrate on the implementation of Government policies and programmes

## 2.11 Executive Agencies

### 2.11.1 Position in India

- ◇ In India, while some agencies or structured as Departments of Government, some have statutory backing and others or registered as a company, cooperative, trust or a society.
- ◇ At present, micro-management is the culture in the ministries.
- ◇ The commission is of the view that each union Government Ministry should scrutinize the activities and special purpose bodies of the Ministry.
- ◇ Mere creation of executive agencies is not an end in itself. What is equally important is to ensure that the right balance between autonomy and accountability is struck

Table 2.12.1: Structure of Ministry/Department

<b>Position</b>	<b>Head</b>
Ministry	Minister/MoS
Department	Secretary
Wing	Special/Additional/Joint Secretary
Division	Director/Deputy Secretary
Branch	Under Secretary
Section	Section Officer

### Recommendations

1. Each Ministry should scrutinize the functions/ activities of the ministry check whether these activities/functions are critical and can only be carried out by government agencies.
2. Other functions/activities should be carried out by the executive agencies of the department.
3. The right balance between autonomy and accountability while designing the institutional framework of executive agencies.

## 2.12 Internal Reorganisation of Ministries

- ◇ Bureaucracies everywhere, have generally been structured on principles of hierarchy, top down authority and control.
- ◇ Based on the experiences in the private sector, management theory today focuses on various attempts to break free from the traditional bureaucratic structure.
  - \* The new watchwords are teams (preferably cross-functional), lateral communications, the minimization (if not outright removal) of hierarchy, and the sparse use of rules
- ◇ \*In several Ministries, in place of section Officers attached to a section, a Desk Officer system is in place
- ◇ Thus there are **six levels in most Ministries** and if one were to include the dealing hand (usually an Assistant/UDC/LDC), the number of levels actually comprises seven.

## 2.13 Simplification of Governmental Processes

- ◇ Government organizations are bureaucratic.
- ◇ The term 'bureaucratic' often carries a negative image and denotes red tapism, insensitivity and the rule bound nature of an organization
- ◇ When Max Weber propounded 'bureaucracy' as a form of organization he meant organizations structured along rational lines, where:
  - \* offices are placed in a hierarchical order
  - \* operations are governed by impersonal rules thereby reducing discretion.
  - \* officials are given specific duties and areas of responsibility
  - \* appointments are made on the basis of qualifications and merit

## **Strengths**

1. Record keeping
2. Accountability
  - ◇ An elaborate system of paper based records helps in pin-pointing responsibility for each decision made in a Government Department.
3. Institutional memory
  - ◇ A robust record maintenance system helps in the creation of an institutional memory of past policies and precedents that can guide future decision making.
4. Inbuilt Redundancy Self-Correction
  - ◇ Multiple levels enables repeated scrutiny which in turn enables correction of errors and omissions.
5. Insulates Individual Functionaries from Extraneous Influences
  - ◇ The present office procedures enable individual functionaries to record their independent views on the files

## **Weaknesses**

1. Multiple Layers Lead to Inefficiency and Delays
2. Fuzzy Delegation
  - ◇ vague and/or inadequate delegation encourages 'reverse delegation' of work to higher levels
  - ◇ especially at the level of under secretary/Deputy secretary/Director/Joint secretary.
3. Focus on File Management at the Expense of outcomes
4. Reactive Rather than Proactive Approach
5. Absence of Team-based Working

## **Recommendations**

1. Each Department should lay down a detailed scheme of delegation at all levels so that the decision making takes place at the most appropriate level.
2. Shift from process compliance to outcomes
3. Shift from a reactive to a proactive approach
4. Innovative approaches through multi-disciplinary work teams
5. Shift from an ad-hoc application of precedents to systematic classification and transparent use of past records
6. The scheme of delegation should be updated periodically and should also be 'audited' at regular intervals.
7. The Secretary of the concerned Department should have the flexibility to create inter-disciplinary teams

## 2.14 Coordination Mechanisms

### 2.14.1 Cabinet Committee and GoMs

- ◇ At present, the following cabinet committees have been constituted:
  - \* Cabinet committees on Accommodation, Economic Affairs, Management of Natural calamities, Parliamentary Affairs, Political Affairs, Prices, Security, Appointments, etc.
- ◇ Some of these GOMs have been empowered to take decisions on behalf of the cabinet whereas the others make recommendations to the cabinet.
- ◇ Large number of GoMs has resulted in many GoMs not being able to meet regularly to complete their work
- ◇ The commission feels that more selective use of the institution of Group of Ministers would perhaps lead to more effective coordination

### 2.14.2 Coordination Role of the cabinet secretariat

- ◇ The cabinet secretariat plays an important role in coordination of inter-Ministerial matters.
- ◇ Whenever **inter-Ministerial coordination** is required, the concerned Ministries seek the assistance of the cabinet secretariat.
- ◇ The inter-Ministerial problems are dealt in the meetings of the Committees of Secretaries (CoS)
- ◇ The cabinet secretariat is seen as a useful mechanism by the Departments for promoting inter-Ministerial coordination since the cabinet secretary is also the head of the civil services
- ◇ The secretaries therefore consider it necessary to keep the cabinet secretary informed of significant developments whenever necessary.
- ◇ The Transaction of Business Rules also require them to keep the cabinet secretary informed of developments, from time to time, specially if there are any departures from these rules

### 2.14.3 Other coordination Mechanisms

- ◇ Formal and informal mechanisms.
- ◇ The formal mechanisms may include inter-Ministerial committees and working groups
- ◇ The ARC has suggested a flexible, inter-disciplinary team based approach which would inherently serve to improve coordination.
- ◇ This will reduce the need for inter-Ministerial coordination at the apex level
- ◇ There will always be issues and problems for which high level inter-Ministerial coordination would be required.
  - \* The extent and quality of coordination would depend on the skill of the coordinator and the spirit with which the members participate.
  - \* To achieve the necessary coordination, a secretary should function as a member of a team rather than as a spokesperson of his/her Department's stated position.
- ◇ Furthermore, effective functioning of the existing mechanism should be adequate to meet the requirement of inter-Ministerial coordination.

### 2.14.3.1 Reducing paperwork

#### Business Process Re-engineering

- ◇ For every function an organization performs and every service or information it provides, there should be a step-by-step analysis of each process to ensure its rationality and simplicity.
- ◇ the commission recommended:
  - \* updating the websites at regular intervals

#### Recommendations

1. There is need to ensure that the existing coordination mechanisms like the Group of Ministers, and Committee of Secretaries function effectively
2. Unresolved issues concerning States which require inter-Ministerial coordination in Government of India, should be placed before the Committee of Secretaries (COSs) and then to the Union Cabinet for resolution.

## 2.15 Creating an effective Regulatory Framework

- ◇ The commission classified the functions of Government as:

1. self preservation,
2. supervision and resolution of conflicts,
3. social and economic development, and
4. regulation and provision of goods and services.

- ◇ These can be also classified as;

1. Regulatory functions
2. Service providing functions
3. Developmental functions

### 2.15.1 Regulatory Functions

- ◇ According to Thomas Jefferson, government is created to secure the inalienable rights of all citizens - i.e., the right to life, liberty and the pursuit of happiness.
  - \* If everyone were to be allowed to pursue complete freedom for doing whatever he wants and to pursue his happiness, then it may lead to a situation where rights and freedom of other persons are affected.
  - \* This necessitates the regulatory role of the government
- ◇ Attaining 'optimum regulation' is a challenging task, as a balance has to be achieved between individual's freedom and society's interest.
- ◇ In India, as stated earlier, the regulatory role of government stems from the provisions of the constitution which empower the union and state legislatures to make laws on various subjects.
  - \* Article 19 of the constitution empowers the state to impose reasonable restrictions
  - \* there is a plethora of laws and rules in the form of municipal laws and byelaws, laws governing vehicular traffic, law

- \* The constitution as well as the laws enacted by Parliament have established the institutions and mechanisms to enforce the laws and rules
  - \* Article 53(1) of the constitution regulates the exercise of the executive powers of the union.
  - \* Further, Article 53(3) authorizes Parliament to confer by law such functions to ‘authorities’.
- ◇ International agencies have rated India as a relatively over-regulated state
  - ◇ The commission in its Twelfth Report on ‘**citizen centric Administration**’ emphasized the following aspects of regulation:
    1. Regulation only where necessary:
    2. Regulation to be effective:
    3. Self regulation is the best form of regulation:
    4. Regulatory procedures to be simple, transparent and citizen friendly
    5. Involving citizens’ groups, professional organizations in the regulation activities.

### 2.15.2 Statutory Independent Regulatory Agencies

- ◇ The concept of independent regulations took birth in the USA
- ◇ The basic premise of the establishment of these agencies is that a market based economy needs to be regulated to ensure a level playing field and to safeguard public and national interest.
- ◇ Other factors were – increasing complexities and technologies required handling by experts;
- ◇ Public interest is best served by insulating decision making in certain issues, from political interference.
- ◇ In India, the initiation of the process of economic liberalization necessitated certain measures to boost the investor competence and to safeguard public interest
  - \* led to the setting up of several independent statutory regulating agencies in sectors such as Power, Telecom, Financial services, Insurance etc.
- ◇ There is one more category of regulators – self Regulatory Authorities.
- ◇ Functions of self-Regulatory Bodies may include:
  1. issues of professional education: development of curriculum, setting up of teaching standards, institutional infrastructure, recognition of degrees etc. and
  2. matters connected with licensing, and ethical conduct of the practitioners.
    - \* Institute of Engineers

### 2.15.3 Issues

#### 2.15.3.1 Defining the term ‘Independent Regulators’

- ◇ ‘The creation, design and consequences of independent regulatory agencies represent a classic example of delegation to non-majoritarian institutions.
- ◇ They are organizationally separate from governments and headed by unelected officials
- ◇ The role of these independent regulators include
  - \* fostering competition in the sector
  - \* establishing standards and codes

- ◇ It helps to maximize benefits for consumers and for the economy as a whole.
- ◇ In the post-economic liberalization period, a large number of independent regulatory mechanisms have been set up in India.
  - \* E.g.: (TRAI), Electricity Regulatory commissions (ERCs) and the IRDA, Competition commission
- ◇ Another way of categorizing the Regulators would be to distinguish between
  - \* general regulators such as the competition commission and
  - \* the subject specific Regulators which include TRAI, IRDA etc

#### 2.15.4 Proliferation of Regulatory Authorities

- ◇ A large number of Regulators have been set up in recent times by the government to whom certain functions previously performed by the government have been transferred
- ◇ There is also an increasing perception that a number of regulators are being set up on an ad-hoc basis by different Ministries, sometimes with **overlapping jurisdictions** leading to lack of coordination and issues of turf
- ◇ United Kingdom (UK) for example, this issue was examined by the ‘**Better Regulation Task Force**’
  1. Before establishing a new independent regulator, a Department should carry out a landscape **review of the delivery** of the policy objective
    - \* This should explore whether **another regulator could take on the new function**, or whether a number of regulators could be subsumed within the new function.
  2. Department should carry out regular **end-to-end reviews of their policy delivery areas** to assess which bodies continue to deliver their policy objectives effectively

#### 2.15.5 Interface with Government

- ◇ Since Regulators have been hived off from Government departments for the purpose of carrying out government policies, a close link between the two is essential while respecting the autonomy and independence of the Regulators.
- ◇ some aspects of this interface are
  1. Appointment and approval of members, Provisioning of funds, Facilitation of Parliamentary interface, Capacity building
  2. Regulation of PSUs, Issue of policy directives, Audit and vigilance, Coordination with other depts, Periodical reports

#### 2.15.6 Accountability

- ◇ A Regulator can retain its legitimacy and credibility only if it is accountable for how it uses the powers that have been delegated to it by the legislature.
- ◇ Accountability can best be ensured by adhering to the following broad principles
  1. The independent regulator should be backed by a **statute**.
  2. There should be a clear **well-defined mandate** for the Regulator.
  3. **Relationship** with the legislature, executive and the judiciary should be **clearly defined**.



4. The **procedure for appointment and removal of Regulators** should be clearly laid down in law.
  5. Decision making should be **transparent**.
  6. Mechanisms for superseding such agencies should also be **defined in law**.
- ◇ Another aspect of accountability is **accountability of the Regulator to stakeholders and citizens**.
- ◇ In India the regulatory bodies in general have the following features that are relevant to their accountability:
1. They have been constituted on the **basis of statute**
  2. Their decisions can be appealed against before a specified **appellate authority** in most cases.
  3. The accounts of regulator are audited by the **Comptroller and Auditor General**.
  4. They are legally bound to prepare an **annual report** and submit to the Government who in turn lays it before each House of Parliament.
  5. The respective statutes have **mandated that regulators shall ensure transparency** while exercising their powers and discharging their functions.
  6. The chairmen, Members and officers of regulators are deemed to be public servants
- ◇ In practice, Parliamentary oversight of the Regulators in India has been through occasional appearance before the Parliamentary committees and the Departmental consultative committees combined with laying of annual reports and other papers before Parliament.
- ◇ Parliamentary committee for Regulators may not be feasible given the widely varying mandate and area of operations of the regulators
- ◇ ARC is of the view that there should be **independent evaluation of the work of these Regulators**, based on pre-specified parameters

#### 2.15.7 Uniformity in structure and Powers

- ◇ There are **significant variations** in the size and composition of the governing boards, manner of appointment, removal of chairmen/members, tenure, provision of appeals, sources of finance, interface with the government etc.
- ◇ Given the growing importance of regulation in several critical sectors of economy, governance relating to regulatory institutions has assumed an important role and in order to focus on regulatory reform and governance, a separate Department of Regulatory Affairs may be created.
- ◇ A **cost-benefit analysis** of any proposal for regulation should be there, done directly by a department or by an independent Regulator, this is now the norm in most of the developed countries

#### 2.15.8 Recommendations

1. Setting up of a Regulator should be preceded by a **detailed review** to decide if the Regulator would be better placed to deliver the policy objectives of the department concerned
2. Each Ministry/Department should evolve a '**Management Statement**' outlining the objectives, roles, and the guidelines governing their interaction with the government.
3. There is need for **greater uniformity** in the terms of appointment, tenure and removal of various regulatory authorities considering these have been set up with broadly similar objectives and functions and should enjoy the same degree of autonomy.

4. The appointment of the Chairman and Board Members for all such regulatory authorities should be done by the Governments after recommendation by a **Selection Committee**.
5. **Legal provisions** regarding removal of Board Members should be made **uniform** while at the same time ensuring sufficient safeguards against arbitrary removal.
6. **Parliamentary oversight of regulators should be ensured** through the respective Departmentally Related Standing Parliamentary Committees.
7. A body of reputed outside experts should propose **guidelines for periodic evaluation** of the independent Regulators.
8. Each statute creating a Regulator should include a provision for an **impact assessment** periodically by an external agency.
9. Once the objective of creating a level playing field is achieved, the intervention of the Regulators could be reduced in a phased manner ultimately leading either to their **abolition or to convergence with other Regulators**.
10. There is need to achieve **greater uniformity in the structure of Regulators**.

# Chapter 3

## Disaster Management

- ◇ ‘crisis’ may be defined as “an emergency situation arising out of natural or human activity which poses a threat to human life and property or leads to large scale disruption of normal life”
- ◇ while the frequency of calamities may have remained unchanged, increasing population densities and urbanization have resulted in greater impact on human lives and property.
- ◇ The scourge of terrorism has created new types of crises and increasing dependence on communications and computer networks have increased the threat of newer emergencies in case these are disabled by accident or design.
- ◇ Types of Crises
  1. Crises caused by acts of nature.
    - (a) Climatic events:
    - (b) Geological events:
  2. Crises caused by environmental degradation and disturbance of the ecological balance;
  3. Crises caused by accidents
    - ◇ industrial and nuclear mishaps and fire related accidents;
  4. Crises caused by biological activities:
  5. Crises caused by hostile elements:
  6. Crises caused by disruption/failure of major infrastructure facilities
  7. Crises caused by large crowds getting out of control.
- ◇ a crisis situation may be labeled as local, sub- district, district, state or national level.
- ◇ A ‘Welfare State’ entails wider responsibilities meaning thereby that in addition to the traditional responsibilities of relief and immediate rehabilitation

### 3.1 Phases of Crisis/Disaster Management

1. Pre-Crisis: Preparedness
  - ◇ steps taken for preventing and mitigating the crisis and preparing for actual occurrence.
  - ◇ like construction of embankments
  - ◇ adopting water shed management

- ◇ Crisis can also be mitigated through various short term measures, which either reduce or modify the scale and intensity of the threat or improve the durability and capacity of the elements at risk,
- ◇ For different types of disasters, mitigation measures may vary but what needs to be emphasized is the priority and importance to be attached to various measures

## 2. During Crisis - Emergency Response

- ◇ it require a speedy response to alleviate and minimize suffering and losses

## 3. Post-Crisis

- ◇ Recovery
- ◇ Rehabilitation
- ◇ Reconstruction

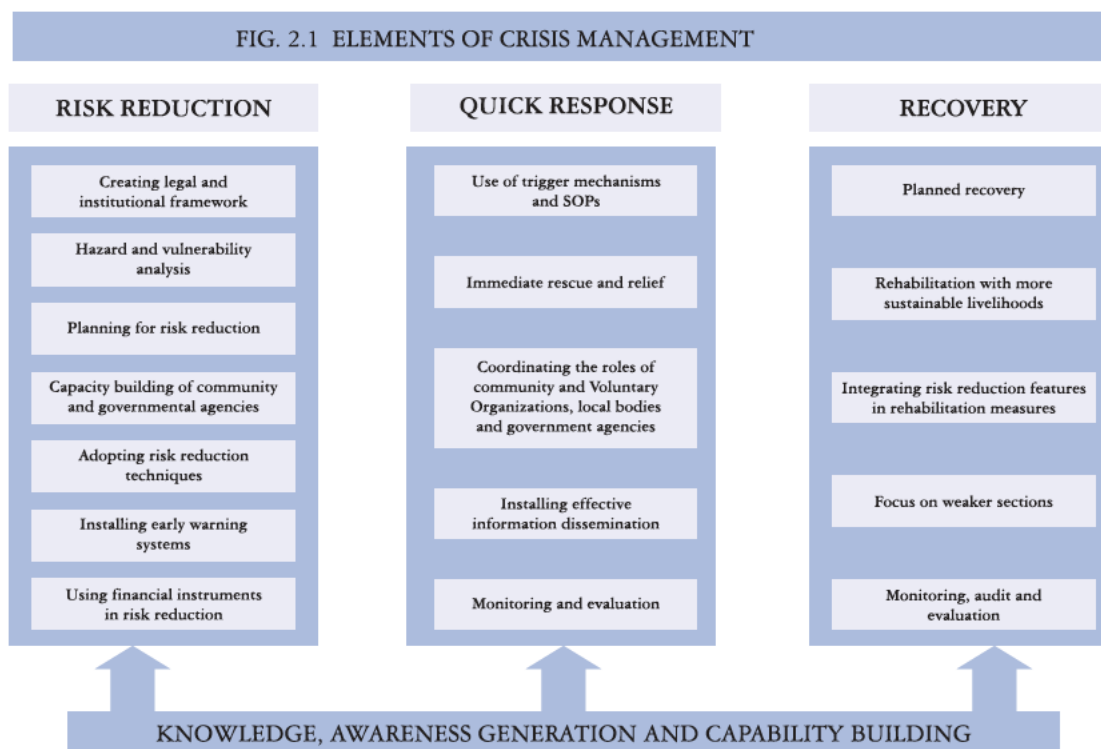
### Distinction between Hazard and Disaster

- ◇ A disaster takes place when a community is affected by a hazard
- ◇ the impact of the disaster is determined by the extent of a community's vulnerability to the hazard.

### 3.1.1 Elements of Crisis Management

- ◇ crisis management strategy should aim at:

1. Creating appropriate legal and organizational framework
2. Government organizations at all levels aware of the risk of potential natural and man-made hazards
3. Meticulous long and short term planning for crisis management
4. Building resilience of the communities to face crises and ensuring their full participation
5. Building and maintaining capabilities (human and institutional)
6. Developing and disseminating knowledge for effective crisis management.



## 3.2 Shift to Disaster Risk Reduction

- ◇ Reviews of the global scenario carried out in the 1990s in the wake of the “Yokohama Declaration”
- ◇ Disaster risk reduction (disaster reduction) has been defined as the ‘systematic development and application of policies, strategies and practices to minimise vulnerabilities, hazards and the unfolding of disaster impacts throughout a society, in the broad context of sustainable development’

\* 

World Conference on Natural Disaster Reduction, Yokohama, 1994 Yokohama Strategy and Plan of Action for a Safer World
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1. Disaster Risk Reduction Framework
2. Policy towards Risk Management
3. Assessment of Risk including Hazard Analysis and Vulnerability
4. Risk Awareness and Preparation of Plans for Risk Mitigation
5. Implementation of the Plan
6. Early Warning Systems
7. Use of Knowledge

## 3.3 India’s Key Hazards, Vulnerabilities and the Crisis Response Mechanism

- ◇ Almost 85% of the country is vulnerable to single or multiple disasters and about 57% of its area lies in high seismic zones.
- ◇ Approximately 40 million hectares of the country’s land area is prone to flood, about 8% of the total land mass is vulnerable to cyclone and 68% of the area is susceptible to drought

### Industrial Disasters

- ◇ chemical, mechanical, civil, electrical or other process failures in an industrial plant due to accident or negligence

\* Methyl Iso-cyanate gas leak in 1984

### Epidemics

- ◇ the major sources of epidemics can be broadly categorized as follows:
  1. Water-borne diseases like cholera
  2. Vector-borne (often mosquito-borne) epidemics
  3. Person to person transmission of diseases
  4. Air-borne diseases like influenza and measles
- ◇ Epidemics often take place due to poor sanitary conditions leading to contamination of food and water or due to inadequate disposal of human or animal carcasses in post- disaster situations.

## **Nuclear Hazards**

- ◇ The Department of Atomic Energy (DAE) has been identified as the nodal agency in the country in respect of man made radiological emergencies in the public domain.
- ◇ Nuclear facilities in India have adopted internationally accepted guidelines for ensuring safety to the public and environment

### **3.3.1 Other Disasters**

#### **Slow Onset Disasters**

- ◇ climate change (global warming), desertification, soil degradation, and droughts, would fall under the category of slow onset disasters.

#### **Droughts**

- ◇ More than 80% of rainfall is received in less than 100 days during the South-west monsoon and the geographic spread is uneven.
- ◇ Inadequacy of rains coupled with adverse land-man ratio compels the farmers to practice rain-fed agriculture in large parts of the country.
- ◇ Per capita water availability in the country is steadily declining.
- ◇ About 8.6 million hectares of India's land area is afflicted with the twin problems of alkalinity and salinity coupled with water-logging

#### **Sea Erosion**

- ◇ The landward displacement of the shoreline caused by the forces of waves and currents is termed as erosion.
- ◇ Coastal erosion occurs when wind, waves and long shore currents move sand from the shore and deposit it somewhere else.

## **3.4 Crisis/Disaster Response Mechanism in India**

- ◇ Till late 1960s the necessity for famine relief work declined and a holistic drought management programme was taken up in the form of the Drought Prone Areas Programme (DPAP).
- ◇ Very few laws regarding disaster management till 2005

#### **Structure Prior to NDMA, 2005**

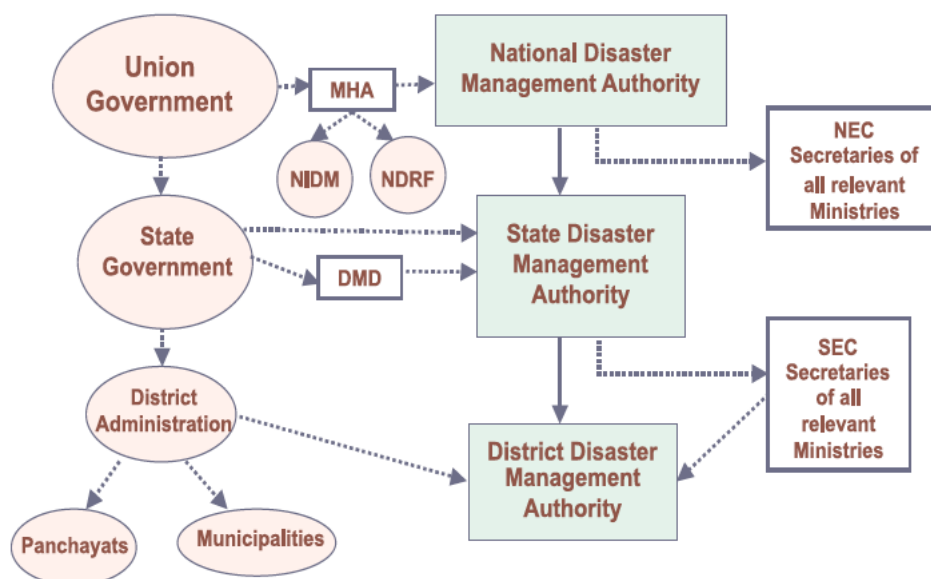
- ◇ Most of the states have Relief Commissioners who are in charge of the relief and rehabilitation measures.
- ◇ The Relief Commissionerate is usually an adjunct of the Revenue Department whose main job is to administer land ownership, land revenue and tenurial conditions in rural areas
- ◇ Every state has a Crisis Management Committee under the chairpersonship of the Chief Secretary, consisting of secretaries in charge of concerned departments, which reviews crisis situations on a day-to-day basis at the time of crisis, coordinates the activities
- ◇ At the ministers' level, a Cabinet Committee on Natural Calamities under the chairpersonship of the Chief Minister
- ◇ The District Magistrate/Collector has the responsibility for the overall management of disasters in the district.

## NDMA, 2005

- ◇ Disaster management with reference to rapid onset disasters was moved from the purview of the Ministry of Agriculture to the Ministry of Home Affairs. The Ministry of Agriculture retains the responsibility for droughts, pest attacks and hailstorms;
- ◇ State Governments were advised to reorganize their Relief & Rehabilitation Department into a separate Disaster Management Department;
- ◇ State Governments were further advised to constitute State Disaster Management Authority under the Chairmanship of State Chief Minister
- ◇ A specialized force comprising eight battalions to be named as National Disaster Response Force to be constituted
- ◇ An advanced fail-proof disaster communication network would be set up through Emergency Operation Centres (EOC) at national, state and district levels;
- ◇ The National Institute of Disaster Management was set up at Delhi for training, capacity building, research and documentation on different aspects of disaster management in the country;
- ◇ A community based disaster risk management programme to be launched in multi-hazard districts throughout the country.

### Role Players : Legal-institutional Framework

#### Disaster Management Act, 2005



### 3.5 Legal and Institutional Framework

- ◇ 'Disaster Management' as a subject is not mentioned in any of the three lists.
- ◇ However, by practice and convention the primary responsibility for managing disasters rests with the State Governments.
- ◇ National Commission to Review the Working of the Constitution (NCRCW) to recommend insertion of an entry on the subject in the Concurrent List

## Recommendations

- ◇ A new entry, “Management of Disasters and Emergencies, natural or man-made”, may be included in List III (Concurrent List) of the Seventh Schedule of the Constitution.

### 3.5.1 Evolution of Legal Framework

1. The Factories Act, 1948 amended after the Bhopal tragedy to include the right to information; along with the EPA, 1986 which lays down rules for the protection of land, water and air
  - (a) Hazardous Chemicals Rules, 1989
  - (b) Chemical Accident (Prevention and Preparedness) Rules, 1996;
2. The Atomic Energy Act combined with Rules notified under the Environment Protection Act, 1986 (EPA)
3. State Essential Services Maintenance Acts (ESMA)
4. Coastal Zone Regulations, Building Codes, Fire Safety Rules etc;
5. State Public Health Acts;
6. The Army Act, which empowers civil administration to seek help of army during crisis

### 3.5.2 What should a law on crisis management provide?

- ◇ The laws need the following points
  1. require strengthening of the existing legal framework,
  2. removal of loopholes, wherever they exist,
  3. ensuring an effective coordination mechanism and
  4. an administrative structure with unity of command and well defined responsibilities at all levels.
- ◇ A totally centralized or totally decentralized mechanism would be ineffective.
- ◇ Immediate rescue and relief should be the responsibility of the level of government closest to the affected population.
- ◇ Disaster management planning requires wider perspective and expertise. (More role for the Centre)
- ◇ Thus, the legislation for disaster/crisis management needs to create agencies/ authorities at local/district/state and national levels.
- ◇ A warning about a looming disaster, received well in time, can avert huge loss of human lives.

### Analysis of the Disaster Management Act, 2005

- ◇ The Disaster Management Act, 2005 defines disaster as natural or man-made event that causes substantial loss to life, property and environment.
- ◇ NDMA would be chaired by the Secretary to the Government of India in charge of the Ministry or Department of the Union Government having administrative control of disaster management
- ◇ This body has extensive powers and functions including laying down guidelines and giving directions to the concerned ministries or departments



## **The Role and Functions of a National Disaster Management Organisation**

- ◇ The following are the role for the organization
  - \* Provide a coherent approach to disaster management across all phases from preparedness and mitigation to response and recovery.
  - \* Provide a common framework
  - \* Allocate responsibilities clearly.
  - \* Provide a framework for coordinated response
- ◇ International practices also do not normally involve setting up centralized authorities with command and control functions to deal with disasters.
  - \* in the US, the Federal Emergency Management Agency (FEMA) is an agency that operates under the control of the Department of Home Land Security for the purpose of overseeing federal government assistance in domestic disaster preparation, training of first responders and coordination of the government's disaster response efforts.

### **Recommendations :**

- ◇ Disaster/Crisis Management should continue to be the primary responsibility of the State Governments and the Union Government should play a supportive role.
- ◇ The Act should provide categorization of disasters (say, local, district, state or national level).
- ◇ The law should cast a duty on every public functionary, to promptly inform the concerned authority about any crisis, if he/she feels that such authority does not have such information.
- ◇ The law should make provisions for stringent punishment for misutilization of funds meant for crisis/disaster management.
- ◇ The role of the local governments should be brought to the forefront for crisis/disaster management.

### **Crisis management at apex level**

- ◇ A Cabinet Committee on Crisis Management has already been set up.
- ◇ On separate ministry for Disaster Management:
  - \* the multi-disciplinary nature of activities in crisis management, creation of a separate ministry is likely to lead to conflict and delays rather than coordination.

### **Role of Local Self-Governments**

- ◇ State Governments may examine the need to incorporate provisions in the state disaster management law and also the state laws governing local bodies to provide for a well defined role to the municipal bodies and panchayat raj institutions.

### **Strengthening of National Institute of Disaster Management (NIDM))**

- ◇ It is an autonomous body under the Ministry of Home Affairs and its objectives are: (i) to undertake quality research, (ii) to work as a national resource centre, (iii) to professionalise disaster management, (iv) to promote training,
- ◇ The 'best practices' in disaster management are the strategies and methods perfected by several developed countries and India can take advantage from exposure to these practices.

### 3.5.2.1 Assessment of Risk - Hazard and Vulnerability Analysis

- ◇ The first step in planning for mitigation measures for any crisis in an area is an understanding of the potential hazards in that area
- ◇ It is also possible to use the Geographical Information System (GIS) tools and non-spatial data such as demography, socio-economic conditions and infrastructure like road, rail network, communication system, hospital etc. on a common platform for developing a sound information base for crisis management.
- ◇ Scientific, technological and research organizations such as NRSA, ISRO, NIC, GSI and NIDM should be brought on a common platform by NDMA
- ◇ Geographical Information System tools should be used
- ◇ A detailed vulnerability analysis should be carried out in all hazard prone areas.

### 3.5.2.2 Generating Awareness about Risk

- ◇ Awareness generation programmes should be undertaken using tools of social marketing.
- ◇ A responsible media, which is also well informed about all aspects of disaster, is a very powerful tool for sensitizing people.

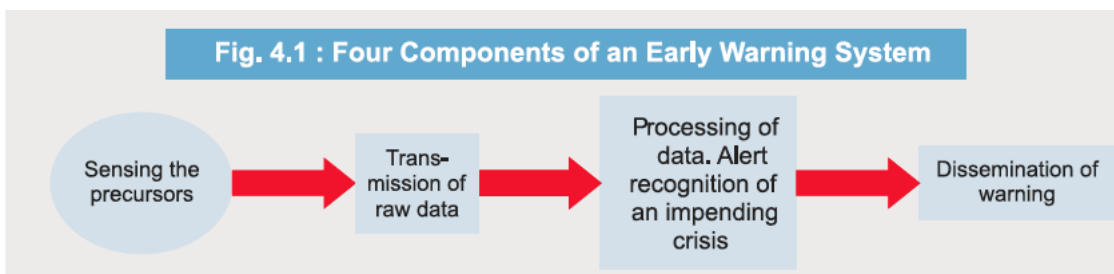
### 3.5.2.3 Preparation of Disaster Management Plans

- ◇ The Disaster Management Act, 2005 mandates preparation of District, State and National level Plans
- ◇ The District Disaster Management Plan needs to have two components:
  1. Long Term Mitigation Plan.
    - (a) Long Term Development Plan.
    - (b) Long Term Enforcement Plan.
  2. Emergency Response Plan.

### Making Crisis/Disaster Management Plans a Part of Development Plans

- ◇ The activities in the disaster management plans should be included in the development plans of the line agencies and local bodies like panchayats and municipal bodies.

### 3.5.3 Early Warning Systems



- ◇ Though it is the responsibility of the government machinery and the local bodies to disseminate the warning, peoples' participation has to be enlisted.
- ◇ Communications networks, with sufficient redundancies should be established between the data collection point to the points where hazard is likely to occur.
- ◇ The early warning system should be evaluated after each disaster to carry out further improvements.

### **3.5.3.1 Building Community Resilience**

- ◇ Location specific training programmes for the community should be executed through the panchayats.
- ◇ Crisis management awareness needs to be mainstreamed in education.
- ◇ Orientation and sensitization programmes highlighting issues and concerns in disaster management should be taken up

## **3.6 Emergency Response System**

- ◇ Since the initial response in any crisis/disaster should be timely and speedy, the Emergency Response Plans should be up-to-date and should lay down the 'trigger points' in unambiguous terms.
- ◇ The district emergency response plan should be prepared in consultation with all concerned.

### **3.6.1 Role of Specialized Agencies**

1. The Civil Defence Act should be amended as proposed so as to cover all types of disasters.
2. Civil Defence should be constituted in all districts which are vulnerable not only to hostile attacks but also to natural calamities.
3. The objective should be to include 1% of the population within the fold of Civil Defence within five years.
4. Policemen, Firemen and the Home Guards at the field level who are among the first responders should be adequately trained in handling crises/ disasters.
5. A section of Home Guards should also be given para-medical training.
6. While in the long run, it would be desirable to place the Fire Services under the control of all municipal bodies, as a first step, this may be done in bigger cities
7. While it is necessary that each nodal ministry handling crisis has an EOC, it is clearly desirable to have an integrated National Emergency Operation Centre for all types of crises.

## **3.7 Recovery**

1. Damage assessment should be carried out by multidisciplinary teams in a transparent and participatory manner
2. A recovery strategy should be evolved in consultation with the affected people and concerned agencies and organisations.
3. Minimum standards of relief should be developed to address the requirements of food, health, water, sanitation and shelter.

# Chapter 4

## Ethics in Governance

### 4.1 Ethical Framework

- ◇ The standards set in politics profoundly influence those in other aspects of governance.
- ◇ High standards of ethical conduct were an integral part of the freedom struggle. Unfortunately, ethical capital started getting eroded after the transfer of power.
- ◇ widespread view that much more needs to be done to cleanse our political system.
- ◇ Criminalization of politics – ‘participation of criminals in the electoral process’ - is the soft underbelly of our political system.
- ◇ The opportunity to influence crime investigations and to convert the policemen from being potential adversaries to allies is the irresistible magnet drawing criminals to politics.
- ◇ The elected position and the substantial protection that it can give, helps him either to further and expand his activities or to evolve into an entity with higher political ambitions.
- ◇ As for political parties, such individuals bring into the electoral process, their ability to secure votes through use of money and muscle power.
- ◇ Large, illegal and illegitimate expenditure in elections is another root cause of corruption.
- ◇ Despite all the flaws in the functioning of a democracy, it has a measure of self correction
- ◇ Significant efforts have been made over the last two decades to bring about meaningful electoral reforms.

#### 4.1.1 Recent Improvements

1. Improvement in Accuracy of Electoral Rolls:
  - (a) Printed electoral rolls/CDs have been made available for sale.
  - (b) Computerisation of entire electoral rolls of over 620 million voters has been initiated.
  - (c) The provision of photo-identity cards
2. Disclosure of Antecedents of Candidates:
3. The Supreme Court has directed that a candidate should declare any conviction by a court or whether a criminal case is pending against him;
4. Disqualification of Persons Convicted of Criminal Offence:
5. Enforcement of the Code of Conduct:

- (a) Code of Conduct for elections binding in all respects, issuing directions regarding timings of campaigns, prohibition of festoons/cutouts, insistence on daily expenditure statements, appointment of a large number of observers, ordering of re-poll in specific polling booths and other such steps.

6. Free and fearless polling:

- (a) Policing arrangements have been improved
- (b) Electronic voting machines have been introduced throughout the country (in the parliamentary elections of 2004).

7. Reduction in size of Council of Ministers:

- (a) The Constitution (Ninety-first Amendment) Act, 2003 restricts the size of the Council of Ministers to 15% of the strength

## 4.2 Issues in Political Reforms

- ◇ Despite the measures taken, improvements are marginal in the case of important problems of criminalization, the use of money in elections, subtle forms of inducements and patronage

### 4.2.1 Reform of Political Funding

- ◇ Internationally, there are three broad patterns of state funding for political parties and elections
  - \* One is the minimalist pattern, wherein elections alone are partially subsidized
    - ▷ The UK, Ireland, Australia, New Zealand and Canada
  - \* The second, maximalist pattern of state funding involves public funding not merely for elections but even for other party activities, as in Sweden and Germany.
  - \* In between, there are a variety of mixed patterns involving partial reimbursement
    - ▷ France, Netherlands and South Korea.
- ◇ Indrajit Gupta Committee on State Funding of Elections has recommended partial state-funding mainly in kind.
- ◇ Election and Other Related Laws (Amendment) Act -2003
  - \* Committee on Electoral Reforms (Dinesh Goswami Committee, 1990)
  - \* the Committee on State Funding of Elections (Indrajit Gupta Committee, 1999)
  - \* the Law Commission of India (170th report on Reform of Electoral Laws, 1999).
- ◇ The Act contains the following key provisions:
  - \* Full tax exemption to individuals and corporates on all contributions to political parties.
  - \* Disclosure of party finances and contributions over Rs.20,000.
  - \* Indirect public funding to candidates of recognized parties – including free supply of electoral rolls
  - \* Equitable sharing of time by the recognized political parties on the cable television network and other electronic media (public and private).
- ◇ Political corruption makes a case for state funding of elections.
- ◇ **ARC Recommendation:** A system for partial state funding should be introduced in order to reduce the scope of illegitimate and unnecessary funding of expenditure for elections

### 4.2.2 Tightening of anti-defection law:

- ◇ The 91st Amendment to the Constitution was enacted in 2003 to tighten the anti-defection provisions of the Tenth Schedule, enacted earlier in 1985
  - \* This Amendment makes it mandatory for all those switching political sides – whether singly or in groups – to resign their legislative membership
  - \* The Amendment also bars legislators from holding, post-defection, any office of profit.
  - \* This Amendment has thus made defections virtually impossible and is an important step forward in cleansing politics.
  - \* Besides, the Election Commission has also insisted on internal elections in political parties to elect their leaders.
- ◇ **ARC Recommendation:** The issue of disqualification of members on grounds of defection should be decided by the President/Governor on the advice of the Election Commission.

### 4.2.3 Coalition and Ethics

- ◇ The ethics of coalition government is, however, seriously strained when the coalition partners change partnerships mid-stream and new coalitions
- ◇ **Recommendation:** The Constitution should be amended to ensure that a common programme is framed before the elections or implicitly while forming the government.
  - \* If there is realignment midstream with one or more parties outside the coalition, the coalition has to seek a fresh mandate from the electorate.

### 4.2.4 Election Commission

- ◇ **Recommendation:**
- ◇ A collegium headed by the Prime Minister with the Speaker of the Lok Sabha, the Leader of Opposition in the Lok Sabha, the Law Minister should make recommendations for the consideration of the President for appointment of the Chief Election Commissioner and the Election Commissioners.
- ◇ Special Election Tribunals should be constituted at the regional level under Article 323B of the Constitution to ensure speedy disposal of election petitions and disputes

### 4.2.5 Ethics in Public Life

- ◇ The fundamental principle in a democracy is that all public functionaries are trustees of the people.
- ◇ The trusteeship relationship between the public and the officials requires that the authority entrusted to the officials be exercised in the best interest of the people or in 'public interest'.
- ◇ Committee on Standards in Public Life in the United Kingdom, popularly known as the **Nolan Committee**, which outlined the following seven principles of public life (OHIOSAL)
  - \* Objectivity:
  - \* Honesty:
  - \* Integrity:
  - \* Openness:
  - \* Selflessness:

- \* Accountability:
- \* Leadership:

#### ◇ **United Nations Convention against Corruption**

- \* State shall promote integrity, honesty and responsibility among its public officials
- \* Ensure codes of conduct for public officials
- \* declarations to appropriate authorities about employment, investments, assets and gifts
- \* disciplinary or other measures against public officials who violate the codes or standards.

#### **4.2.6 Code of Ethics for Ministers**

- ◇ The **ARC prescribes** for a Code of Ethics for ministers
- ◇ The Code of Conduct is a starting point for ensuring good conduct by Ministers, but must be supplemented by Code of Conduct
- ◇ Code of Ethics and a Code of Conduct for Ministers should include the following:
- ◇ Ministers must;
  1. Uphold the principle of collective responsibility;
  2. A duty to Parliament to account, and be held to account, for the policies, decisions and actions
  3. Uphold the highest ethical standards;
  4. Ensure that no conflict arises, or appears to arise, between their public duties and their private interests;
  5. Not use government resources for party or political purposes;
  6. Uphold the political impartiality of the Civil Service
  7. Comply with the requirements which the two Houses of Parliament lay down from time to time;
  8. Ensure that public moneys are used with utmost economy and care;
  9. Function in such a manner as to serve as instruments of good governance
  10. Act objectively, impartially, honestly, equitably, diligently and in a fair and just manner.

#### **4.2.7 Ethics of Members of Houses**

##### ◇ **ARC Recommends:**

- \* An Office of 'Ethics Commissioner' may be constituted by each House of Parliament.
- \* All State legislatures may adopt a Code of Ethics and a Code of Conduct for their Members.
- \* Ethics Committees may be constituted with well defined procedures for sanctions in case of transgressions, to ensure the ethical conduct of legislators.
- \* Registers of Members' Interests' may be maintained with the declaration of interests
- \* Annual Reports providing details including transgressions may be placed on the Table of the respective Houses.

#### 4.2.8 Offices of Profit

- ◇ The Law should be amended to define office of profit
- ◇ All offices in purely advisory bodies shall not be treated as offices of profit
- ◇ All offices involving executive decision making and control of public funds should be treated as Offices of Profit
- ◇ If a serving Minister, is a member or head organizations like the Planning Commission, it shall not be treated as office of profit.
- ◇ **Schemes such as MPLADS and MLALADS should be abolished.**
- ◇ Members of Parliament and Members of State Legislatures should be declared as 'Public Authorities' under the Right to Information.

#### 4.3 Code of Ethics for Civil Servants

- ◇ Committee on Prevention of Corruption ('Santhanam Committee'-1964)
- ◇ our civil service system has a tradition of attitudes and achievements which sets examples to be emulated by current and prospective civil servants.
- ◇ promoting the norms of 'right conduct' cannot be enforced through a rigid mindless enforcement of laws and rules.
- ◇ Committee on Prevention of Corruption ('Santhanam Committee'-1964)
- ◇ Draft 'Public Service Bill' now under consideration of the Ministry of Personnel, Public Grievances and Pensions
  - \* Allegiance to the various ideals enshrined in the preamble to the Constitution
  - \* Apolitical functioning
  - \* Good governance for betterment of the people to be the primary goal of civil service
  - \* Duty to act objectively and impartially
  - \* Accountability and transparency in decision-making
  - \* Maintenance of highest ethical standards
  - \* Merit with equitable representation to be the criteria in selection of civil servants consistent
  - \* Ensuring economy and avoidance of wastage in expenditure
  - \* Provision of healthy and congenial work environment
  - \* Communication, consultation and cooperation in performance of functions.
- ◇ The draft Bill also envisages a Public Service Code and a Public Service Management Code laying down more specific duties and responsibilities.
- ◇ **ARC Recommends:**
  - \* 'Public Service Values' towards which all public servants should aspire, should be defined and made applicable to all tiers of Government
  - \* Any transgression of these values should be treated as misconduct, inviting punishment.
  - \* Conflict of interest should be comprehensively covered in the Code of Ethics and in the Code of Conduct for officers.



### 4.3.1 Ethical Framework for the Judiciary

- ◇ An independent judiciary enjoying public confidence is a basic necessity of the rule of law.
- ◇ The Supreme Court on May 7, 1997 adopted a charter called the 'Restatement of Values of Judicial Life',
  - \* Justice must not merely be done but it must also be seen to be done.
  - \* A Judge should not contest the election to any office
  - \* Close association with individual members of the Bar shall be eschewed.
  - \* A Judge should not permit any member of his immediate family, if a member of the Bar, to appear before him
  - \* A Judge shall not express his views in public on matters that are pending
  - \* A Judge is expected to let his judgments speak for themselves.
- ◇ Perhaps in no other country in the world does the judiciary have a final say in its own appointments.
  - \* The current system of appointments is not open to public scrutiny and thus lacks accountability and transparency.
- ◇ A closely related aspect of the accountability of judges is the mechanism for removal of judges for deviant behaviour.
  - \* Other than impeachment under Articles 124(4) and 217(1), there is no mechanism against any inappropriate behaviour or misdemeanour of judges.
  - \* Impeachment provisions have turned out to be impracticable as it is virtually impossible to initiate any proceedings, let alone successfully conclude them.
- ◇ **ARC Recommendations:**
- ◇ A National Judicial Council should be constituted, where the appointment of members of the judiciary should be by a collegium having representation of the executive, legislature and judiciary.
- ◇ It should be authorized to lay down the Code of Conduct for judges, including the subordinate judiciary.
- ◇ A Judge of the Supreme Court should be designated as the Judicial Values Commissioner.

## 4.4 Legal Framework for Fighting Corruption.

- ◇ pre-independence period, the Indian Penal Code (IPC) was the main tool to combat corruption in public life.
- ◇ the Prevention of Corruption Act, 1947 was enacted to fight the evils of bribery and corruption.

### 4.4.1 The Prevention of Corruption Act, 1988:

- ◇ The term 'Public Servant' is defined in the Act. The definition is broader than what existed in the IPC.
  - \* A new concept – 'Public Duty' is introduced in the Act.
- ◇ The Prevention of Corruption Act does not provide a definition of 'Corruption'.

- ◇ Even the United Nations Convention against Corruption does not provide a definition of corruption.
- ◇ **ARC Recommends**
- ◇ The following should be classified as offences under the Prevention of Corruption Act:
  - \* Gross perversion of the Constitution and democratic institutions amounting to wilful violation of oath of office.
  - \* Abuse of authority unduly favouring or harming someone.
  - \* Obstruction of justice.
  - \* Squandering public money.
- ◇ A special offence of ‘collusive bribery’ should be added.
  - \* An offence could be classified as ‘collusive bribery’ if the outcome or intended outcome of the transaction leads to a loss to the state, public or public interest.
- ◇ ‘Collusive’ corruption needs to be dealt with by effective legal measures so that both the bribe-giver and the bribe-taker do not escape punishment
- ◇ Prior sanction should not be necessary for prosecuting a public servant who has been trapped red-handed or in cases of possessing assets disproportionate to the known sources of income.
- ◇ The requirement of prior sanction for prosecution now applicable to serving public servants should also apply to retired public servants for acts performed while in service.
- ◇ In all cases where the GoI is empowered to grant sanction for prosecution, this power should be delegated to an Empowered Committee comprising the Central Vigilance Commissioner and the Departmental Secretary to Government.
- ◇ The Act should be suitably amended to include private sector providers of public utility services.
- ◇ NGOs, which receive substantial funding, should be covered under the Act.

#### 4.4.2 Serious Economic Offences

- ◇ The Mitra Committee Report (The Report of the Expert Committee on Legal Aspects of Bank Frauds 2001)
- ◇ submitted to the Reserve Bank of India pointed out that criminal jurisprudence in India based on proof beyond doubt was too weak an instrument to control bank frauds
- ◇ The Committee recommended a two-pronged strategy for systemic reforms through strict implementation of Regulator’s Guidelines and obtaining compliance certificates
- ◇ Second, a punitive approach by defining scams as a serious offence with the burden of proof shifting to the accused and with a separate investigative authority for serious frauds, and special courts and prosecutors for trying such cases was recommended.
- ◇ The Committee suggested the creation of a Statutory Fraud Committee under the Reserve Bank of India
- ◇ **ARC Recommends**
- ◇ A new law on ‘Serious Economic Offences’ should be enacted.
- ◇ A Serious Economic Offence may be defined as :

- \* One which involves a sum exceeding Rs 10 crores; or
- \* is likely to give rise to widespread public concern; or
- \* its investigation and prosecution are likely to require highly specialized knowledge of the financial market or of the behaviour of banks or other financial institutions; or
- \* it involves significant international dimensions, etc.

### 4.4.3 Article 311

#### Arguments in favour of retaining Article 311

- ◇ Those in favour of retaining Article 311 argue that the Article subjects the doctrine of pleasure contained in the preceding Article 310 to certain safeguards.
- ◇ It is further argued that the safeguards under Article 311 are focused and that the framers of the Constitution were mindful of the rare eventualities in which even such minimal safeguards would not be necessary.
- ◇ Even if Article 311 were to be repealed, it is argued, the need for giving an opportunity to be heard cannot be dispensed with.
- ◇ judicial review is an integral part of our Constitution and a substantial portion of the appellate work of the Supreme Court concerns Article 311.
- ◇ It is argued that it is the rules governing disciplinary enquiries, and not Article 311 itself, that are responsible for the delays.

#### Arguments in favour of repealing Article 311

- ◇ Indeed, it is not as if in all cases involving Article 311 the Supreme Court has taken a ‘pro Government’ stance.
- ◇ There are cases where the apex court has struck down the actions of the disciplinary authority or the Government.
- ◇ The Indian Constitution, and Part XIV thereof, was drafted at a time when, in the aftermath of partition, and post-colonial administrative upheavals, it was felt necessary to prescribe certain guarantees to the bureaucracy. In the present scenario, that protection does not appear quite necessary.
- ◇ reasonable opportunity is provided to a government official against what might be arbitrary or vindictive action. But this should be only reasonable, not excessive, and
- ◇ **The Hota Committe**
  - \* Recommended that Article 311 of the Constitution be amended
  - \* Facilitate summary removal from service of a corrupt officer;
  - \* Inspire confidence in the minds of the common people that corrupt practice by members of the civil service / persons holding civil posts will not be tolerated;
  - \* Ensure justice to the official so removed in a post-decisional hearing.
- ◇ The **ARC** believes that the rights of a civil servant under the Constitution should be subordinate to the overall requirement of public interest and the contractual right of the State.
- ◇ The public servant, an agent of the State, cannot be superior to the State and it is his fundamental duty to serve the State with integrity, devotion, honesty, impartiality, objectivity, transparency and accountability.

◇ No government can be expected to dispense with the services of a government servant in an arbitrary manner or without a proper enquiry.

◇ **ARC Recommendations:**

- \* Article 311 of the Constitution should be repealed.
- \* Simultaneously, Article 310 should also be repealed.

#### **4.4.3.1 CVC**

◇ The CVC has emerged as the nodal, statutory authority to over-see vigilance administration

◇ Each Ministry/Department or other organization in the Union Government now has an internal vigilance set-up under a whole-time or part-time Chief Vigilance Officer (CVO)

◇ With the formation of Central Administrative Tribunals (CATs) in the 1980s most of the judicial proceedings of departmental inquiries are handled here.

◇ Two issues with the CVC

- \* There is no congruence between the time taken in completion of various stages and the schedule prescribed for their completion by the CVC;
- \* While it would be unrealistic in such cases to expect 'immediate report of the offence', the discovery of the commission of a 'misconduct' is shockingly delayed.

## **4.5 Institutional Framework for preventing corruption**

◇ The working of many of these anti-corruption bodies leaves much to be desired.

### **4.5.1 Union Government**

◇ Administrative Vigilance Division of the Department of Personnel & Training is the nodal agency for dealing with Vigilance and Anti-corruption.

◇ Other Institutions

◇ **Central Vigilance Commission**

- \* It was accorded statutory status, consequent upon the judgement of the Hon'ble Supreme Court in Vineet Narain v. Union of India
- \* The CVC advises the Union Government on all matters pertaining to the maintenance of integrity in administration.

◇ **Vigilance Units in the Government of India**

- \* All Ministries/Departments in the Union Government have a Chief Vigilance Officer (CVO) who heads the Vigilance Division of the organization concerned

### **4.5.2 The Central Bureau of Investigation**

◇ The Central Bureau of Investigation (CBI) is the principal investigative agency of the Union Government in anti-corruption matters. It derives its powers from the Delhi Special Police Establishment Act, 1946 (DSPE Act)

◇ (i) Anti-corruption Division, (ii) Economic Offences Wing, and (iii) Special Crimes Division

### 4.5.3 The Lok Pal

- ◇ The first Administrative Reforms Commission had recommended the establishment of the institution of Lok Pal.
- ◇ The institution of Ombudsman has emerged 'as a bulwark of democratic government against the tyranny of officialdom'
- ◇ The Commission is of the view that the Lok Pal Bill should become law with the least possible delay.
- ◇ There should be an organic link between the Lok Pal and the Central Vigilance Commissioner.
  - \* The reason for this is that an overarching approach to fighting corruption in high places is necessary.
  - \* The linkage between the CVC and the Lok Pal would enable sharing of information and prompt action against all persons involved.
  - \* The Central Vigilance Commission should enjoy full functional autonomy, but should work under the overall guidance and superintendence of the Lok Pal.
- ◇ One issue which has been debated for long is whether the office of Prime Minister should be brought under the jurisdiction of the Lok Pal.
  - \* It is the function of the Prime Minister to lead and to coordinate among the Ministers in framing of policies, decision making and execution of those policies and decisions.
  - \* The Prime Minister's unchallenged authority and leadership are needed to make our Constitutional scheme function in letter and spirit.
  - \* The Prime Minister is accountable to the Parliament, and on his survival, depends the survival of the government.
  - \* If the Prime Minister's conduct is open to formal scrutiny by extra-Parliamentary authorities, then the government's viability is eroded and Parliament's supremacy is in jeopardy.
  - \* A Prime Minister facing formal enquiry by a Lok Pal would cripple the government.
  - \* If the Prime Minister is indeed guilty of serious indiscretions, Parliament should be the judge of the matter, and the Lok Sabha should remove the Prime Minister from office.
- ◇ The same principles also hold good for Chief Ministers, they should be kept out of state Lok Ayukta

#### **ARC Recommendations:**

- ◇ The Constitution should be amended to provide for a national Ombudsman to be called the Rashtriya Lokayukta.
- ◇ The jurisdiction of Rashtriya Lokayukta should extend to all Ministers (Except PM), Chief Ministers, MPs, officials with ministerial status.
- ◇ it is essential for the Lok Pal to establish mechanisms for effective interaction with the public in general and the private sector and the civil society in particular.
- ◇ The Prime Minister should be kept out of the jurisdiction
- ◇ The Rashtriya Lokayukta should consist of a serving or retired Judge of the SC as the Chairperson, an eminent jurist and the CVC as the ex-officio Member.
- ◇ The Rashtriya Lokayukta should also undertake a campaign for raising the standards of ethics in public life.

- ◇ Though Maharashtra was the first State to establish this institution as early as in 1972, its public credibility was lost when the incumbent continued to function for several months after he was asked to step down. Orissa instituted and then abolished the institution.

#### **4.5.4 The Lokayukta**

- ◇ The Lokayukta is generally a retired Judge of the HC or the SC and normally for a five-years on the basis of a joint decision involving the CM, the Chief Justice, the Speaker of the House and leader of the Opposition
- ◇ In many states the Lokayukta does not have an independent investigating authority at its disposal and is therefore dependent on Government agencies to carry forward its investigations.
- ◇ The Maharashtra and Orissa Lokayuktas assume more the character of a grievance redressal organization rather than an Ombudsman for cases of corruption.
- ◇ no uniformity in the provisions of the enactments, with fundamental differences regarding their function
- ◇ The entire structure of the anti-corruption machinery in the States needs reconsideration.
- ◇ The Karnataka Lokayukta which has been a very active institution, is headed by a retired Judge of the SC and has a wide jurisdiction.

\* Anti Corruption Bureau of the State is a part of it.

#### **ARC recommends**

- ◇ The Constitution should be amended to incorporate a provision making it obligatory on the part of State
- ◇ The jurisdiction of the Lokayukta would extend to only cases involving corruption. They should not look into general public grievances.
- ◇ The Anti Corruption Bureaus should be brought under the control of the State Vigilance Commission.
- ◇ The Lokayukta should have its own machinery for investigation.

#### **4.5.5 Ombudsman at the Local Level**

- ◇ The Commission is of the view that a system of Local Bodies Ombudsman may be established
- ◇ The Local Bodies Ombudsman should have powers to enquire into allegations of corruption against public functionaries in local bodies.
- ◇ Such Ombudsman may be constituted for a group of districts.
- ◇ The overall superintendence over the Local Bodies Ombudsman's should vest in the Lokayukta of the state
- ◇ The Government of Kerala has appointed Ombudsman under the Kerala Panchayati Raj (Amendment) Act, 1999
- ◇ The Commission is of the view that the Ombudsman should be appointed under the respective Panchayati Raj/Urban Local Bodies Acts in all States/UTs.

## 4.5.6 Strengthening Investigation and Prosecution

- ◇ The investigative agencies should acquire multi-disciplinary skills and should be thoroughly conversant with the working of various offices/ departments
- ◇ Modern techniques of investigation should be used like electronic surveillance, recordings of surprise inspections, traps, searches and seizures.
- ◇ A reasonable time limit for investigation of different types of cases should be fixed
- ◇ There should be sustained step-up in the number of cases detected and investigated.
- ◇ The anti-corruption agencies should conduct systematic surveys of department
- ◇ The economic offences unit of states need to be strengthened to effectively investigate cases

## 4.6 Social Infrastructure

### 4.6.1 Citizens' Initiatives

- ◇ The Independent Commission Against Corruption (ICAC) of Hong Kong has produced exemplary results over the last quarter century by strengthening the ability of civil society to question corruption.
- ◇ In India, there have been many outstanding cases of civil society engagement.
  - \* Public Interest Litigation by Common Cause Delhi
  - \* Report Card Survey of Public Affairs Centre, Bangalore;
  - \* Jan Sunwai by Mazdoor Kisan Shakti Sangathan, Rajasthan and Parivartan, Delhi;
  - \* National Campaign for People's Right to Information/Parivartan, New Delhi on Right to Information.
  - \* **Example:**The Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan, a well-known NGO, started uncovering corruption in local public works by gaining access to employment rolls, vouchers, beneficiary lists, and completion and utilisation certificates and then, handing them over to the concerned villagers for scrutiny in public hearings called Jan Sunwai.
- ◇ Ways to Improve Citizen initiatives
  1. inviting civil societies to oversee government programmes;
  2. establishing and disseminating service standards;
  3. establishing credible complaints mechanisms;
  4. assessing public confidence in anti-corruption institutions, judiciary and law enforcement and in designing programmes to improve trust levels;
  5. enforcing access to information;
  6. using public hearings to audit government activities

### ARC Recommendations

- ◇ Citizens' Charters should be made effective by stipulating the service levels and also the remedy if these service levels are not met.
- ◇ Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.
- ◇ Reward schemes should be introduced to incentivise citizens' initiatives.
- ◇ School awareness programmes should be introduced

## 4.6.2 Role of Media and Social Audit

- ◇ Under pressure of competition, the media does not verify allegations and information before putting them in the public domain.
- ◇ The Press Council of India has prescribed a Code of Conduct for the print media.
  - \* However, no such code exists for the electronic media.

### Recommendations

- ◇ It is necessary to evolve norms and practices requiring proper screening of all allegations/complaints by the media,
  - \* The electronic media should evolve a Code of Conduct
  - \* Government agencies can help the media in the fight against corruption by disclosing details about corruption cases regularly.
  - \* Operational guidelines of all schemes and citizen centric programmes should provide for a social audit mechanism.

## 4.7 Systemic Reforms

$$\boxed{\text{Monopoly} + \text{Discretion} - \text{Accountability} = \text{Corruption}}$$

### Promoting Competition

- ◇ Two steps
  - \* the gradual de-monopolisation of the non-essential service sectors
  - \* the growing role of private players in providing direct marketing services to farmers like in Madhya Pradesh.
- ◇ Clearly, ending government's monopoly in a large number of service sectors and allowing others to compete can play a major role in reducing corruption.
- ◇ To a large extent, therefore, dismantling monopolies and introducing competition go together.

### Simplifying Transactions

- ◇ One of the maladies of administration in India is the multiplicity of layers in every decision making process.
  - \* Apart from delays, this contributes to corruption.
  - \* Whenever abuse of authority is noticed, another layer of administration is added
- ◇ **Recommendations**
  - \* There is need to bring simplification of methods to the center-stage of administrative reforms
  - \* The existing Departmental Manuals and Codes should be thoroughly reviewed and simplified
  - \* A system of rewards and incentives for simplification and streamlining of procedures



## **Using Information Technology**

- ◇ The relationship of the government, citizens and businesses, and also organs can be transformed through IT
- ◇ The Gyandoot project in Madhya Pradesh is one such example.
  - \* It seeks to provide information about prevailing agricultural produce prices
- ◇ Each Ministry/Department/Organisation of government should draw up a plan for use of IT to improve governance.

## **Integrity Pacts**

- ◇ The term refers to an agreement between the public agency involved in procuring goods and services and the bidder for a public contract to the effect that the bidders have not paid and shall not pay any illegal gratification to secure the contract in question.
- ◇ ONGC is the first PSU to have signed a MoU with Transparency International India and the CVC on April 17, 2006.

## **Reducing Discretion**

- ◇ All government offices having public interface should undertake a review of their activities and list out those which involve use of discretion.
- ◇ Decision-making on important matters should be assigned to a committee rather than individuals
- ◇ Care has to be exercised, however, that this practice is not resorted to when prompt decisions are required.

## **Supervision**

- ◇ The supervisory role of officers needs to be re-emphasised.
- ◇ In the Annual Performance Report (APR) of each officer, there should indicate the measures he took to control corruption
- ◇ Supervisory officers who give 'clean certificates' to subordinate corrupt officers in their APR should explain their position if officer reported upon is charged under PCA.

## **Ensuring Accessibility and Responsiveness**

- ◇ Service providers should converge their activities so that all services are delivered at a common point.
  - \* Such common service points could also be outsourced to an agency.
- ◇ Tasks, which are prone to corruption, should be split up into different activities that can be entrusted to different persons.
- ◇ Public interaction should be limited to designated officers.
- ◇ A 'single window front office' for provision of information and services to the citizens.

## **Monitoring Complaints**

- ◇ All offices having large public interface should have an online complaint tracking system.
- ◇ There should be an external, periodic mechanism of 'audit' of complaints
- ◇ Complaints should be used to analyse the deficiencies so that remedial measures are taken.

## **Risk Management for Preventive Vigilance**

- ◇ It may be possible to classify various positions in government as 'high risk of corruption', 'medium risk of corruption' and 'low risk of corruption'.
- ◇ individual government servants vary in their level of integrity, ranging from those who indulge in outright extortion to those who are absolutely upright.
- ◇ **Recommendations:**
- ◇ Risk profiling of jobs needs to be done in a more systematic and institutionised manner
- ◇ Risk profiling of officers should be done by a committee of 'eminent persons' after the officer has completed ten years of service

## **Audit**

- ◇ It should be prescribed that as soon as any major irregularity is detected or suspected by the audit team, it should be immediately taken note of by government.
- ◇ Audit teams should be imparted training in forensic audit.

## **Proactive Vigilance on Corruption**

1. List of Officers of Doubtful Integrity:
2. Agreed List of Suspect Officers:
3. List of Undesirable Contactmen:
4. Annual Property Returns: This is another tool to identify suspected corrupt
5. Annual Property Returns: This is another tool to identify suspected corrupt
6. Vigilance Clearance

## **Protecting the Honest Civil Servant**

- ◇ There are genuine apprehensions about the system's ability to protect an honest public servant.
- ◇ 'single point directive'
  - \* Prior permission of the Union Government for initiating investigation against an officer of the rank of a Joint Secretary and above in the Government of India and its equivalent in the Central Public Undertakings
  - \* Both the 'single point directive' and the prior sanction for prosecution have led to obstruction of the statutory right of the investigating agency and an unnecessary interference.
- ◇ **Recommendations:**
- ◇ Every allegation of corruption received through complaints or from sources cultivated by the investigating agency against a public servant must be examined in depth at the initial stage itself before initiating any enquiry.

- ◇ In matters relating to allegations of corruption, open enquiries should not be taken up straight-away on the basis of complaints/source information
- ◇ The evaluation of the results of verification/enquiries should be done in a competent and just manner.

## 4.8 International Cooperation

- ◇ The United Nations Declaration against corruption and bribery in international commercial transactions adopted by the General Assembly in December 1996
  - \* The Declaration calls for enactment and enforcement of laws prohibiting bribery in international transactions, laws criminalizing the bribery of foreign public officials
- ◇ The United Nations Convention against Corruption, 2003
  - \* The Convention binds the signatories to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court to extradite offenders and to undertake measures to support tracing, freezing, seizure and confiscation of proceeds of corruption. Asset recovery is a fundamental principle of the Convention
- ◇ The ADB OECD Anti Corruption Action Plan for Asia Pacific which has been signed by the Government of India is not a binding agreement but a broad understanding to further the cause of inter-regional cooperation

## 4.9 Relationship between Political and Permanent Executive

- ◇ The Constitution separates the executive into two parts.
  - \* In terms of Articles 53 and 154, the executive power of the Union and the States vests in the President or Governor directly or through officers subordinate to him.
    - ▷ These officers constitute the permanent civil service and are governed by Part XIV of the Constitution.
- ◇ Though officers are subordinate to the President or Governor, they carry out the orders of the Council of Ministers in accordance with the rules framed in this behalf.
- ◇ The relationship between the Secretary and the Minister is organic.
  - \* The Minister has the mandate of the people to govern, but the Secretary has an equivalent constitutional mandate to advise the Minister.
  - \* Once his advice has been suitably considered, unless the Minister passes an illegal order, the Secretary is bound to implement it.
  - \* The Minister, on his part, is required to support the Secretary who is implementing his order
- ◇ A civil servant is required to implement the orders of government without bias, with honesty and without fear or favour.
  - \* It is precisely in this area that a degree of a difference of opinion begins to emerge between the political executive and the civil servants.
  - \* This happens because there is no system of specifying of accountability, thus the relationship between the executives are only issue- sensitive.

◇ The relationship in an **output-outcome framework**.

- \* **Outputs** or key results are specific services that the civil servants produce and deliver, and therefore, the civil servants should be held to account for the delivery of key results, which becomes the basis for evaluation of their performance.
- \* **Outcome** is the success in achieving social goals and the political executive decides what outputs should be included so that the desired outcomes or social goals can be achieved.
- \* The political executive is judged on the basis of whether it has chosen the right outputs to achieve social goals.

◇ Another area which has tension in the relationship is the arbitrary transfer and posting of civil servants at the behest of Ministers and other political leaders

◇ **Fifth Pay Commission** made several recommendations about evolving detailed, clear, and transparent transfer policies.

1. The Commission recommended that detailed guidelines should be formulated and publicised by each department
2. In order to ensure administrative continuity and stability to incumbents, frequent transfers should be discouraged, and a minimum tenure for each posting of officers should be predetermined.
3. Any premature transfer before the completion of the prescribed tenure should be based on sound administrative grounds
4. The instrument of transfer should not be allowed to be misused either by bureaucrats themselves or by politicians in power.

# Chapter 5

## Public Order

### 5.1 Introduction

- ◇ Inextricable link between the public order and conflict resolution since non-resolution of conflicts manifests itself in public disorder.
- ◇ Public order is largely a product of efficient general administration, effective policing and a robust criminal justice system.
- ◇ Public order implies a harmonious state of society in which all events conform to the established law and is synonymous with peace, tranquility and the rule of law.
- ◇ In most liberal democracies only serious disturbances which affect the even tenor of life would constitute a breakdown of public order. In autocratic societies, however, even orderly and peaceful protests and demonstrations against the State are often treated as breaches of public order.

#### 5.1.1 Causes of public disorder.

1. Widely prevalent crime
2. political polarisation
3. divisive impulses based on ethnicity, religion, region, language and the sharing of natural resources
4. criminalisation of politics
5. indigenous and transnational criminal organisations
6. homegrown armed groups like Naxalites
7. foreign sponsored secessionist groups

#### 5.1.2 Reasons to preserve public order.

- ◇ Peace and order are necessary pre-conditions for freedom of expression of individuals
- ◇ Violence and disorder necessarily undermine economic growth and development
- ◇ Urbanization, tends to promote impersonal lives, alienation, reducing peer pressure and social control
- ◇ State's constitutional commitment to equitable growth and justice
- ◇ Rapid economic growth may sometimes aggravate disparities between individuals, groups and regions
- ◇ Weak enforcement and failure of the criminal justice system create a culture of lawlessness

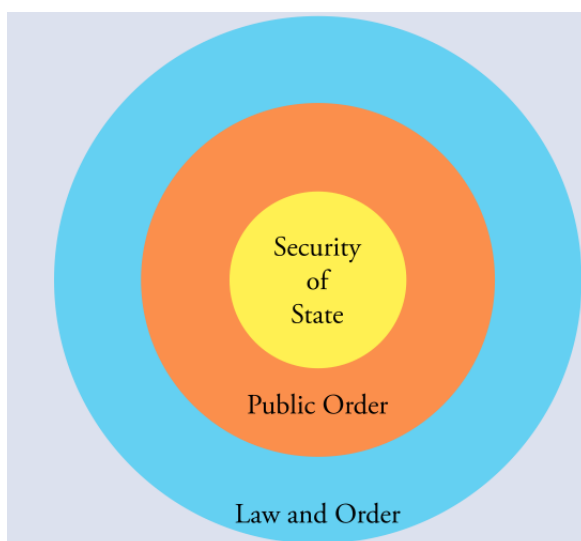
- ◇ Organised crime, militancy and terrorism have devastating consequences on the morale of the public

### 5.1.3 Police and internal security

- ◇ As police are the agency to enforce the will of the State, the capacity of the police agencies to respond to a potential or real challenge to public order - rapidly, efficiently and justly - is of paramount importance
- ◇ this power is exercised in a democratic society within the bounds of the constitution and the law.
- ◇ the manner in which the police functions is an index of society's respect for civil liberty and the rule of law
- ◇ Padmanabhaiah committee (2000)
  - \* Meaningfully and effectively, the society and the country need a highly motivated, professionally skilled, infrastructurally self sufficient and sophisticatedly trained police force
- ◇ However just and efficient policing may be, security agencies alone cannot enforce the rule of law and maintain public order.
- ◇ An effective and impartial criminal justice system is a necessary precondition for order and harmony in society

## 5.2 Public Order

- ◇ Lack of good governance and poor implementation of laws are the major factors for public disorder.
- ◇ Public order implies the absence of disturbance, riot, revolt, unruliness and lawlessness.
- ◇ public order is universally recognised as the prime function of the State.
- ◇ the distinction between 'established order' and 'public order'.
- ◇ Established order may not always be as per the tenets of the rule of law.
- ◇ public order is strengthened by protecting the liberty and dignity of citizens and bringing about social change.
- ◇ Justice Hidayatullah



- ◇

- ◇ Thus every situation in which the security of the State is threatened is a public order problem.
- ◇ All situations which lead to public disorder, are necessarily law and order problems also.
- ◇ All law and order problems are not public order problems.

### 5.2.0.1 Two ways to look at State's role in Public Order

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

### 5.2.1 Some Grave Public Order Problems

#### communal Riots

- ◇ Communalism in a broad sense implies blind allegiance to one's own communal group rather than to the larger society or to the nation as a whole.
- ◇ Ranganath Misra commission (Delhi riots, 1984), Justice b N Srikrishna commission (bombay riots 1992-93) and also the NHRC have gone into the causes of these riots
- ◇ At times, the law enforcement machinery has been accused of gross dereliction of duty.
  - \* The commission of Inquiry into the anti-Sikh riots in Delhi 1984, NHRC on the Gujarat riots in 2002
- ◇ Common issues
  - \* Systemic Problems
    - ▷ conflict resolution mechanisms are ineffective;
    - ▷ Intelligence gathered is not accurate, timely and actionable and
    - ▷ bad personnel policies -
  - \* Administrative Shortcomings
    - ▷ The administration and the police fail to anticipate and read indicators which precipitated violence earlier;
    - ▷ The administration and police at times acted in a partisan manner
    - ▷ At times there is failure of leadership
  - \* Post-riot Management Deficiencies
    - ▷ Rehabilitation is often neglected
    - ▷ Officials are not held to account for their failures

#### Terrorism

- ◇ Terrorism has been defined as the illegal use of force or violence against people to create a wave of terror with the intention of achieving certain political or sectarian objectives.
- ◇ To tackle the menace of terrorism, a multi-pronged approach is needed.
  - \* Socio- economic development needs to be taken up on a priority basis
  - \* the administration and the service delivery mechanisms need to be geared up so that the legitimate and long standing grievances.
  - \* Strong measures are required to deal with criminal elements but with respect for human rights.

## **Militancy in the North East**

- ◇ Another intractable problem has been created by migration from Bangladesh.
- ◇ The redrawing of national boundaries following Partition provided an impetus to migrants from East Pakistan.
- ◇ This migration has continued even after the emergence of Bangladesh.
- ◇ The fear among the local populace that this immigrant population would reduce them to a minority has fueled militancy in the region.
- ◇ Several major initiatives for the development of the North East Region have been launched:
  - \* The North Eastern Council (NEC) was established in 1972 through an Act of Parliament, for securing the balanced development of the North Eastern Region and for inter-state coordination
  - \* Ministry for the Development of North East Region deals with matters pertaining to the development of the eight states.
  - \* All Union Ministries/Departments earmark at least 10% of their budget for specific programme of development in the North Eastern Region
- ◇ The ethnicity, diversity, geography and history of the region demand a comprehensive nation building approach for resolving the complex issues

## **Left-Wing Extremism**

- ◇ Naxalites operate in the vacuum created by the inadequacy and ineffectiveness of the administrative machinery.
  - \* Naxalites continue to hold Jan-Adalats, a mechanism to dispense crude and instant justice.
  - \* The problems of poverty and alienation, the demand of territorial rights and displacement from traditional forest habitats have aggravated the problem.
  - \* Besides, unequal sharing of benefits of exploitation of resources has also helped create a fertile breeding ground for the growth of this menace.
- ◇ It started as an ideological movement with 'romantic sacrificialism', has now become militarised and criminalised.
- ◇ They are backed by a chain of 'couriers' and sympathisers and some civil society organisations.
- ◇ Government has adopted a multi-pronged strategy
  - \* Apart from countering violence, it is addressing the political issues involved,
  - \* Attending to the development needs of the affected areas and managing public perception.
  - \* Strengthening of intelligence structures, financial assistance to the affected states,
  - \* Modernisation of the state police, long-term deployment of central Police Forces
  - \* Improved coordination mechanism,
  - \* Backward District Initiatives and Backward Regions Grant Fund are some of the concrete measures taken by the Government of India.



### 5.2.2 Causes of Public Order problems

- ◇ three broad categories of public violence can be discerned:
  - \* violence of remonstrance, violence of confrontation, and violence of frustration
- ◇ Five broad causes of the types of violence
  - \* Social, Economic, Administrative, Communal, Political.

### 5.2.3 Lessons from the Past

- ◇ Some of the major strengths of the existing legal framework are
  - \* a clearly laid down democratic, constitutional and legal framework,
  - \* an independent judiciary and an elaborate criminal justice system and judicial review of executive action,
  - \* representative institutions to debate issues of public importance,
  - \* a vigilant media and
  - \* emerging civil society responsiveness.
- ◇ The strong points of the administrative framework of the country:
  - \* firmly established administrative traditions,
  - \* a well-organised police machinery,
  - \* systems of accountability, even if deficient and
  - \* the existence of a professional bureaucracy
- ◇ legal and administrative framework has certain weaknesses:
  - \* delays, unresponsiveness.
  - \* lack of functional autonomy for law enforcement and investigation agencies;
  - \* lack of adequate and effective accountability mechanisms;
  - \* outdated and unprofessional interrogation and investigation techniques;
  - \* inadequate training and infrastructure for police;
  - \* lack of coordination between prosecution and investigation;
  - \* insufficiency of laws dealing with terrorism and organised crime;
- ◇ Essentially there is a need for Rule of law, and it would entail:
  - \* a legal framework, which is fair and just and provides equal opportunities
  - \* an effective, fair and just civil administration
  - \* an effective, efficient, accountable and well equipped police system
  - \* a strong, autonomous and effective crime investigation machinery
  - \* a civil society which is vigilant about its rights and duties
  - \* an alert and responsible media.

## 5.3 The Existing Police System

### 5.3.1 The Police Organisation

- ◇ 'Public order' and 'Police' figure as Entry 1 and 2 respectively, in list II (State list) in the VII schedule of our constitution
- ◇ Article 355 of the constitution enjoins upon the union to protect every state against external aggression and internal disturbance
- ◇ The Police Act, 1861 is still the basic instrument governing the functioning of the Indian police.
- ◇ The Director General and Inspector General of Police) is the head of a state police.
- ◇ States are divided into districts and a Superintendent of Police heads the district police.

### 5.3.2 People's Perception of the Police

- ◇ Max Weber defined 'State' as an organisation that has a "monopoly on the legitimate use of physical force".
  - \* The police are the instrument of physical force of the State.
  - \* They have to bear the burden of failure of other instruments of governance as well.
- ◇ National Police commission (NPC)
- ◇ police-public relations were in a very unsatisfactory state due to police partiality, corruption, brutality and failure to register offences, etc.
- ◇ Many factors responsible for the present situation.
  - \* Problems related to general administration and police
  - \* organisation, infrastructure and environment;
  - \* organisational behaviour;
  - \* stress due to overburdening,
  - \* Ethical functioning, prosecution
  - \* judicial process/criminal justice administration

### 5.3.3 Review of Police Reforms in the Past

#### Pre-Independence

- ◇ To reform the then existing system, the first step taken by the British was to relieve the zamindars of their liability for police service and their place was taken over by the Magistrates in the district.
- ◇ the first major step was the constitution of the Police commission of 1860
- ◇ The commission recommended the abolition of the military police as a separate organisation and the constitution of a single homogenous force of civil constabulary.
- ◇ The general management of the force in each province was to be entrusted to an Inspector General
- ◇ The supervision and the general management of the police by the District Magistrate was continued
- ◇ The police in each district were to be under a District Superintendent.
- ◇ The Indian Police commission was constituted in 1902. It found concrete evidence of rampant corruption in the police department.

## Post independence period

- ◇ Gore committee on Police Training (1971-73)
  - \* was set up to review the training of the police from the constabulary level to IPS officers
- ◇ Government of India appointed the National Police commission in 1977.
  - \* eight Reports covering different aspects of police administration
- ◇ Ribeiro committee was set up in 1998 on the orders of the Supreme court
  - \* It recommended the setting up of Police Performance and Accountability commissions at the State level,
  - \* constitution of a District complaints Authority, replacement of the Police Act, 1861 with a new Act
- ◇ In 2000, the Padmanabhaiah committee on Police Reforms
  - ◇ was constituted to study recruitment procedures for the police force, training, duties and responsibilities, police investigations and prosecution.
  - ◇ September 2005 a Police Act Drafting committee (PADc) with Shri Soli Sorabjee as chairman,
    - \* Superintendence of State police to vest in the State Government;
    - \* Appointment of the Director General of Police by the State Government from amongst three senior most officers, empanelled for the rank.
    - \* Security of tenure for key police functionaries.
    - \* District Magistrate to have a coordinating role.
    - \* constitution of a village police system.
    - \* creation of Special Security Zones.
    - \* constitution of a State Police Accountability commission
    - \* The constitution of the State Police board as recommended by the PADc would give police the required degree of autonomy
  - ◇ A separate mechanism should be put in place to insulate crime investigation, evidence gathering and prosecution from the vagaries of partisan politics.
    - \* there will have to be a separate police service to deal with investigation of crimes exclusively

### 5.3.4 Reforms in Other Countries

#### South Africa

- ◇ an Ombudsman was appointed to investigate allegations of police misconduct
- ◇ the restructuring of SAP into a three-tiered force started -
  - \* **a national police**, primarily responsible for internal security and for serious crime;
  - \* **autonomous regional forces**, responsible for crime prevention and for matters of general law and order; and
  - \* **municipal police**, responsible for local law enforcement and for minor criminal matters.

### 5.3.5 Core Principles of Police Reform

#### ◇ Responsibility of the Elected Government

- \* The coercive power of the police can easily extinguish liberty unless it is tempered by responsible political direction.

#### ◇ Authority, Autonomy and Accountability

- \* At the same time, the various wings of police should have the authority and resources to fulfill their responsibilities.
- \* Although no one disputes that the police has to be accountable, there are differing views as to whom the police should be accountable to.
- \* It has often been argued that the police are answerable and accountable to too many authorities and institutions.
- \* There is another view that the existing accountability mechanisms especially outside the police hierarchy are in fact too weak to extract any kind of accountability.
- \* There is a school of thought that the police should be accountable to the law and law alone.
- \* The mode and manner of accountability of police personnel has to be laid down by law itself with accountability mechanisms.

#### ◇ Disaggregation and Deconcentration

- \* A single, monolithic force now discharges several functions
- \* This is dysfunctional for four reasons:
  - ▷ the core functions are often neglected
  - ▷ accountability is greatly diluted
  - ▷ the skills and resources required for each function are unique
  - ▷ each function requires a different system of control and level of accountability.
  - ▷ mere mechanical and uniform application of law in all situations will do irreparable damage to public interest.

#### ◇ disaggregation and deconcentration cannot be pushed to the extreme.

- \* There is need to strike a balance between authority and accountability,
- \* And between autonomy and coordination.
  - ▷ Excessive fragmentation of the police force is as detrimental to public good as over-concentration.

#### ◇ Three broad categories of functions of police functions

- \* Crime investigation, Law and order, Local policing

#### ◇ Independence of Crime Investigation

- \* The use of third degree methods to extract a confession, over reliance on oral testimony along with witness turning hostile shows the weakness of the present investigation and crime control issues.
- \* **ARC** says elite crime investigation agency of police should be created in each state.

#### ◇ Self-esteem of Policemen

- \* Nearly 87% of all police personnel are constables

- \* An average constable has little hope of becoming a Station House Officer (SHO).
- \* The police force is top heavy.
  - ▷ over-crowding at the top with no real strength at middle-management levels.
- \* **ARC** states police recruitment needs to be restructured significantly in order to enhance motivation and morale, professionalism and competence of the personnel.

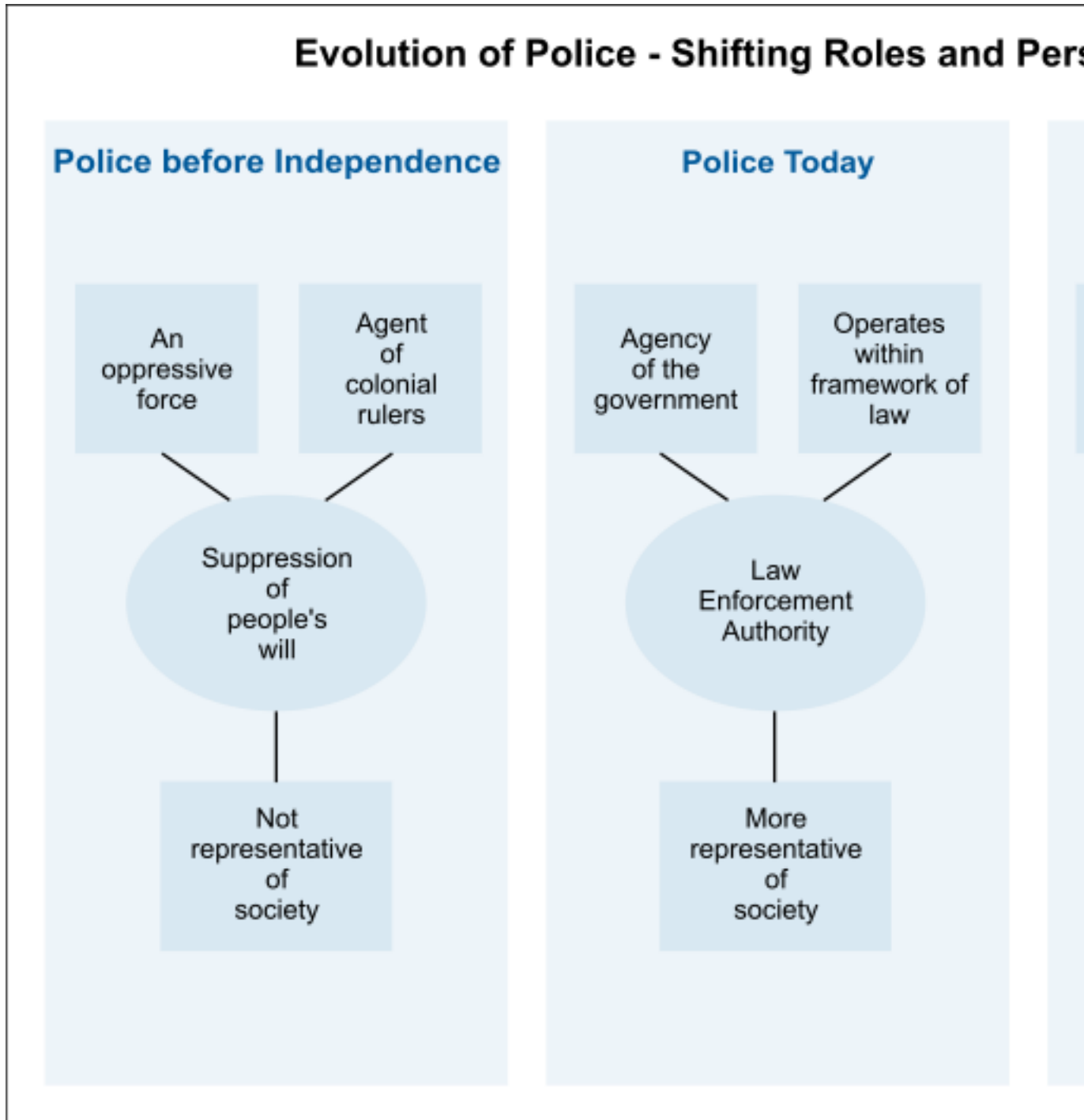
◇ Attendant Criminal Law Reform

- \* the criminal justice system are also made effective and efficient.
- \* The number of courts in India is inadequate to meet the requirement of justice.
- \* The resultant inaccessibility, coupled with archaic and complex procedures has made our justice system slow, inaccessible and in reality unaffordable.

◇ Police to be a Service

- \* UNs basic Principles on the use of Force and Firearms recognises that “the work of law enforcement officials is a social service”

## 5.4 Police Reforms



◇

- ◇ The police station (a part of the law and order police), would be the first point of contact for citizens.
- ◇ effective mechanisms for coordination between local police, crime investigation agency, and riot control (law and order) police.
- ◇ An independent prosecution wing, staffed by serving trial judges on deputation
- ◇ The police station (a part of the law and order police), would be the first point of contact for citizens.
- ◇ effective mechanisms for coordination between local police, crime investigation agency, and riot control (law and order) police

- ◇ local police (under local authorities), would attend to other local police functions including traffic management and minor local law and order maintenance.
- ◇ There would be a strong forensic division, with well-equipped laboratories in each district
- ◇ The rest of the police (excluding crime investigation and local police) would constitute the law and order agency.
- ◇ Investigation of crimes (except offences entailing a prescribed punishment of, say, three years prison term or less) would be entrusted to a separate, fully autonomous, elite, professional, investigation agency in each state.

#### **5.4.1 Police Accountability Mechanism - Balancing Autonomy and Control**

##### **5.4.1.1 State Government and the Police**

- ◇ Relation between the State Government and the Police
- ◇ The National Police commission (Npc)
  - \* stated that the arrangement that existed between the police and the foreign power before Independence was allowed to continue with the only change that the foreign power was substituted by the political party in power.
- ◇ The Npc also suggested the constitution of a statutory commission in each state to be called the State Security commission.
  - \* broad policy guidelines, evaluate performance of state police and function as a forum for appeal from police officers and also review the functioning of the police in the state.
- ◇ **ARC Recommendations :**
  - \* the power of superintendence of the police service shall vest in and be exercised by the State Government in accordance with the provisions of law.
  - \* The State Government shall exercise its superintendence over the police in such manner and to such an extent as to promote the professional efficiency of the police and ensure that its performance is at all times in accordance with the law.
  - \* Obstruction of justice' should also be defined as an offence

##### **5.4.1.2 Separation of Investigation from other Functions**

- ◇ Police tasks can be categorised as follows:
  - \* (a) Prevention; deployment of police force as a preventive measure when breach of peace is threatened
  - \* (b) Investigation; all actions taken by the police in the course of investigating a case
  - \* (c) Service provision; rendering service of a general nature during fairs and festivals, rescuing children lost in crowds, providing relief, etc.
- ◇ The Padmanabhaiah committee (2000) also recommended separation of the investigation work from law and order and other duties.
- ◇ The law commission in its 154th Report (1996) also recommended the separation
  - \* Result in speedier investigation
  - \* Will increase the expertise of investigating police.

- \* They would not provoke public anger and hatred which stand in the way of police-public co-operation
- ◇ The **ARC** has carefully examined this issue and feels that a clear separation of investigation from law and order duties is required
  - \* two separate agencies - one dealing with 'Investigations' and the other dealing with 'law and Order'

#### 5.4.1.3 Accountability of law and Order Machinery

- ◇ A State Police Performance and Accountability Commission should be there
  - \* consists of Home Minister (Chairman), Leader of Opposition in the State Assembly, etc
  - \* Functions
    - ▷ frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with law;
    - ▷ prepare panels for the office of Director General of Police against prescribed criteria;
    - ▷ identify performance indicators
    - ▷ review and evaluate organizational performance
- ◇ A State Police Establishment Committee should be constituted
  - \* This Committee should deal with cases relating to officers of the rank of Inspector General of Police and above.
  - \* These Committees should deal with all matters of postings and transfers, promotions and also grievances relating to establishment matters.
- ◇ All cities with population above one million should have Metropolitan Police Authorities.

#### 5.4.1.4 Reducing Burden on Police - Outsourcing Non Core Functions:

- ◇ Some of the functions that can be outsourced are the delivery of court summons, verification of antecedents and addresses, which are required in the context of passport applications, job verifications etc.

#### 5.4.1.5 Public Greivances

- ◇ The District Police Complaints Authority should have the powers to enquire into misconduct or abuse of power against police officers up to the rank of DySP.
- ◇ A State Police Complaints Authority should be constituted to look into cases of serious misconduct by the police.
- ◇ The State level Authority should also look into complaints against officers of the rank of Superintendent of Police and above.
- ◇ The State Police Complaints Authority should have a retired HC Judge as Chairperson and nominees of the State Government, SHRC, other commissions, etc
- ◇ TheStatePoliceComplaintsAuthorityshouldalsomonitorthefunctioningof the District Police Complaints Authority.
- ◇ A District Police Complaints Authority should be constituted to enquire into allegations against the police within the district.



## 5.4.2 Other Measures

- ◇ Improvement of Forensic Science Infrastructure - Professionalisation of Investigation
- ◇ Strengthening Intelligence Gathering
  - \* intelligence gathering is done by the Special branch (Intelligence Wing) of the police and the regular police stations.
  - \* Human intelligence should be combined with information derived from diverse sources with the focus on increased use of technology.
  - \* Intelligence agencies should develop multi-disciplinary capability by utilising services of experts in various disciplines for intelligence gathering and processing.
- ◇ Training
  - \* There should also be common training programmes for police and executive magistrates.
  - \* Training should focus on bringing in attitudinal change in police so that they become more responsive and sensitive to citizens' needs.

## 5.4.3 Police and Human Rights

- ◇ D.K. Basu vs the State of West bengal [1997]
  - \* State terrorism is no answer to combat terrorism.
  - \* The State, therefore, must ensure that various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves
- ◇ Other matters related to policing and human rights are concerned with custodial deaths, encounter deaths and torture.
- ◇ NHRC
  - \* with every passing year, the evidence before the Commission mounts that there must be major police reforms in the country if the human rights situation is to be improved.
- ◇ The most important element, in its view, is insulating the investigation work of the police from 'extraneous influences' and putting a stop to arbitrary transfers of police officials
- ◇ The **ARC Recommends**;
  - \* the emphasis on professional investigation, use of forensic science, proper training to bring about an attitudinal change in police; the complaints authorities would provide an effective grievance redressal mechanism against police high handedness.

## 5.4.4 Community Policing

- ◇ Community Policing is an area specific proactive process of working with the community for prevention and detection of crime, maintenance of public order and resolving local conflicts and with the objective of providing a better quality of life and sense of security
- ◇ community policing has four elements:
  1. community-based crime prevention;
  2. Patrol deployment for non- emergency interaction with the public;
  3. Active solicitation of requests for service not involving criminal matters; and
  4. creation of mechanisms for grassroots feedback from the community.

- ◇ The basic principle underlying community policing is that ‘a policeman is a citizen with uniform and a citizen is a policeman without uniform’.
- ◇ ‘Maithri’ in Andhra Pradesh, ‘Friends of Police’ in Tamil Nadu, Mohalla committees in bhiwandi (Maharashtra),

◇ Few principles of Community Policing

- \* community policing is a philosophy and not just a set of a few initiatives.
- \* The success of community policing lies in citizens developing a feeling that they have a say in the policing of their locality and also making the community the first line of defence. community
- \* It should not become a mere ‘public relations’ exercise
- \* Interaction with people should be organised through ‘community liaison groups’ or citizen’s committees at different levels.
- \* convergence with activities of other government departments

◇ **Gender Training**

- \* Since the police is the primary agency of the criminal justice system which protects human rights, it is essential to sensitise police personnel to gender issues. A well designed gender training, which internalises responses
- \* The representation of women in police at all levels should be increased through affirmative action so that they constitute about 33% of the police.

#### 5.4.5 National Security Commission

- ◇ The Supreme court has directed that the union Government should set up a National Security commission:

- \* Selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years.
- \* It could be headed by the Union Home Minister and comprise heads of the CPOs and 2 security experts and Home Secretary as its Secretary

- ◇ The central Police Organisations

- \* Border Security Force, Indo-Tibetan border Police:, Central Industrial Security Force, Central Reserve Police Force:

- ◇ **ARC:** No need for it.

## 5.5 Constitutional Issues

### 5.5.1 Arguments for inclusion of ‘Public Order’ in the concurrent list

1. A collapse of ‘public order’ has wide ramifications for national security, economic development and even on the legitimacy of the State
2. union Government in such situations means that it is often powerless to intervene in major crisis situations
3. Another reason often cited for bringing public order in the concurrent list is that inter-state crime is on the increase.

4. Due to the rapid growth in communication facilities and the use of modern technologies, organised crime and terrorism often operate on a national or even international scale and can best be tackled by providing for a unified legal, administrative and operational framework for police forces across the country.

### **5.5.2 Arguments against bringing 'Public Order' in the concurrent list**

1. The principle of subsidiarity demands that these functions be exercised by State Governments.
2. In most of the large developed countries, the national government does not handle law and order which is left to the provincial and even local governments.
3. Any move to bring public order into the concurrent list would also amount to duality of responsibility which may be detrimental to the efficient handling of serious public order situations.
4. In an era of democratic decentralisation a move to bring public order into the concurrent list would be a retrograde step
5. The size and diversity of our country is another reason why 'Public Order' and 'Police' have been kept in the State list

### **ARC's View**

- ◇ commission is of the view that the existing constitutional responsibilities between the states and the union which have stood the test of time should not be disturbed.

### **5.5.3 Obligations of the Union and States**

#### **Articles**

- ◇ 256: The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament
  - \* Article 256 casts a responsibility on the union to uphold the rule of law.
- ◇ 352. Proclamation of Emergency.
- ◇ 355. Duty of the Union to protect States against external aggression and internal disturbance.
- ◇ 356. Provisions in case of failure of constitutional machinery in States
- ◇ 365. Effect of failure to comply with, or to give effect to, directions given by the Union.

### **5.5.4 Federal Crimes**

- ◇ Committee on Reforms of criminal Justice System
  - \* Federal Investigating Agency with an all-India Charter
  - \* Organised crime, Terrorism, Acts threatening national security, Trafficking in arms and human being, Sedition, Major crimes with inter-state ramifications, Assassination (including attempts) of major public figures, Serious economic offences.
- ◇ **ARC's view:**
  - \* agrees with Padmanabhaiah committee that such crimes should be investigated by a specialised wing in the central bureau of Investigation.

### 5.5.5 Armed Forces (Special Powers) Act, 1958

- ◇ When deployment of the Army and the para-military forces in large numbers and for an indeterminate period to deal with the situation arising because of insurgency by the 'Nagaland National council' became necessary, a law on the lines of the 1947 enactments was also considered to be indispensably required.
  - \* The result was the Armed Forces (Assam and Manipur) Special Powers Act, 1958.
  - \* The reorganization of the North-Eastern region in 1972 entailing, inter alia, a constriction of the territory of the State of Assam, the Act was amended and renamed the Armed Forces (Special Powers) Act (AFSPA).
- ◇ It comes into operation after a declaration is made under Section 2 that a particular area is "disturbed".
  - \* AFSPA now extends to all the states of the North East except Sikkim
- ◇ Earlier, only the Governor/Administrator was competent to issue such declaration; the 1972 amendment now vests a similar power with the union Government.
- ◇ Members of the Armed Forces discharging duties under the Act immunity from prosecution and other legal proceedings except with the previous sanction of the union Government.
- ◇ The Act has been used in Manipur and Nagaland since 1958 and in Mizoram, Assam and Tripura from later dates.
- ◇ The five-judge bench of the Apex court arrived at, inter alia, the following conclusions after taking into consideration various arguments:
  1. Parliament was competent to enact AFSPA in exercise of the legislative power conferred on it under Entry 2 of list I (pertaining to naval, military and air forces and also any other armed forces of the union) and Article 248 of the constitution read with Entry 97 of list I (pertaining to residuary powers of legislation)
  2. It is not a law in respect of maintenance of public order
  3. AFSPA is not a colourable legislation or a fraud on the constitution.
- ◇ In 2004, union Government appointed the committee to Review the Armed Forces (Special Powers) Act, 1958
  - \* It found that the powers conferred therein are not absolute and could only be invoked in the disturbed area if there was already a prohibitory order in force.
- ◇ **ARC's view**
  - \* It, after considering the views of various stakeholders, came to the conclusion that AFSPA should be repealed.
  - \* It recommend insertion of appropriate provisions in the unlawful Activities (Prevention) Act, 1967 (ulPA) instead of suggesting a new legislation

### 5.5.6 The Role of the Media in Public Order

- ◇ The Administration must make facts available to the media at the earliest about any major development, particularly activities affecting public order.
- ◇ increased interaction between the Administration and the media.

# Chapter 6

## Financial Management

### 6.1 Public Finance Management

- ◇ Public finance management includes resource mobilization, prioritization of programmes, the budgetary process, efficient management of resources and exercising controls.

#### 6.1.1 Evolution of Budgeting

##### The line item Budget

- ◇ Budgeting is the process of estimating the availability of resources and then allocating them to various activities of an organization according to a pre-determined priority.
- ◇ In the late nineteenth century, line-item budgeting was introduced in some countries
- ◇ The line item budget is defined as “the budget in which the individual financial statement items are grouped by cost centers or departments.
- ◇ In a line-item system, expenditures for the budgeted period are listed according to objects of expenditure, or “line-items.”
- ◇ The line item budget approach is easy to understand and implement
- ◇ Its major disadvantage is that it does not provide enough information to the top levels

##### Performance Budgeting

- ◇ a performance budget reflects the goal/ objectives of the organization and spells out performance targets
- ◇ A Performance Budget gives an indication of how the funds spent are expected to give outputs and ultimately the outcomes.
- ◇ it is not easy to arrive at standard unit costs especially in social programmes which require a multi-pronged approach.

##### Zero-based Budgeting (ZBB)

- ◇ under zero-based budgeting every activity is evaluated each time a budget is made and only if it is established that the activity is necessary, are funds allocated to it.
- ◇ The basic purpose of ZBB is phasing out of programmes/ activities which do not have relevance anymore.
- ◇ No government ever implemented a full zero-based budget, but in modified forms the basic principles of ZBB are often used.

- \* Decision units in ZBB
- \* A Decision unit is a distinct segment of an organization for which budget is prepared.
- \* It can also be a programme, scheme, project, or an operation.
- \* A decision package is a budget request which should contain the following :
  - ▷ A description of the function or activity of the decision unit
  - ▷ The goals and objectives of the various functions / activities of the unit
  - ▷ Benefits to be derived from financing the activity / programme in the present context.
  - ▷ The projected / estimated cost of the package
  - ▷ The yearly phasing of the proposed expenditure / project cost
  - ▷ Alternative ways of performing the same activity or achieving the same objectives.

### **Programme Budgeting and Performance Budgeting**

- ◇ Introduced in the US Federal Government in the mid-1960s
- ◇ The basic building block of the system was classification of expenditure into programmes, which meant objective-oriented classification
- ◇ It aimed at an integrated expenditure management system, in which systematic policy and expenditure planning would be developed and closely integrated with the budget.
- ◇ Many governments today use the “programme budgeting” label for their performance budgeting system.

#### **6.1.2 Weaknesses in the Budgetary Process**

- ◇ Government budgets generally have the following shortcoming
  - \* Poor planning, Poor expenditure control;
  - \* No links between policy making, planning and budgeting;
  - \* Inadequate funding of operations and maintenance;
  - \* Inadequate accounting systems, Poor cash management;
  - \* Inadequate reporting of financial performance;
  - \* Almost exclusive focus on inputs, with performance judged largely in terms of spending no more, or less, than appropriated in the budget

#### **6.1.3 Core Principles of Reforms**

1. Reforms in Financial Management System are part of overall governance reforms
2. Sound financial management is the responsibility of all government departments/ agencies
3. Medium-term plan/budget frameworks and aligning plan budgets and accounts
4. Prudent economic assumptions:
5. Top-down budgeting techniques: Instead of bottoms up (offices telling departments how much they want).
6. Transparency and simplicity:
7. Relaxing central input controls:
8. Focus on results:
9. Adopting modern financial management practices
10. accrual accounting, information technology, financial information systems
11. Budgeting to be realistic

## 6.2 Existing Financial System Management in India

### 6.2.1 Financial Statements and Accounts

- ◇ Budget is also known as the, “Annual financial statement” of the concerned Government (Articles 112 & 202)
- ◇ The appropriations are required to be made in the manner provided in the constitution.
- ◇ Constitution of India necessitate the maintenance of government accounts in three parts with regard to receipts –
  1. Consolidated Fund of India /States
  2. Public account of India/States
  3. Contingency Fund of India/States.

### 6.2.2 Annual Financial Statement

- ◇ prepared according to General Financial Rules (GFR), General Accounting Rules (GAR), Budget Manual (in the States).
- ◇ It is a statement of estimated annual receipts and expenditure is prepared by each Government and presented to its legislature.
- ◇ The part of the estimates pertaining to expenditure charged upon the consolidated Fund is not submitted to the vote of the legislature
- ◇ The part of the estimate which is concerned with other expenditures is submitted to the legislature concerned in the form of Demands for Grants
- ◇ A separate demand is presented for each Department or the major services under the control of a Ministry/Department
- ◇ The Finance Bill containing the annual taxation proposals is considered and passed by the legislature only after the Demands for Grants have been voted and the total expenditure is known.
- ◇ After the Demands have been passed by the legislature, an Appropriation Bill is introduced to provide for the appropriation out of the consolidated Fund of India

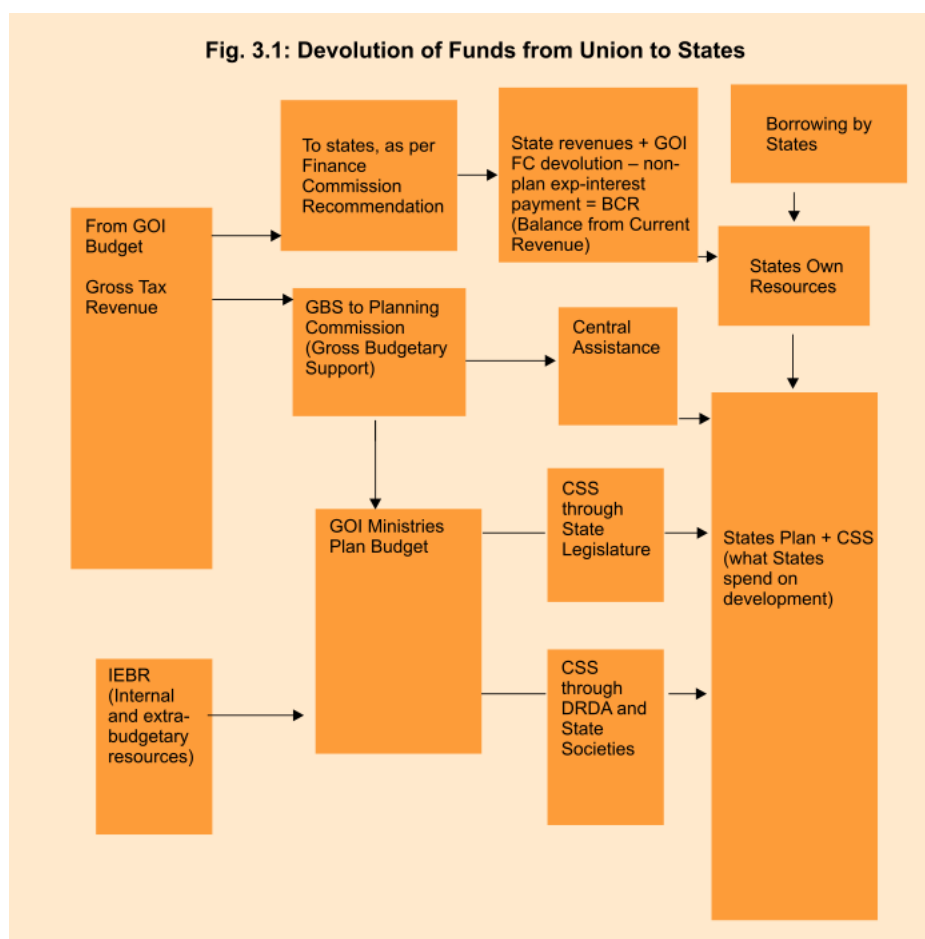
#### 6.2.2.1 Fiscal Responsibility and Budget Management Act, 2003

- ◇ Three Statements are to be presented to the Parliament, which form a part of the budget documents
  1. Macro-economic Framework Statement - contains an assessment of the growth prospects of the economy
  2. Medium term Fiscal Policy Statement
    - \* three-year rolling targets for four specific fiscal indicators in relation to GDP at market prices, namely, (i)Revenue Deficit, (ii) Fiscal Deficit, (iii)Tax to GDP Ratio, and (iv) Total Out-Standing Debt
  3. Fiscal Policy Strategy Statement
    - \* seeks to outline the strategic priorities of the Government in the fiscal area for the ensuing year.

### 6.2.2.2 Division of Budget

- ◇ Within each of the divisions and Sections of the consolidated Fund as referred to above, the transactions are grouped into Sectors such as,
  - \* “General Services”, “Social Services”, “Economic Services”, under which specific functions or services are placed
    - ▷ These Sectors are further sub-divided into ‘Major Heads of Account’
  - \* In some specific cases, the Sectors are sub-divided into sub-sectors before their division into Major Heads of Account.
- ◇ The Sectors, Major heads, Sub-heads and Detailed heads together constitute a five-tier arrangement of the classification structure of Government Accounts.
- ◇ The Major Heads of Account falling within the consolidated Fund generally correspond to ‘Functions’ of Government

## 6.3 Flow of Funds Related to Union Government Programmes



1. The first is by way of devolution as per the recommendations made by the Finance commission (in terms of Articles 280 and 281 of the constitution)
2. The second is through the Planning commission.
  - ◇ the States receive Plan funds from the Planning commission in the form of ‘central Assistance’ under the ‘Scheme of Financing of States’ Annual Plan.



## **‘Centrally Sponsored Schemes’ (CSS)**

- ◇ The centrally Sponsored Schemes do not fall within the subjects allocated to union Government in list I of the Seventh Schedule of the constitution.
- ◇ However, they are funded by the union Government to achieve certain national objectives
- ◇ Actual expenditure under the CSS is incurred only when payment is made either to a beneficiary of the scheme or to the supplier of goods and services.

### **6.3.1 Preparation of the Budget**

- ◇ Preparation of the Annual Budget in the Government of India follows both the top-down and bottom-up approaches.
- ◇ While guidelines and instructions are issued by the Ministry of Finance and Planning commission, the spending Ministries/Departments make requests for budgetary allocations based on their own estimates.
- ◇ The provisions which govern the preparatory process are contained in the General Financial Rules.

### **6.3.2 Weaknesses in the Budgetary System and Implementatio**

1. Unrealistic budget estimates:
2. Delay in implementation of projects:
3. Skewed expenditure pattern:
4. a major portion getting spent in the last quarter of the financial year, especially in the last month.
5. Inadequate adherence to the multi-year perspective and missing ‘line of sight’ between plan and budget:
6. No correlation between expenditure and actual implementation:
7. Parking of funds by implementing agencies, outside the government accounts portrays an incorrect picture of the financial position of government.
8. Mis-stating of financial position:
9. Ad hoc project announcements:
10. Irrational plan / non-plan distinction leads to inefficiency in resource utilization.

## **Recommendations**

- ◇ The assumptions made while formulating estimates must be realistic.
- ◇ The gap between the ‘estimates’ and ‘actuals’ must be ascertained and efforts made to minimize them
- ◇ The method of formulation of the annual budget by getting details from different organizations/units/agencies and fitting them into a pre- determined aggregate amount leads to unrealistic budget estimates.

\* This method should be given up along with the method of budgeting on the basis of ‘analysis of trends’.

\* This should be replaced by a 'top-down' method by indicating aggregate limits to expenditure to each organization/agency.

◇ Internal capacity for making realistic estimates needs to be developed.

◇ The practice of announcing projects and schemes on an ad-hoc basis in budgets and on important National Days, and during visits of dignitaries/officials to States needs to be stopped.

### 6.3.3 Outcome Budget

◇ Announced in Budget speech of the Finance Minister (Budget 2005-06)

◇ The first outcome budget was passed in the Parliament on August 25, 2005

◇ The guidelines have prescribed the following steps

1. Defining intermediate and final outcomes specifically in measurable and monitorable terms
2. Standardizing unit cost of delivery
3. Benchmarking the standards/quality of outcomes and services
4. capacity building for requisite efficiency at all levels
5. Ensuring adequate flow of funds at the appropriate time to the appropriate level
6. effective monitoring and evaluation systems
7. Involving the community/target groups/recipients of the service, with easy access and feedback system

◇ **'Outputs'** have been defined as the 'measure of the physical quantity of the goods or services produced through an activity under a scheme or programme'

\* They are identified as an intermediate stage between 'outlays' and 'outcomes'.

◇ **'Outcomes'** are the end product/results of various Government initiatives and interventions

\* They cover the quality and effectiveness of the goods or services produced as a consequence of an activity under a scheme or programme.

◇ For the year 2007-08, the Outcome Budget and Performance Budget were merged and placed in one combined document.

◇ **ARC's view**

\* Outcome budgeting is a complex process and a number of steps are involved before it can be attempted with any degree of usefulness.

\* A beginning may be made with proper preparation and training in case of the Flagship Schemes and certain national priorities.

### 6.3.4 Distinction between Plan and Non-Plan

◇ The distinction has led to ever increasing tendency to start new schemes/projects to the utter neglect of maintenance of existing capacity and service levels.

\* leads to the misperception that non-plan expenditure is inherently wasteful and should be avoided.

◇ Non-Plan expenditure covers expenditure on security, interest payments and subsidies etc

◇ **ARC' view:** The Plan versus non-Plan distinction needs to be done away with.

### 6.3.4.1 Development of Financial Information System

#### ◇ Advantages

- \* Providing timely and reliable information to the decision makers
- \* Providing inputs to control systems
- \* Monitoring financial and physical progress
- \* Ensuring proper utilization of resources

◇ Presently, all Federal Government units (Executive, legislation and Judiciary) in Brazil including all State/owned company units are required to use SIAFI.

◇ **ARC:** A robust financial information system, on the lines of SIAFI of Brazil, needs to be created in the government in a time bound manner.

### 6.3.5 Accrual System of Accounting

#### Principles of Government Accounting

◇ The accounting methods adopted for commercial concerns, and the preparation of Manufacturing, Trading and Profit and Loss Accounts and a Balance Sheet, in the commercial sense, are, therefore, unsuitable and unnecessary.

◇ On the basis of the budget and the accounts, Government determines

- \* (a) whether it will be justified in curtailing or expanding its activities
- \* (b) whether it can and should increase or decrease taxation accordingly.

#### Methods of Government Accounting

◇ The mass of the Government accounts being on cash basis is kept on Single Entry.

- \* a portion of the accounts which is kept on the Double Entry System for profitable activities, etc.

### 6.3.6 Accrual Accounting

◇ In a loan given, the World Bank included the introduction of accrual accounting as a part of its conditions

#### Issues with Cash based system

◇ The cash-based system of accounting lays emphasis on transactions vis-à-vis the budget.

◇ It does not record and report complete financial information required for management of resources

◇ It does not provide a full picture of the government's financial position at any given point and the changes that take place over time as a result of government policy.

◇ The system fails to reflect government's liabilities such as accrued liabilities arising due to unfunded pensions and superannuation benefits and current liabilities arising from a disconnect between commitments and payments

◇ Similarly, the present system is unable to track current assets as well as non-financial assets.

## **Accrual System**

- ◇ The system of accrual accounting recognizes financial flows at the time economic value is created, transformed, exchanged, transferred or extinguished, whether or not cash is exchanged at that time
- ◇ Expenses are recorded when the resources (labour, goods and services and capital) are consumed, and income when it is earned, i.e. when the goods are sold or the services rendered.

### **Twelfth Finance commission**

- ◇ The change over to the accrual based system of accounting will place considerable demands on the accounting personnel in various government organizations
- ◇ A Task Force should be set up to examine the costs and benefits of introducing the accrual system of accounting.

## **6.3.7 Internal Control and Audit**

### **6.3.7.1 Weaknesses of the Present System of Internal Audit**

- ◇ comptroller and Auditor General of India had constituted a task force at the request of the Ministry of Finance in July 2006 for benchmarking the status of internal audit in the union Government.
- ◇ Task Force observed the following:
  1. Serious deficiencies in the existing internal audit system making it inadequate and ineffective
  2. The internal audit guidelines are outdated and there are no manuals in many cases.
  3. There are also no prescribed internal auditing standards.
  4. Under-resourcing of the internal audit service and shortage of manpower
  5. The limited staff of the internal audit is also sometimes diverted for accounting and budgeting purposes.
  6. There was no segregation of duties especially at supervisory levels between those who are responsible for internal audit and those responsible for pre-audit, disbursement and accounting functions.
  7. Independence is hampered in two ways.
    - (a) Internal audit vested with the chief controllers of Accounts, who were also responsible for accounting and payment functions
    - (b) Financial Advisers are enjoined to 'review the progress of internal audit'.

### **Recommendations**

1. An Office of the Chief Internal Auditor (CIA) should be established in select Ministries/departments to carry out the functions related to internal audit.
2. CIAs should be directly responsible to the Secretary of the Department.
3. Standards for internal audit should be prescribed by the Office of the C&AG
4. The Accounting functions should be completely separated from Internal Audit.

### **6.3.8 Integrated Financial Adviser**

#### **The role of the chief Accounting Authority**

- ◇ be responsible and accountable for financial management of his Ministry or department;
- ◇ be responsible for the effective, efficient, economical and transparent use of resources of the Ministry or Department
- ◇ be responsible for preparation of expenditures and other statements
- ◇ shall ensure that his Ministry of Department maintains full and proper records of financial transactions

### **6.3.9 Relationship between Auditor and Auditee**

#### **Recommendations**

- ◇ There is need for better understanding and synergy between the audit and auditees for enhanced public accountability and consequently better audit impact.
- ◇ There should be balanced reporting by the audit.
- ◇ There is need for increasing interaction as well as coordination between the executive and the audit, including at senior levels.
- ◇ Timeliness of Audit and concurrent Audit
- ◇ concurrent performance audit of long-term on-going schemes should be undertaken at appropriate intervals.
- ◇ External audit needs to be more timely in inspecting and reporting so that their reports can be used for timely corrective action.
- ◇ All audits for the year under review should be completed by 30th of September of the following year
- ◇ IT should be used increasingly and effectively for data collection and analysis.
- ◇ The pending audit paras should be monitored by having a database on them in each Ministry/Department.

## **6.4 External Audit and Parliamentary Control**

- ◇ External audit has a very important role to play in financial management
- ◇ provides assurance to Parliament/legislature that public money has been spent for the purpose for which it was sanctioned by the Parliament/legislature
  - \* is a crucial element of public accountability as it is an independent external scrutiny.
  - \* is a deterrent against careless decision-making and irresponsible attitude towards public expenditure and project management
  - \* is expected to establish public confidence that public money is being properly spent.
    - ▷ External audit includes examination of the economy, efficiency and effectiveness
  - \* is expected to help in achieving full value for money

## 6.4.1 The Comptroller and Auditor General of India

- ◇ “To promote excellence in public sector audit and accounting services towards improving the quality of governance”.

### 6.4.1.1 Types of Audit

- ◇ Performance Audit, slowly developed as an attempt to measure the economy, efficiency and effectiveness of the Government expenditure.
  - \* Performance Audit, Regularity (Financial) Audit, Regularity (compliance) Audit, IT Audit

### Strengths of External Audit in India

1. The CAG has a high status enshrined in the constitution, upheld by long traditions of public audit in India.
  - ◇ The institution of audit under the CAG is often regarded as the fourth pillar in the democratic setup and an essential instrument of financial control and accountability.
2. The constitution of India ensures independence and autonomy of the public audit.
3. The expression ‘Audit’ or scope of the audit has not been defined either in the constitution or the CAG’s DPC Act, 1971
  - ◇ The scope of external audit is, therefore, wide.
4. Audit can respond to changes, reforms, new initiatives, changing patterns of Government activities, international developments in the profession and rising expectations of the stakeholders regarding public accountability.
5. The CAG has the power to determine the nature and extent of audit and related access to records and to relevant information.
6. The CAG has the inherent right to determine what should be included in the Audit Reports.
7. There is a requirement that Audit Reports should be tabled in the Parliament/ legislature and thereafter these become public documents.
8. There are well documented Audit Manuals and audit guidelines for the Auditors to follow.
9. Auditing Standards framed on lines of INTOSAI (International Organization of Supreme Audit Institutions) guidelines are available

### Challenges before the External Audit

1. There is hardly any accountability for not taking timely action on audit observations.
2. There is a feeling that the CAG’s reports are sometimes not timely because there is substantial time gap between occurrence of an irregularity and its reporting by Audit.
  - ◇ CAG’s audit itself is post facto - its findings and recommendations may be too late for corrective action.
3. Audit findings are based exclusively on documents and files
4. There is a feeling that external audit reports tend to be unduly negative and their focus is on irregularities and fault finding.

5. Audit does not always recognize the practical constraints under which the Government/Government Agencies function.
  - ◇ Audit often does not discriminate between errors arising out of bonafide intentions/malafide intentions.
6. Audit Reports are not always presented in a sufficiently constructive manner
  - ◇ Audit must therefore identify systemic problems.
7. Audit does not give due credit for good performance.
8. The relationship between the auditor and auditee is not always harmonious.
9. Audit is viewed as a system for policing Government Organisations.
10. There is inadequate synergy/coordination between external audit and internal audit.
11. There is rarely any audit of grants and loans to NGOs.

### **6.4.2 Accountability to Parliament**

#### **PAC**

- ◇ In scrutinizing the Appropriation Accounts and the Report of the C&AG thereon, the committee checks
  - \* that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged;
  - \* that the expenditure conforms to the authority which governs it;
  - \* that every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority
  - \* to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies,
  - \* to consider the report of the comptroller and Auditor-General in cases where the President may have required him to conduct an audit

#### **Departmentally related Standing committees**

- ◇ The general procedure relating to Demands for Grants
  - \* after the general discussion on the Budget in the two Houses is over, the Houses shall be adjourned for a fixed period
  - \* the committees shall consider the Demands for Grants of the concerned Ministries during the aforesaid period;
  - \* the committees shall make their report within the period and shall not ask for more time;
  - \* the Demands for Grants shall be considered by the House in the light of the reports of the committees
  - \* there shall be a separate report on the Demands for Grants of each Ministry.

# Chapter 7

## State and District Administration

### 7.1 Relevant material from Other ARC reports

#### 7.1.1 Local Governance

- ◇ As of now, most local governments are over-structured and weakly empowered.
- ◇ The Commission believes that India needs a fundamental transformation in governance and that empowered citizen-centric and accountable local governments are the core around which this transformation will take place.
- ◇ **The major recommendations**
  - \* Creation of District council with representation of rural and urban bodies, as the true third tier of government
  - \* Autonomy to Panchayats in respect to personnel
  - \* Establishing Ombudsman at the local levels
  - \* Merging DRDA with Zila Parishad
  - \* The DPC in its present form will be redundant, once a District Council comes into existence as envisaged by the Commission.
  - \* The role of the District Collector/DM also needs to be reviewed in the context of the District Council and the District Government.
  - \* The Commission is of the considered view that a golden mean between these two positions is desirable and the District government must be empowered while fully utilising the institutional strength of the District Collector.
  - \* three tiers of administration in urban local governments, except in the case of Town Panchayats
    - ▷ Municipal Council/Corporation (by whatever name it is called), Ward Committees; and Area Committees or Sabhas.

#### 7.1.2 Accountability and Transparency

- ◇ Audit committees may be constituted by the State Governments at the district level to exercise oversight
- ◇ There should be a separate Standing Committee of the State Legislature for the local Bodies
- ◇ A local body Ombudsman needs to be constituted
- ◇ Panchayats should have the power to recruit personnel and to regulate their service conditions subject to such laws and standards as laid down by the State Government.



### **7.1.3 Position of Parastatals**

- ◇ Following the lead taken by Kerala, Karnataka and West Bengal, the DRDAs in other States also should be merged with the respective District Panchayats (Zila Parishad)
- ◇ The Union and State Governments should normally not set up special committees outside the PRIs.
- ◇ The Constitution should be amended to make Lokayukta mandatory and stipulate the general principles about its structure, power and functions.
- ◇ A local bodies Ombudsman should be constituted for a group of districts.
- ◇ The local bodies Ombudsman should be empowered to investigate cases of corruption or maladministration by the functionaries.
- ◇ The State Vigilance Commissions/Lokayuktas may be empowered to supervise prosecution of corruption related cases.
- ◇ The investigative agencies should acquire multi-disciplinary skills and should be thoroughly conversant with the working of various offices/departments.
- ◇ The anti-corruption agencies should conduct systematic surveys of departments

### **7.1.4 Public Order**

- ◇ Crime investigation should be separated from other police functions. A Crime Investigation Agency should be constituted in each State
- ◇ A system of District Attorneys should be constituted wherein the District Attorney would supervise prosecution as well as the investigation of crimes
- ◇ Metropolitan Police Authorities should be constituted in large cities.
- ◇ The existing system of constabulary should be substituted with recruitment of graduates at the level of Assistant Sub Inspectors of Police (ASI)

### **7.1.5 Crisis Management**

- ◇ Disaster/Crisis management should continue to be the primary responsibility of the States.
- ◇ In larger cities, the Mayor, assisted by the Commissioner of the Municipal Corporation and the Police Commissioner should be directly responsible for Crisis Management.

### **7.1.6 Organizational Structure of Government of India**

- ◇ Flatter Structures-reducing the number of levels and encouraging team work

#### **7.1.6.1 Restructuring State Governments**

- ◇ there has been a significant proliferation of Ministers and Departments in almost all the States.
- ◇ Before the 91st Constitutional amendment, there was no limit on the size of the Council of Ministers in a State
- ◇ At one point, there were 76 Ministers in the Bihar Government, 69 in Maharashtra and 93 in Uttar Pradesh.
  - \* needs to be compact and homogenous, its size being determined by administrative needs.
  - \* medium and smaller States should not be in a disadvantageous situation

◇ **Recommendations:**

- \* the maximum size of the Council of Ministers may be fixed in a range between 10% to 15 % of the strength of their Legislative Assemblies
- \* There is need to arrive at a national consensus on this issue through deliberations/discussions with the States at the Inter-State Council

◇ Creation of the departments in the State Government has not always followed administrative logic

- \* A State Government consisting of too many departments suffers from the following inherent disadvantages.
- \* There is diffusion of responsibility and accountability
- \* Coordination becomes a major issue and decision making becomes difficult and time consuming.
- \* It leads to needless expansion of the bureaucracy.

◇ **Recommendation**

- \* The number of Secretariat Departments in the States should be further rationalized
- \* Separate Focus on Policy Making and Implementation
- \* The first is formulating policy in pursuance of objectives that the political leadership specifies, and the second, implementation of that policy.

◇ two broad tasks of the government

- \* A key structural reform in various countries towards achieving good governance has been the separation of policy and operational responsibilities

◇ Executive Agencies:

- \* Implementational bodies need to be restructured by giving them greater operational autonomy and flexibility,
  - ▷ at the same time, making them responsible and accountable for what they do.

◇ 'Agencification', that is, extensive use of executive agencies in administration has been found useful in conducting a wide range of functions.

◇ **Recommendations**

- \* The States should look at the functions/activities of each dept to confirm if the functions can only be carried out by government agencies.
- \* Each Executive Agency must be semi-autonomous and professionally managed under a mandate.
- \* There is need for a right balance between autonomy and accountability while designing the institutional framework of executive agencies.
  - ▷ This could be achieved through well designed performance agreements, Memorandum of Understanding (MoU), contracts, etc.
- \* Agencies dealing with subjects where major functions and activities have devolved on local governments would need to concentrate on monitoring and supervision

◇ Internal Restructuring of the State Secretariat

- \* Make the system efficient, responsive and citizen-friendly

#### ◇ **Civil Services Law**

1. Determining a set of values for civil servants
2. Redefining the relationship between the government and the civil servants
3. Reforming procedures of recruitment to the civil services
4. Reforming the procedure for placement of officers and ensuring security of their tenure – setting up an institutional mechanism
5. Drafting fresh terms and conditions for new appointees
6. Improving accountability mechanisms and simplifying disciplinary proceedings
7. Creating new organisational structures in the government.

#### **Recruitment and Conditions of Service:**

- ◇ The following principles of recruitment should be included for all appointments not routed through the UPSC or SSC:
  - \* Well-defined merit based procedure
  - \* Wide publicity and open competition
  - \* Minimisation, if not elimination, of discretion in the recruitment process.
  - \* Selection primarily on the basis of written examination
- ◇ An independent agency should audit the recruitments made outside the UPSC and SSC systems and advise the government suitably.
- ◇ **Central Civil Services Authority** to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

#### \* **Functions**

- ▷ Review the adoption, adherence to and implementation of the Civil Service Values in the departments
- ▷ Assign domains to all officers of the All India Services and the Central Civil Services on completion of 13 years of service.
- ▷ Formulate norms and guidelines for appointments at 'Senior Management Level' in Government of India.
- ▷ Evaluate and recommend names of officers for posting at the 'Senior Management Level'
- ▷ Identify the posts at 'Senior Management Level'
- ▷ Fix the tenure for posts at the 'Senior Management Level'

#### ◇ **Recommendations**

- ◇ Proposed State Civil Service Authority should deal with appointment and tenure of senior officers of all ranks (including the Chief Secretary, Principal Secretaries, Engineer-in-Chiefs, other Agency Heads and Principal Chief Conservator of Forests).

## 7.2 Regional Level Administration

- ◇ The East India Company treated the District as the focal point of its revenue administration within British India.
- ◇ In 1786 the districts were reorganised into regular fiscal units each under a Collector.
- ◇ In 1787, leaving aside a few districts, the Collectors were vested with magisterial powers; they could try criminal cases within certain limits.
- ◇ The Cornwallis Code of 1793 divested the Collector of his major judicial functions, but he still remained the most powerful functionary of the Company on Indian soil.
  - \* He was responsible for collecting various types of taxes and revenue;
  - \* he was the government treasurer in-charge of local funds and
  - \* he was the Magistrate, responsible for the maintenance of law and order, superintendence of the police and the management of jails and
  - \* in-charge of relief in times of epidemics and disasters for the territories under his charge.
- ◇ Towards the beginning of the 19th century, Company needed to create an intermediate level of functionaries who could effectively supervise and control functioning of 4-5 districts.
  - \* Thus, the institution of the Divisional Commissioner was born in 1829.
- ◇ Gradually, the Division became an important hub of the British Administration around which almost all major departments of the government positioned their senior level officers, intermediate in rank between the official at the district level and the Agency Head located at the State headquarters.
  - \* The range DIG of Police, Conservator of Forests and the Superintending Engineer of the PWD were among the first positions which were sanctioned at the divisional level
  - \* In the post 73rd/74th Constitutional Amendment scenario, the situation is different.
- ◇ The district has now been recognized by the Constitution as the third tier of government with local institutions, both rural and urban, vested with substantial functions and powers
- ◇ In the transferred domain, the machinery of the State Government including the District Collector and his offices, have a limited role.
- ◇ Development functions have to be dealt by a District Council consisting of representatives from both urban and rural areas.
  - \* The District Collector would now be the ex officio Chief Officer of this body and would have a dual responsibility.
- ◇ He will be accountable to the District Council in respect of transferred matters, but will report to the State Government on regulatory/other matters which do not stand delegated to the District Council.

### Recommendations

- ◇ The emergence of District as the key unit of field administration and improvement of technology, shows that there is **no need to have an intermediate level** of administration.

## **Lokayukta and the Vigilance Set-up**

- ◇ Currently, in most of the States, the vigilance setup consists of the following:- (i) The Vigilance Commission and the Investigation Bureau (ii) Lokayukta

### **Recommendations:**

- ◇ The organization of the Vigilance Commission/ Commissioner in the State should be structured on the patterns of the Central Vigilance Commission.
- ◇ The laws regarding the Lokayukta would need to be amended to incorporate the changes suggested in the Report on 'Ethics in Governance'.

## **Human Resource Development, Capacity Building and Training**

- ◇ Every State should formulate a comprehensive Human Resource Development Policy with training as an important component on the lines of the National Training Policy, 1996.
- ◇ In addition to the apex level training body called the Administrative Training Institute (ATI)
  - \* The ATI should have an overall integrative and coordinating role for the entire training/orientation programme running in the State.
- ◇ The State Administrative Training Institutes (ATIs) should have embedded in them, Centers of Good Governance.

## **State Public Service Commission**

- ◇ Article 320 of the Constitution of India lays down the functions of the State Public Service Commission.
- ◇ **Recommendations**
  - \* Steps should be taken to ensure that persons of high standing, intellectual ability and reputation are selected as Chairman/Members of the State Public Service Commissions.
  - \* A limit should also be imposed on the strength of its membership.
- ◇ There is need to evolve national consensus among States on the issues of
  - \* i) appointment of Chairman/Members and (ii) limit on the membership of the Commission, through discussions:
- ◇ The Public Service Commission should handle only
  - \* recruitment of candidates for higher level posts under the State Government (Class I and Class II positions of various State cadres),
  - \* recruitment and promotions to teaching posts in government Colleges and fully funded units of the Universities.
  - \* The role of the State Public Service Commission should be to lay down broad norms and standards.

## 7.3 District Administration

- ◇ After Independence, the single greatest accretion to the responsibilities of the district administrator came through expansion of rural development programmes.
  - \* the coordinating and synthesizing role of the Collector in the development efforts greater importance.
  - \* It is imperative that the devolution of decision making to local levels should face no impediments.
  - \* The administrative experience, expertise and credibility of the post of Collector built up over a period of 200 years has to properly utilized.
- ◇ Environment for a responsive and citizen friendly district administration in line with the principles of decentralization and subsidiarity.
- 1. The overall administrative structure presently prevailing at the district and sub-district levels in the country consists of the following three components.
  - (a) Administration of regulatory functions under the leadership of the Collector and District Magistrate
  - (b) Law and order, land revenue / reforms, excise, registration, treasury, civil supplies and social welfare.
  - (c) District / sub-district level offices of the line departments of the State Government and their agencies, such as PWD, irrigation, health, industries etc.
- ◇ Local bodies (Panchayati Raj Institutions and Municipal bodies) which, after the 73rd and 74th amendment of the Constitution

## 7.4 District Collector / Deputy Commissioner

- ◇ Till some years ago, in most of the States, the District Collector was the head of the government at the district level, responsible for a diverse portfolio of functions
- ◇ As such, virtually all the instruments of the State Government that operated at the local levels did so in conjunction with the Collector's office either formally or informally.

### 7.4.1 Evolution and Change

- ◇ Till the 1960s, when programmes of rural development were at a nascent stage, the Collector's job seemed to be carefully organized with land reforms, revenue collection, law and order, food and civil supplies, welfare and relief/rehabilitation being the principal areas of his responsibility.
- ◇ Under these circumstances, the office of the Collector was a strong and effective institution.
- ◇ In the years that followed, a large number of new projects/schemes were initiated by various departments of the Government, with the Collector as the notional head of the District Monitoring Committee.
- ◇ Towards the beginning of the 1980s, the development of rural areas got a further thrust and the government initiated a large number of Centrally Sponsored/State sector schemes
- ◇ Though, separate instruments were created for their execution, the Collector, in most of the cases, was given the overall supervisory charge of the programmes in the districts.
- ◇ But after the introduction of the Panchayati Raj system in the country (post 1993), most of the development functions have been taken away from the Collector's domain,

## 7.4.2 Need for a Collector in the District

- ◇ In the post Independence era, when the economy diversified, and the pace of industrialization and growth of tertiary
  - \* activities picked up, other functionaries too gained in importance.
  - \* he is considered to be the principal representative of the government at the district level

### Prime Minister's Address at the District Magistrate's Conference on May 20, 2005

- ◇ Become agents of change, of good governance and development administration at the very base of our democratic structure
- ◇ The insights you gain during your tenure at the district level helps your career because it gives you a first hand experience in dealing with the hopes and aspirations, the lives and livelihoods of our people.
- ◇ Your role in ensuring good governance at the grassroots, in promoting innovation, in improving service delivery, in enhancing PPPs and in ensuring outlays become outcomes.

### 73rd and 74th Constitutional Amendments

- ◇ The role of the Collector has only been transformed into a more powerful one of coordinator, facilitator
- ◇ The solution may lie in enabling people to handle change and improving service delivery. A Collector therefore can provide a leadership to this task of nation building..."
- ◇ The Collector will thus continue to be responsible for a multiplicity of tasks at the district level such as improving human capabilities, creating physical infrastructure, improving economic opportunities for marginalized sections of society and facing challenges posed by disasters.
  - \* *A new role that is the role of a coordinator, facilitator and a person who is responsible for inter-sectoral coordination of various activities that characterise the work of our grassroots administration.*

#### ◇ The main functions of the Collector may now include:

1. Land and Revenue administration, land acquisition, custodian of government properties, registration, recovery of public demand
  - \* The land revenue administration in a State operates at four administrative levels – district, sub-division, tehsil/taluka/block and village.
  - \* The Collector/DC is the head of the revenue administration at the district level and is the custodian of government land and properties under his jurisdiction
  - \* At the village level, the States usually, have a designated revenue official called Patwari/ Revenue Karamchari.
  - \* In some States, the Executive Officer of the Gram Panchayat or GP Secretary may double up as the Patwari to handle revenue functions as well.
  - \* The State Revenue Law has created the 'Land Revenue' machinery consisting of functionaries such as the Commissioner, the Collector, Assitant Collector, Tahsildar, Revenue Inspector, Patwari etc
  - \* The system of land records management varies from State to State depending upon their historical evolution and local traditions.
2. Executive magistracy and maintenance of Law and Order, Internal Security, Prisons, Remand/ Juvenile Homes

- \* Through powers given to him under Sections 106 to 124 of the Cr.P.C., he and the magistracy of the district can bind the people to maintain peace, security and good behaviour
  - \* He also exercises powers for maintenance of public order and tranquility through Sections 129 to 148 of the Cr.P.C.
  - \* Deployment and movement of armed forces in the district in times of emergency and crisis is done under his guidance.
3. Licensing and regulatory functions with respect to various special laws pertaining to Arms, Explosives, Cinemas etc.
  4. Disaster Management
    - \* The Collector is the Chairman of the District Disaster Management Committee (DDMC), which is responsible for making advance, plans to mitigate the effect of calamities and for providing both immediate as well as long term assistance to the affected people.
  5. Civil supplies, public distribution and social welfare
    - \* The Collector oversees the arrangements for provision of essential commodities to citizens through the Public Distribution System (PDS)
  6. Excise, Transport, Mining, Labour Laws, Elections and Legal Affairs
    - \* The Collector provides substantial contribution to the State budget through excise and transport revenue
    - \* The Collector is the Chief Mining officer of the district and exercises powers to grant prospecting license and mining lease under provisions of the MM(DR)Act, 1957
  7. Elections
    - \* For elections, the Collector is the District Election Officer (DEO) and is responsible for
      - (a) preparation / updation of electoral rolls and
      - (b) for holding free and fair elections in his jurisdiction.
    - \* Under election laws, he is the Returning Officer (RO) for the Parliamentary elections
  8. Census, Protocol, General Administration, Treasury Management / District Accounts Office related Work
    - \* The Collector is the overall in-charge of the Treasury in the district and is responsible for sending detailed accounts of financial transactions taking place in the district to the office of the Accountant General
  9. Public Relations Department, NIC and other miscellaneous functions assigned by the State Government, coordination with civil society
    - \* He chairs meetings of various Committees of Agriculture, Animal Husbandry, Veterinary, Sericulture, Handlooms, Textiles, Irrigation and Industries departments.
  10. Coordination with line departments/other agencies of the State and Union Governments
  11. In the interim period – till the local institutions obtain adequate maturity – as Chief Officer of the proposed District Government
    - \* The District Collector-cum-Chief Officer would have dual responsibility and would be fully accountable to the elected District Government on all local matters, and to the State Government on all regulatory matters not delegated to the District Government.
  12. Rural Development
    - \* Though major activities of this department stand transferred to the PRIs/ULBs, in some States, the Collector still continues to be the nodal authority for some programmes.
    - \* Under the National Rural Employment Guarantee Act, the Collector has been designated as the District Programme Coordinator in some of the States.



### 13. Preparation of Development Plan

- \* the planning functions in a district have been given to DPC/MPC, the Collector coordinates with departments/ agencies involved in execution of various works.
- \* The Commission noted that some Collectors were not even aware of all the laws under which they are empowered.
- \* The Collector is also the Chairman of a large number of Committees at the district level.

#### **Recommendations:**

- ◇ Realign the functions of the Deputy Commissioners/ District Collector so that he concentrates on the core functions
- ◇ Experienced Officers as District Collectors
  - \* an IAS officer should be posted as Collector/District Magistrate only on completion of 10-12 years of service.
- ◇ Tour Inspection Notes and Institutional Memory
  - \* The tradition continued till around 1960. There is need to revive it.
- ◇ Process Re-engineering and use of Information Technology
  - \* Jan Seva Kedras in Ahmedabad, e-district model of Tiruvarur in Tamil Nadu
  - \* Development of an e-District framework applicable to all districts based on which ICT initiatives may be undertaken by respective districts.
  - \* A computerized District Grievance Cell should be set up in the Collectorate.
  - \* An exclusive Vigilance cell at district level underoverall supervision of the District Collector.

## **7.5 Governance Issue in the North East**

- ◇ Almost the whole of it is characterized by heavy precipitation (200 mm to 600 mm), rich biodiversity, fragile hills, high seismicity, and a drainage system marked by extensive lateral valleys in the north and transverse valleys in the south.
- ◇ Arunachal Pradesh alone can generate as much as about 50328 MW - around 80% of the total hydro-power potential of the NER and 34% of the total potential of the country.
- ◇ The region was in a better economic condition a century ago. The vast river systems and small rivulets were a means of livelihood for a majority of the population in the valleys and the plains.
  - \* Global trade was conducted through the sea-route, a network of inland waterways, and land transportation through road and railways.
- ◇ The quest for ethnic and regional identity, nationalism, and ideological motivations formented a climate of insurgency in several parts of the Region. It has resulted in political fragmentation.
- ◇ The standard of living of the people in the region, as measured by the per capita Gross State Domestic Product (GSDP), has lagged significantly behind the rest of the country.
  - \* At Rs. 18,027 in 2004-05, it was less than the all-State average of Rs. 25,968 by 31 per cent.
  - \* Assam, the largest among the North Eastern States had the lowest per capita income at Rs. 15,661 which was lower than the national average by 40 per cent.

- ◇ The entire North-East Region suffers heavily on account of floods and landslides.
- ◇ Damages caused by floods, which assume an alarming proportion, in the Brahmaputra and Barak Valleys of Assam
- ◇ **Road Ahead**
- ◇ The Vision Document 2020 of the North Eastern Region prepared by the Ministry of DONER and North Eastern Council
  - \* The purpose of this Vision document is to return the North Eastern Region to the position of national economic eminence it held till a few decades ago; to so fashion the development process that growth springs from and spreads out to the grassroots; and to ensure that the Region plays the arrow-head role it must play in the vanguard of the country's Look East Policy.
- ◇ **Recommendations:**
- ◇ In order to address the genuine and legitimate concerns of the local people, there is need to continue political dialogue among various stakeholders.
- ◇ The North-East Division of the Ministry of Home Affairs should be upgraded to a separate wing and put under the charge of an Additional/ Special Secretary
- ◇ Autonomous Districts/Councils in Sixth Schedule Areas should also be covered by the State Finance Commission and the State Election Commission.

## 7.6 Financial Matters

- ◇ **Recommendations**
- ◇ The States should take priority steps to improve their expenditure profile by (a) finalizing the detailed project reports of schemes in the preceding year and (b) ensuring that the financial sanctions are given to the departments in the first two months of the current financial year.
- ◇ The States should conduct a zero-base review of programmes and schemes which are more than five years old and which involve large sums of public money.
- ◇ There should be prudent and realistic economic assumptions in formulation of budget estimates.
- ◇ . In order to make such consultations effective and meaningful, steps should be taken to (a) provide information-access to citizens and (b) educate citizens and leaders of society on budget making and its implications.
- ◇ State Governments should shift to multi-year budgeting and give the estimates of revenue and expenditure for a period of four years

# Chapter 8

## e-Governance

### 8.1 Introduction

- ◇ e-Governance is basically associated with carrying out the functions and achieving the results of governance through the utilization of what has today come to be known as ICT

#### **‘Ethics in Governance’**

- ◇ Each Ministry/Department/Organisation of Government should draw up a plan for use of IT to improve governance

#### **‘Public Order**

- ◇ It also suggested that technology should be used to improve the accessibility of Police Stations to the public.

#### **Sixth Report on ‘Local Governance’**

- ◇ process simplification, enhancing transparency and accountability and providing service delivery of services through single window
- ◇ Local governments should become one point service centres for providing various web based and satellite based services.

#### **‘Capacity building for conflict Resolution’**

- ◇ Dealing with illegal immigration into the North East with a multi-purpose national identity card for citizens.

### 8.2 e-Governance: Conceptual Framework

- ◇ e-Governance or ‘electronic governance’ is basically the application of Information and communications Technology to the processes of Government functioning in order to bring about ‘Simple, Moral, Accountable, Responsive and Transparent’ (SMART) governance.

#### 8.2.1 Defining e-Governance

##### **According to the World bank**

- ◇ “E-Government refers to the use by government agencies of information technologies (such as Wide Area Networks, the Internet, and mobile computing) that have the ability to transform relations with citizens, businesses, and other arms of government.

\* The resulting benefits can be less corruption, increased transparency, greater convenience, revenue growth, and/ or cost reductions.”

## Stages of e-Governance

- ◇ Computerisation > Networking > On-line presence > On-line interactivity:
- ◇ Types of Interactions in e-Governance
- ◇ e-Governance facilitates interaction between different stake holders in governance. These interactions may be described as follows:
  - ◇ **G2G (Government to Government)**
    - \* Information and communications Technology is used not only to restructure the governmental processes involved in the functioning of government entities but also to increase the flow of information and services within and between different entities.
    - \* This can be both horizontal and vertical
    - \* The primary objective is to increase efficiency, performance and output.
  - ◇ **G2C (Government to Citizens)**
    - \* This expands the availability and accessibility of public services on the one hand and improves the quality of services on the other.
    - \* The process enables citizens to maximize choice
  - ◇ **G2B (Government to Business)**
    - \* The objective is to cut red tape, save time, reduce operational
    - \* costs and to create a more transparent business environment when dealing with the government.
  - ◇ **G2E (Government to Employees)**
    - \* Use of ICT tools helps in making these interactions fast and efficient on the one hand and increase satisfaction levels of employees on the other.

## Benefits of e-Governance

- ◇ Better access to information and quality services for citizens:
  - \* Simplicity, efficiency and accountability in the government:
  - \* Expanded reach of governance:

## 8.3 e-Governance: International Scenario

### 8.3.1 Recent Steps in the USA

- ◇ In July, 2001 an initiative known as 'Expanding Electronic Government' was initiated as a part of the President's Management Agenda.
  - \* It should be citizen-centered and not bureaucracy or agency-centered.
  - \* It should produce measurable improvements for citizens.
  - \* It should be market-based, aimed at promoting innovation

## Issues with e-Gov around the world

- ◇ Focusing on technology without realizing that e-Governance is basically about ushering reforms in governance has led to failures in many projects across the world.
- ◇ So far, though, the story of e-government has been one of quantity, not quality.

## 8.4 e-Governance Initiatives in India

- ◇ Department of Electronics in 1970.
- ◇ National Informatics centre (Nlc) in 1977 was the first major step towards e-Governance in India as it brought 'information' and its communication in focus.
- ◇ the main thrust for e-Governance was provided by the launching of NICNET in 1987 – the national satellite-based computer network.
  - \* This was followed by the launch of the District Information System of the National Informatics centre (DISNIC)
  - \* NICNET was extended via the State capitals to all district headquarters by 1990.
- ◇ A National Task Force on Information Technology and Software Development was constituted in May 1998.
  - \* In 1999, the Union Ministry of Information Technology was created.
  - \* by 2000, a 12-point minimum agenda for e-Governance was identified by Government
  - \* Tax administration departments both at the Union and State levels were among the first to use IcT to improve their internal working.
- ◇ National e-Governance Plan (NeGP),c2006

### Government to Citizen (G2C) Initiatives

- ◇ Due to the unsatisfactory implementation of the scheme, the Union Ministry for Rural Development constituted a committee to suggest practical steps to implement the scheme. The committee on computerisation of Land Records submitted its Report in April 2005.
  - \* Computerisation of existing land records without corroborating it with the actual field position only led to perpetuation of existing loopholes and errors.

#### 1. Bhoomi Project in Karnataka : Online Delivery of Land Records

- ◇ Bhoomi is a self-sustainable e-Governance project for the computerized delivery of 20 million rural land records to 6.7 million farmers through 177 Government-owned kiosks in the State of Karnataka.
- ◇ computerised kiosks are currently offering farmers two critical services - procurement of land records and requests for changes to land title.
- ◇ To make the project self-sustaining and expandable, Bhoomi levies user charges.
- ◇ In the traditional system, land records were not open for public scrutiny resulting in manipulation and favouritism.
- ◇ The process for applying for transfer of title was cumbersome, time consuming and prone to harassment.

- ◇ Union Ministry of communications and Information Technology has announced that Bhoomi would be a national model for computerisation of land records and replicated throughout the country.

## 2. Gyandoot (Madhya Pradesh)

- ◇ Gyandoot is an Intranet-based Government to citizen (G2c) service delivery initiative.

## 3. Lokvani Project in Uttar Pradesh

- ◇ Lokvani is a public-private partnership project at Sitapur District in Uttar Pradesh which was initiated in November, 2004.
- ◇ Its objective is to provide a single window, self sustainable e-Governance solution with regard to handling of grievances, land record maintenance and providing a mixture of essential services
- ◇ Details of work done under MPLAD/Vidhayak Nidhi
- ◇ As was the case in the Gyandoot project in Madhya Pradesh, no loan or government subsidies were involved in this project.
- ◇ However, like Gyandoot in Madhya Pradesh, low literacy rate combined with minimal computer literacy, poor internet connectivity and only 5 to 6 hours availability of power in rural areas constitute major bottlenecks.

## 4. Project FRIENDS in Kerala

- ◇ FRIENDS (Fast, Reliable, Instant, Efficient Network for the Disbursement of Services) is a Single Window Facility providing citizens the means to pay taxes and other financial dues to the State Government.
- ◇ FRIENDS Janasevana Kendrams located in the district headquarters
- ◇ This project is a classic case of achieving front end computerized service delivery to citizens without waiting for completion of back end computerization in various government departments.

## **Government to Business (G2B) Initiatives**

### 1. e-Procurement Project in Andhra Pradesh

- ◇ the entire e-Procurement process was designed to avoid human interface i.e., supplier and buyer interaction during the pre-bidding and post-bidding stages.
- ◇ ensures total anonymity of the participating suppliers
- ◇ Reduction in tender cycle time:

### 2. MCA 21: The Ministry of corporate Affairs has implemented the MCA 21 Mission Mode Project under the NeGP in September 2006

- ◇ The project aims at providing easy and secure online access to all registry related services provided by the Union Ministry of corporate Affairs to corporates and other stakeholders at any time and in a manner that best suits them.

\* Business, Public, Professionals, Financial Institutions, Employees

## 8.5 Core principle of E- Governance

1. Clarity of Purpose
  - ◇ e-Governance should not be taken up merely to demonstrate the capability of an existing technology, but the technology should be adopted to solve an existing problem.
2. Environment Building
  - ◇ There is need to change the mind-set of all the stakeholders involved
  - ◇ implementing e-Governance would require political support at all levels.
  - ◇ government personnel would have to be incentivised to change old habits and acquire new skills.
  - ◇ the environment should be such that the perceived threat to entrenched interests is removed and resistance to change is addressed by dealing with actual grievances.
3. Public-Private Partnerships (PPPs), exchange of best practices including with the private sector and involvement of citizen-groups should all form part of this process.
4. e-Governance as an Integral Part of Reform in Governance
  - ◇ e-Governance cannot be separate from governance as a whole. Further, it cannot be taken as an adjunct of governance. It has to be an integral part of the governance structure
5. E-preparedness and Step-wise Approach
  - ◇ e-Governance cannot be introduced in the whole country across government organizations at one go.
  - ◇ e-Governance is an integral part of reforms in governance and each organization needs to embed e-Governance systems within the organization in a seamless way.
  - ◇ different organizations are not, presently, at the same level of e-preparedness.
6. Identification of e-Governance projects by each organization/entity:
7. Business process re-engineering:
  - ◇ Each e-Governance initiative would have to be accompanied by a step-by-step analysis of the governmental processes involved and tested on the anvil of simplicity and desirability.
8. Developing technological solutions
9. Implementation of e-Governance projects
10. Monitoring and Evaluation
  - ◇ This helps in early detection of problems and hence facilitates prompt corrective action.
  - ◇ Need for evaluation of the impact of initiatives through independent agencies against parameters.
11. Developing Secure, Fail-safe Systems and Disaster Recovery Systems
12. Sustainability
13. Development of Local Language Interfaces

## 8.6 Implementing e-Governance Reforms

### ◇ Recommendations

- \* Building a congenial environment is a sine qua non for successful implementation of e-Governance initiatives.
- ◇ Four stages of e-government,
  - \* Information > Interaction > Transaction > Transformation:
- ◇ The basic approach in case of e-Governance projects should be to focus on 'KISS': 'Keep it Small and Simple' principle.
- ◇ another criterion for working out the priority of e-Governance projects could be on the basis of the needs of citizens.
- ◇ Government organizations/departments at Union and State Government levels need to identify e-Governance initiatives which could be undertaken within their functional domain, keeping the needs of the citizens in mind.

### Business Process Re-engineering (BPR)

- ◇ Scope and complexities of governance along with the government machinery have expanded over time.
- ◇ These technologies provide a unique opportunity to redesign government processes
- ◇ The basic idea behind such re-engineering is to avail of the opportunity provided by ICT in transforming governmental processes and not just in modifying them.
  - \* The business process re-engineering model has been further developed by James Champy
  - \* we are governed by more than hundred years' old acts and rules.
  - \* These are driving inefficiency.
  - \* If you put the same thing in the computers, a hundred-year-old process, it will get inefficiency in a very efficient way.
  - \* We will be enlarging that inefficiency. We have to change the process behind this.
  - \* There should be a step-by-step analysis of each process involved on the anvil of rationality and simplicity.
  - \* These should be tested in real life situations to assess their functioning.
  - \* e-Governance projects should not be implemented on a large scale in the very first instance.
- ◇ Capacity Building and Creating Awareness
  - \* capacity building of civil servants at all levels through compulsory induction and mid-career trainings.
  - \* conceptual Subject matter related Technological Project management.
  - \* 'capacity building' is much more than training, and has two major components,
    1. Individual development
      - ▷ External adaptation and survival
      - ▷ Internal integration.
        - Internal integration is about establishing harmonious and effective working relationships in the organization



## 2. Organizational development.

- ▷ Organizational capacity building is, to a large extent, dependent on formulation of the appropriate recruitment and personnel policies and finding the right mix of 'in-house' provision of services and out-sourcing of functions.
- ▷ Organisational capacity building should not be taken to mean that the organisation acquires all the skills and knowledge required to perform its tasks.
- ▷ External adaptation and survival has to do with how the organization copes with its constantly changing external environment.
- ▷ mission, strategies and goals

### ◇ **Recommendations**

- ◇ Capacity building efforts must attend to both the organizational capacity building as also the professional and skills upgradation of individuals associated with the implementation of e-Governance projects.
- ◇ Develop a national e-Governance 'enterprise architecture' framework as has been done in some countries.

### **Some Novel Technological Solutions**

- ◇ GIS for e-Governance and Grass-root level Planning:
- ◇ Hand-Held Devices in e-Governance Projects for Improving Accessibility:
- ◇ Mobile-Based E-Governance:

### **RTI Act, 2005**

- ◇ Right to Information Act, 2005 which mandates all governmental organizations to put certain types of information in the public domain.
  - \* Static information, Dynamic information, Transactional information
  - \* Furnishing transactional information may not be possible without back-end computerization of processes, but ultimately computerisation of all back-end processes would result in generation of transactional information in which the citizens are interested.

#### **8.6.1 Implementing plans**

- ◇ Implementing complex e-Governance Projects
- ◇ Breaking up the entire e-Governance projects into components/activities:
- ◇ Preparing an implementation plan: This should include detailed plan and schedule for each activity. Standa
- ◇ Allocating resources:
- ◇ Commencement and continuous tracking:
- ◇ Mid-course correction:
- ◇ Monitoring and Evaluation
  - \* Such monitoring could be based on a variety of parameters.

### 8.6.1.1 Issues

- ◇ A World bank document which analysed how personnel issues slowed down e-Governance projects
  1. Threats of job losses increase resistance
  2. Government staff may resent external staff –
  3. High-level support does not ensure staff buy-in
  4. Staff are unenthusiastic when credit is not shared –
    - (a) Managers exaggerated risk aversion harms project credibility

### 8.6.2 National e-Governance Plan

- ◇ The National e-Governance Plan (NeGP) has been formulated by the Department of Information Technology (DIT) and Department of Administrative Reforms & Public Grievances (DAR&PG).
- ◇ 27 Mission Mode Projects (MMPs) and 10 components on May 18, 2006.
- ◇ Common Support Infrastructure:
- ◇ Centralized Initiative, Decentralized Implementation:
- ◇ Public-Private Partnerships (PPP) model is to be adopted wherever feasible to enlarge the resource pool
- ◇ Analysis of NeGP
- ◇ following components of NeGP:
  - \* The Institutional Structure
  - \* The common Support Infrastructure
  - \* The Mission Mode Projects
- ◇ Common Service Centres (CSCs)
  - \* The common Service centre Scheme is one of the three important infrastructural initiatives of the NeGP,
  - \* the other two being (a) the State Wide Area Network (for connectivity) and (b) the State Data centre Scheme (for secure hosting of data and applications)
  - \* These centres are intended to serve as front-end delivery points for government, private and social sector services in an integrated manner to rural citizens of India

#### 8.6.2.1 Mission Mode Projects

1. MCA 21
2. providing electronic services to the companies registered under the companies Act
3. Pension:
4. information on government pension rules and regulations; helps facilitating registration of pensioners' grievances
5. Passport, Visa and Immigration

- ◇ The e-services being offered under the MMP include re-issue of Passport, issue of duplicate Passport, issue of Tatkal Passport, change in name, address, EcNR/ EcR suspensions, passport status enquiry etc.

6. Central Excise:

- ◇ The important e-services being offered include e-filing of Import and Export documentation, electronic processing of declarations, facilities for e-filing of central Excise and Service Tax returns,

7. Income Tax, Banking, UID, e-Office. Insurance, etc.

## **Integrated MMPs**

1. **CSC:**

- ◇ These CSCs will offer e-Governance services to rural citizens. In many States, Service centre Agencies (ScAs) have been selected.
- ◇ The MMP aims at utilising technology for improved provisioning of judicial services to citizens.

2. e-Courts:

- ◇ The MMP aims at facilitating Electronic Data Interchange amongst various agencies involved in the process of Imports and Exports.

3. Electronic Data Interchange/e-Trade (EDI):

- ◇ This MMP is in post-implementation stage and is providing a single window access to information and services of Government at all levels, in a multilingual form.

4. India Portal, e-Biz, e-Procurement

5. National Service Delivery Gateway:

- ◇ expediting the process for setting-up a commercial enterprise by offering an integrated platform of services across various departments both at the Union and State levels.

## **State MMPs**

- ◇ Land Records,

\* National Land Records Modernisation Programme (NLRMP).

- ◇ Road Transport. Agriculture, AGRISNET and AGMARKNET, Police, Treasuries, Municipalities:

- ◇ e-District: This MMP aims at delivery of high volume, citizen-centric services through cScs.

- ◇ Commercial Taxes, Gram Panchayat:

### 8.6.3 Knowledge Management

- ◇ Defined as “a discipline that promotes an integrated approach to identifying, capturing, evaluating, retrieving and sharing enterprise information assets.”
- ◇ Knowledge Management is often perceived as merely a technological solution; in fact it has a much wider connotation since it is aimed at enabling people to efficiently perform their functions.
- ◇ KM is founded on the notion that the organization’s most valuable resource is the knowledge of its people.
- ◇ The steps of a KM process can be summarized as
  - \* Knowledge creation > Knowledge capture > Knowledge application > Knowledge impact measurement

#### Promoting KM in Government

- ◇ Knowledge Management is essentially about facilitating the processes by which knowledge is created, shared and used in organizations. It is not about setting up a new department or getting in a new technology. It is about making changes to the way individuals in organisations function.
- ◇ The typical phases to be followed in building a Knowledge Management system
- ◇ Create Knowledge -> Capture Knowledge -> Store Knowledge -> Use Knowledge -> Review Knowledge

# Chapter 9

## Local Governance

### 9.1 Introduction

- ◇ We have allowed local bodies to atrophy and starved them of funds to such an extent that while local government revenues accounted for 15% of the total government revenues in the USA in the year 2001, the corresponding figure in India was just 3%.
- ◇ Even after the passing of the 73rd and 74th Constitutional Amendments, the transfer of funds, functions and functionaries has been nominal in most States with notable exceptions such as Kerala.
- ◇ Throughout the seventies and eighties, a process of centralisation of even basic municipal functions such as water supply and sanitation into the hands of parastatals such as water boards and authorities has led to a massive decline in the role and status of local bodies which is only now sought to be reversed
- ◇ Local democracy is sometimes treated as synonymous with ‘decentralisation’, but the two are in fact quite distinct.
- ◇ In particular, decentralisation is not necessarily conducive to local democracy.
- ◇ A recent UNFPA report on the status of world population has said that India does not even recognise peri-urban areas within its urban population
- ◇ Peri-urbanisation refers to rapid unplanned settlement over large tracts of land in the precincts of manufacturing facilities on a city’s periphery.
- ◇ Such areas lack clear administration, suffer from sanitation and water problems and are transitional zones between towns and the countryside.
- ◇ To treat “rural” and “urban” poverty as somehow separate is to adopt a rather short-sighted view of the problem.
- ◇ Rural development supports urban development and vice versa

### Devolution in Real Terms

- ◇ local governments should be effectively empowered to frame regulations, take decisions and enforce their will within their legitimate sphere of action.
- ◇ fiscal devolution to the local governments must meet two standards:
  - \* the local government must be able to effectively fulfill its obligation;
  - \* there must be sufficient room for flexibility through untied resources, to establish priorities, devise new schemes and allocate funds.

## 9.2 Common Issues

### 9.2.1 The Constitutional Scheme

- ◇ Despite the mandatory constitutional injunctions, it took years, and in some cases a decade, to even constitute local governments and hold elections.
- ◇ There has been no linear development or evolution in respect of democratic decentralisation.
- ◇ Even mandatory provisions like the constitution of District Planning Committees and Metropolitan Planning Committees have been ignored in many States

### Recommendation

- ◇ The task of delimitation and reservation of constituencies should be entrusted to the State Election Commissions (SECs)
- ◇ The State Election Commissioner should be appointed by the Governor on the recommendation of a collegium
- ◇ An institutional mechanism should be created to bring the Election Commission of India and the SECs on a common platform for coordination, learning

### 9.2.2 The State Finance Commission (SFC)

- ◇ Articles 243H and 243X make it obligatory for the State Government to authorise the local bodies, by law, to impose taxes, duties etc. and assign to the local bodies such taxes/duties levied and collected by the State Government.
- ◇ The provisions of Articles 243 I and 243 Y are essentially modeled on Article 280 which deals with constitution of a Finance Commission

## 9.3 Recommendations

### The Principle of Subsidiarity

- ◇ In respect of all functions which can be performed at the local level including the functions in respect of the matters listed in the Eleventh Schedule”
  - \* Parliament may by law provide for constitution of a Legislative Council in each State, consisting of members elected by the local governments.
- ◇ There shall be a District Council in every district with representation from both urban and rural areas.
- ◇ The conduct of elections for the elected members of District and Metropolitan Planning Committees should be entrusted to the State Election Commission.
- ◇ in view of rapid urbanisation, an adjustment of the territorial constituencies - both for the Lok Sabha and the Legislative Assembly – within a State should be carried out after each census.

### Devolution of Powers and Responsibilities

- ◇ There should be clear delineation of functions for each level of local government
- ◇ Each subject-matter law, which has functional elements that are best attended to at local levels, should have provision for appropriate devolution to such levels
- ◇ In the case of new laws, it will be advisable to add a ‘local government memorandum’

◇ In case of urban local bodies, in addition to the functions listed in the Twelfth Schedule, the following should be devolved to urban local bodies:

\* School education; Public health; Traffic management and civic policing activities; Urban environment management and heritage; and Land management, including registration.

### **Framework Law for Local Bodies**

◇ Framework Law for local governments.

\* The Framework Law could be enacted under Article 252 of the Constitution on the lines of the South African Act, for the States to adopt.

\* Principle of Subsidiarity, Democratic Decentralisation, Delineation of Functions, Devolution in Real Terms, Convergence, Citizen Centricity

### **The State Finance Commission (SFC)**

◇ SFCs should evolve objective and transparent norms for devolution and distribution of funds.

◇ SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations

◇ SFCs should evolve norms for staffing of local bodies.

◇ The DPC should be assisted by a planning office with a full time District Planning Officer.

### **Accountability and Transparency**

◇ There should be a separate Standing Committee of the State Legislature for the local Bodies.

◇ A local body Ombudsman should be constituted.

# Chapter 10

## Citizen Centric Governance

### 10.1 Good Governance and Citizen Centric Administration

#### 10.1.1 Introduction

- ◇ The concept of good governance is not new. Kautilya in his treatise Arthashastra elaborated the traits of the king of a well governed State
- ◇ Mahatma Gandhi had propounded the concept of ‘Su-raj’
- ◇ The 4 pillars on which the edifice of good governance rests, in essence are:
  - \* Ethos (of service to the citizen),
  - \* Ethics (honesty, integrity and transparency),
  - \* Equity (treating all citizens alike with empathy for the weaker sections), and
  - \* Efficiency (speedy and effective delivery of service without harassment and using ICT increasingly).
- ◇ Citizens are thus at the core of good governance and are inextricably linked.

#### 10.1.2 Perceptions about Governance in India

- ◇ Public administration in India is generally perceived to be unresponsive, insensitive and corrupt.
- ◇ *The Sixth Central Pay Commission*
  - \* For the common man, bureaucracy denotes routine and repetitive procedures, paper work and delays.
  - \* Non-performance of the administrative structures, poor service quality and lack of responsiveness, and the subjective and negative abuse of authority have eroded trust in governance systems which needs to be restored urgently.
- ◇ *Fifth Central Pay Commission*
  - \* However, if one speaks to any enlightened member of the public he has several complaints against the public services. These relate to their size, productivity, accountability, transparency and integrity.



### **10.1.3 Barriers to Good Governance**

1. Attitudinal Problems of the Civil Servants
2. Lack of Accountability
  - ◇ Seldom are disciplinary proceedings initiated against delinquent government servants and imposition of penalties is even more rare.
3. Red Tapism
  - ◇ Low levels of Awareness of the Rights and Duties of Citizens
4. Low levels of compliance of Rules by the citizens also acts as an impediment to good governance
  - ◇ A vigilant citizenry, fully aware of its rights as well its duties, is perhaps the best way to ensure that officials as well as other citizens, discharge their duties effectively and honestly.
5. Ineffective Implementation of Laws and Rules
  - ◇ While the laws made by the Legislature may be sound and relevant, very often they are not properly implemented by government functionaries.

### **10.1.4 Necessary Pre-conditions for Good Governance**

1. Sound legal framework.
2. Robust institutional mechanism
3. Competent personnel staffing
4. Right policies for decentralization, delegation and accountability.
5. number of tools can also be employed to make administration citizen centric.
6. Re-engineering processes to make governance 'citizen centric'.
7. Adoption of appropriate modern technology.
8. Right to information.
9. Citizens' charters.
10. Independent evaluation of services.
11. Grievance redressal mechanisms.
12. Active citizens' participation – public-private partnerships.
  - ◇ The central idea of subsidiarity is that citizens as sovereigns and stakeholders in a democracy are the final decision-makers.

### 10.1.5 Core Principles for Making Governance Citizen Centric

#### 1. Rule of Law - Zero Tolerance Strategy

- ◇ Strategy should be institutionalized in the various public agencies by creating appropriate statistical databases, backed up by modern technology, to monitor the level and trends of various types of offences

#### 2. Making Institutions Vibrant, Responsive and Accountable

- ◇ Rule of Law' requires institutions - which are adequately empowered, properly structured and have the right quality of personnel and resources at their disposal – for effective implementation.

#### 3. Active Citizens' Participation – Decentralization and Delegation

#### 4. Transparency

#### 5. Civil Service Reforms

#### 6. Ethics in Governance

#### 7. Process Reforms

- ◇ These include well designed citizens' charters with in-built penalties for non-adherence to commitments

#### 8. Periodic & Independent Evaluation of the Quality of Governance

#### 9. Single Window System for Delivery of Services

- ◇ One of the ways in which governments across the world have approached efficient and effective service delivery to citizens (and businesses) is by adopting a 'single window system'.
- ◇ Single Window Multi Channel Government (SWMCG) – Germany
- ◇ **One approach** allows a service providing organization to re-engineer its processes
- ◇ **Another approach** is to establish an organization which would create an infrastructure through which different government organizations are able to provide services to citizens at a single point of delivery.
- ◇ In India also the National Portal (<http://india.gov.in>) provides an interface to a large number of government organizations at the Union and State levels.

### Recommendations

- ◇ Government agencies, whether regulatory or developmental, should introduce the Single Window Agency concept within their organisations to minimize delays and maximize convenience to citizens.

### 10.1.6 Developmental Functions of Government

1. The principle of subsidiarity should be followed while deciding on the implementation machinery for any programme.
2. Citizens should be actively involved in all stages of these programmes i.e. planning, implementation and monitoring.
3. Mandatory social audit should be carried out for all programmes.
4. Impact assessment should be carried out for all programmes at periodic intervals.

## 10.2 Citizen's Charter

◇ A Citizens' Charter is basically a set of commitments made by an organization regarding the standards of service which it delivers.

\* revised in 1998 as nine principles of service delivery

1. Set standards of service;
2. Be open and provide full information;
3. Consult and involve;
4. Encourage access and promote choice;
5. Treat all fairly;
6. Put things right when they go wrong;
7. Use resources effectively;
8. Innovate and improve; and
9. Work with other providers.

### 10.2.1 The Charter Mark

◇ The Charter Mark Scheme was introduced in 1991 in the United Kingdom to improve the efficacy of the citizens' charters.

\* the Charter Mark Scheme was modified and the 'Customer Service Excellence' scheme was launched in 2008.

▷ five criteria:

1. Customer Insight.
2. Culture of the Organisation.
3. Information and Access.
4. Delivery.
5. Timeliness and Quality of Service.

#### 10.2.1.1 The Indian Experience of Citizens' Charter

◇ The Government of India in 1996 commenced a National Debate for Responsive Administration.

◇ Since May 1997 at the Union level depts, organizations, etc have formulated 115 Citizens' Charters.

◇ DAR & PG engaged from 2002 to 2003 to develop a standardized model for internal and external evaluations of Charters.

\* **Some of the findings of the agency were:**

1. In a majority of cases, the Charters were not formulated through a consultative process;
2. service providers were not familiar with the philosophy, goals and main features of the Charter
3. Adequate publicity to the Charters had not been given
4. No funds have been specifically earmarked for awareness generation of Citizens' Charter
5. Poor design and content
6. Inadequate groundwork
7. Resistance to change:

\* **Some of the recommendations**

1. Need for citizens and staff to be consulted at every stage of formulation
2. Orientation of staff about the salient features and goals/ objectives of the Charter
3. Need for creation of database on consumer grievances and redress,
4. Need for wider publicity of the Charter
5. Earmarking of specific budgets for awareness generation
6. Replication of best practices in this field.

◇ **Indian Institute of Public Administration's evaluation (2008)**

- \* There was lack of precision on standards and commitments in several cases.
- \* There is often little interest shown by the organizations in adhering to their Charter.
- \* frozen in time.
- \* There was general lack of accountability and review mechanisms.

### **Recommendations**

- ◇ Citizens' Charters should be made effective by adopting the following principles
- ◇ One size does not fit all.
- ◇ Citizens' Charter should be prepared for each independent unit under the overall umbrella of the organisations' charter.
- ◇ Wide consultation which include Civil Society in the process.
- ◇ Firm commitments to be made, Redressal mechanism in case of default.
- ◇ Periodic evaluation of Citizens' Charters,
- ◇ Benchmark using end-user feedback, Hold officers accountable for results.

### **10.2.2 The Sevottam Model**

- ◇ Sevottam is a Service Delivery Excellence Model which provides an assessment- improvement framework to bring about excellence in public service delivery.
- ◇ The Sevottam model works as an evaluation mechanism to assess the quality of internal processes and their impact on the quality of service delivery.
- ◇ The Sevottam model has three modules (**Indian Standard IS: 15700: 2005**).
  - \* The first component of the model requires effective Charter implementation
  - \* The second component of the model, 'Public Grievance Redress' requires a good grievance redressal system
  - \* The third component 'Excellence in Service Delivery', postulates that an organization efficiently manages well the key ingredients for good service delivery and building its own capacity to continuously improve service delivery.
- ◇ Require further strengthening and refinement.
  - \* The focus is largely on process standards rather than service standards.
  - \* It is a voluntary initiative.

### **10.2.3 The ARC Seven Step Model for Citizen Centricity**

1. Define all services which you provide and identify your clients.
2. Set standards and norms for each service.
3. Develop capability to meet the set standards.
4. Perform to achieve the standards
5. Monitor performance against the set standards.
6. Evaluate the impact through an independent mechanism.
7. Continuous improvement based on monitoring and evaluation results.

## **10.3 Citizen's Participation**

### **10.3.1 Peoples' Participation in Governance**

◇ Active citizens' participation can contribute to good governance in the following ways:

- \* It enables citizens to demand accountability
- \* Make government programmes and services more effective and sustainable.
- \* Enables the poor and marginalized to influence public policy and service delivery
- \* Promote healthy, grassroots democracy.
- \* They are seen as equal stake holders in the development process.

◇ Mechanisms for citizens' participation

- \* Citizens seeking information;
- \* Citizens giving suggestions
- \* Citizens demanding better services;
- \* Citizens holding service providers and other government agencies' accountable; and
- \* Active citizens' participation in administration/decision making.

### **10.3.2 Social Audit**

◇ Social audit generally refers to engagement of the stakeholders in measuring the achievement of objectives under any or all of the activities of a government organization, especially those pertaining to developmental goals.

- \* It helps to have an understanding of an activity from the perspective of the people in society for whom the institutional/administrative system is designed and to improve upon it.
- \* The whole process is intended as a means for social engagement, transparency and communication of information, leading to greater accountability of decision-makers, representatives, managers and officials. It can be a continuous process covering all the stages of the target activity/programme.<sup>24</sup>

### 10.3.2.1 Encouraging Citizens' Participation

◇ The following steps are necessary:

1. A comprehensive review of policy and practice in each department/public agency
2. Modifying administrative procedures where necessary
3. Entrustment of the function of institutionalizing citizens' participation in governance to a senior level officer
4. Performance management reviews to incorporate effectiveness in ensuring citizens' participation in governance:

\* Examples:

\* 'City Connect' in Chennai and Bengaluru, by Janaagraha

\* 'Bhagidari' by Government of NCT of Delhi

## 10.4 Decentralization and Delegation

### 10.4.1 History of Decentralisation in India

◇ The first major step towards decentralization was when some powers and functions were devolved on the Provincial Government by the Government of India Act, 1919.

◇ The Government of India Act, 1935, carried this process further.

◇ Decentralisation is defined as:

\* "the transfer of decision making power and assignment of accountability and responsibility for results. It is accompanied by delegation of commensurate authority to individuals or units at all levels of an organization

◇ 'Reinventing Government' David Osborne and Ted Gaebler put forth a view that governments should be creative, market oriented, decentralized, and focused on offering their "customers" the highest quality services.

### Meaning of Delegation

◇ Delegation is primarily about entrusting one's authority to others

◇ Chester Barnard first enunciated the principle of delegation in the context of effective administration

◇ Delegation of authority is immensely challenging for all supervisors because it involves effective communication, motivation, goal setting and behaviour modification.

### Benefits of Delegation

1. Saves time, Grooms and motivates a successor
2. Develops people, Increases productivity.
3. Provides more time to superiors for constructive review

## **Barriers to Effective Delegation**

1. Reluctance by the superior to delegate:
  - (a) Lacks trust in others.
  - (b) Feels that subordinates will get credit which he deserves.
  - (c) Finds it difficult to monitor and supervise.
2. Reluctance by the subordinates to accept delegation:
  - (a) they find it easier to ask, than to take their own initiative.
  - (b) Want to avoid possible criticism
  - (c) Fear of making mistakes.

### **10.4.2 Facilitators of Delegation**

1. Transparency, Open communication.
2. Subordinates are made to feel important.
3. Authority is equated with responsibility.
4. Acceptance of responsibility and good performance is rewarded
5. A culture of trust and risk-taking is developed.
6. Constructive feedback is given.
7. Standards to measure and evaluate performance are prescribed in advance.

### **10.4.3 How to Delegate**

1. Clearly articulate the desired outcomes
2. Clearly identify constraints and extent of authority, responsibility, and accountability.
3. Where possible, include people in the delegation process.
4. Match the responsibility with communicate authority.
5. Delegate to the lowest level in the organization capable of performing the task.
6. Provide adequate support, Focus on results.
7. Avoid “upward delegation.”, Build motivation and commitment
8. Establish and maintain control.

## **10.5 Grievance Redressal Mechanism**

- ◇ IS 15700: 2005 defines ‘grievance’ as an expression of dissatisfaction made to an organization related to its products, services and/or process(es), where a response or resolution is explicitly or implicitly expected.

### **10.5.1 Grievance Redressal Mechanisms in India**

- ◇ Institutional mechanisms like the CVC, and the Lokayuktas
  - \* Reserve Bank of India, have set up Ombudsman
  - \* The grievance redressal mechanism is an integral part of any governance system

### **10.5.2 Structure of Grievance Redressal Machinery at the National Level**

- ◇ there are primarily two designated nodal agencies in the Union Government handling these grievances.
  - \* Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances & Pensions.
  - \* Directorate of Public Grievances, Cabinet Secretariat.

#### **Department of Administrative Reforms and Public Grievances**

- ◇ The role of the Department of Administrative Reforms and Public Grievances is primarily to undertake citizen-centric initiatives in the fields of administrative reforms and public grievances to enable the Government machinery to deliver quality public service to citizens in a hassle-free manner and eliminate the causes of grievance.<sup>29</sup>

#### **Centralized Public Grievances Redress and Monitoring System (CPGRAMS)**

- ◇ The Department of Administrative Reforms and Public Grievances launched the CPGRAMS in 2007
- ◇ CPGRAMS provides the facility to lodge a grievance 'online' from any geographical location.
- ◇ It enables the citizen to track online his/her grievance being followed up with departments concerned and also enables the DAR&PG to monitor the grievance.
- ◇ The Commission is of the view that a similar system should be installed at the State and district levels
- ◇ Similar concepts have already been tried in several States, for example, the Lokvani in Uttar Pradesh.

#### **Directorate of Public Grievances (DPG)**

- ◇ was set up in the Cabinet Secretariat with effect from 01.04.88
- ◇ Unlike the Department of AR&PG, the Directorate of Public Grievances has been empowered to call officers and files to see if the grievance handling has been done in a fair, objective and just manner.

### **10.5.3 Grievance Redressal Machinery in the States**

- ◇ Chief Ministers' office generally have a public grievance cell
- ◇ Some Chief Ministers hold regular public hearings and also use the electronic media
- ◇ At the district level, the District Magistrate is normally designated as the District Public Grievance Officer.

### **10.5.4 Analysis of the Existing Public Grievance System in Government of India**

- ◇ Public grievance redressal and monitoring system in the Union Ministries and Departments (IIPA, 2008)
  - \* There is considerable variation across organizations in the number of grievances received, disposed of and pending
  - \* Ministries and Departments have been advised to observe one day in the week as a meetingless day.



- \* Set up social audit panels for examining areas of public interface.
- \* Public Grievance Cells often suffer from shortage of staff and resources.
- \* Several Ministries/Departments do not detect or note public grievances appearing in newspapers for suo motu redressal actions
- \* No efforts are made to hold satisfaction surveys

### **Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice,**

- ◇ People are not aware that a system of redressal exists in many of the Government departments and its subordinate offices where they are required to visit.

#### **10.5.5 International Experience**

- ◇ Swedish Constitution of 1809 established the Parliamentary Ombudsman of Sweden, Justitieombudsmannen, as an independent institution of Parliament
- ◇ In Sri Lanka, the Parliamentary Commissioner for Administration (Ombudsman) is a constitutional appointment and is charged with the duty of investigating and reporting upon complaints or allegations of the infringement of fundamental rights and other injustices by public officers, local authorities and other similar institutions.

#### **10.5.6 A Strong Internal Grievance Redressal Mechanism**

- ◇ Standing Committee of Parliament recommended that the public grievances mechanism should be backed by a law similar to the Right to Information (RTI) Act, 2005
  - \* Grievances could thus be categorized into three broad groups
    1. grievances arising out of abuse of office and corruption on the part of public functionaries,
    2. grievances arising out of systemic deficiencies within an organization
    3. grievances arising from non- fulfillment of needs/demands
- 1. The Union and the State Governments should issue directions asking all public authorities to designate public grievance officers on the lines of the Public Information Officers
- 2. All grievance petitions should be satisfactorily disposed of by these officers within thirty days.
  - ◇ Non-adherence to the time limit should invite financial penalties.
- 3. Each organization should also designate an appellate authority and devolve adequate powers
- 4. Analysis and Identification of Grievance Prone Areas

### **10.6 Special Institution Mechanisms**

- ◇ The National Commission for Scheduled Castes, National Human Rights Commission, etc.
- ◇ The National Human Rights Commission (NHRC) was constituted in 1994 following the enactment of the Protection of Human Rights Act, 1993
  - \* The Act defines 'human rights' to mean "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India"

**Recommendations:**

1. A common format for making complaints before various statutory Commissions should be devised in consultation with each other.
2. Each statutory Commission should create an electronic database prospectively
3. The Human Rights Commission {as defined in Section 3(3), PHRA} should lay down norms to deal with complaints by the most appropriate Commission.
4. The Union and State Governments should take proactive steps in dealing with serious offences like custodial deaths/rapes etc on priority so that their occurrence diminishes over the years.
5. In the smaller States, a single 'multi-role' Commission may be constituted

# Chapter 11

## Personnel Administration

### 11.1 Introduction

- ◇ **Kautilya:** While the mantrins were the highest advisors to the King, the amatyas were the civil servants.
  - \* There were three kinds of amatyas: the highest, the intermediate and the lowest, based on the qualifications possessed by the civil servants.
  - \* The key civil servant was the samahartr, who prepared the annual budget, kept accounts and fixed the revenue to be collected.
  - \* The other key civil servant was the samnidhatr who kept records of the body of taxes realised and was in charge of the stores.
  
- ◇ **British:** The Macaulay Report recommended that only the best and brightest would do for the Indian Civil Service
  - \* The Report suggested that the educational background of the colonial administrator should be even more comprehensive than that of the civil servant in England.
  
- ◇ **Admin Reforms**
  - \* While there has been some improvement in civil service recruitment and training procedures, other incremental reform measures such as O&M, vigilance committees and commissions, citizens' grievance organisations, Whitleyism, manpower planning, and the institutions of Lok Ayukta have achieved very little.
  
- ◇ As S.R.Maheshwari commented, India's efforts at reform have amounted to 'correction slips to the inherited administrative system'.
  
- ◇ The Indian civil service reform efforts were not even correction slips – they were more in the nature of endorsement slips
  
- ◇ As instruments of public service, civil servants have to be ready for change. The common experience

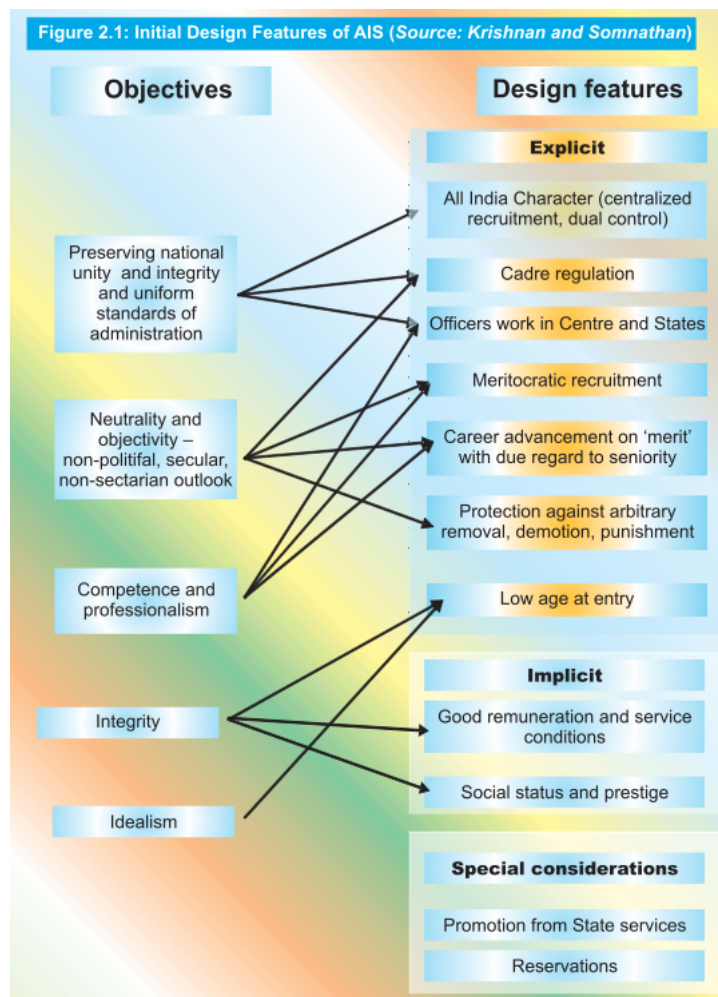
### 11.2 History of Civil service in India and Reforms

- ◇ In 1854 recommended that the patronage based system of the East India Company should be replaced by a permanent civil service based on a merit based system through competitive entry examinations
  
- ◇ The Macaulay Committee

- \* After 1855, recruitment to the ICS came to be based totally on merit.
- \* Subsequently, it opened its doors to Indians and from 1922 onwards the Indian Civil Service Examination began to be held in India.

### 11.2.1 The Design of the Civil Service at Independence

- ◇ Indian political leaders chose to retain elements of the British structure
  - \* unified administrative system such as an open-entry system based on academic achievements,
  - \* elaborate training arrangements,
  - \* permanency of tenure,
  - \* important posts at Union, State and district levels reserved for the civil service,
  - \* a regular graduated scale of pay with pension and
  - \* other benefits and a system of promotions and transfers based predominantly on seniority
- ◇ **Article 312** of the Constitution empowers Parliament to create the All India Services (AIS) on the fulfilment of certain conditions.
- ◇ The key objectives of government in creating the AIS are (in the figure below)



#### 11.2.1.1 The First Administrative Reforms Commission

- ◇ About fifty Commissions and Committees at the Union Government level to look into what can be broadly characterised as administrative reforms

◇ The Commission submitted 20 Reports in all, as per the details given below, before winding up in mid-1970

\* These 20 Reports contained 537 major recommendations.

◇ **A gist of the recommendations**

\* Need for specialization:

\* Unified Grading structure:

## **Recruitment**

◇ Those aspiring to be civil servants must have not only the required skills and knowledge, but also the right values which would include integrity, commitment to public service and above all, commitment to the ideals and philosophy embodied in the Constitution.

## **Various Reports**

◇ Report of the Committee on Recruitment Policy and Selection Methods, 1976 – aka the **D.S. Kothari Committee Report**;

◇ Committee to Review the Scheme of the Civil Services Examination, 1989 – aka the **Satish Chandra Committee Report**

◇ The Civil Services Examination Review Committee, 2001 - aka - the **Yoginder K. Alagh Committee Report**;

◇ Report of the Committee on Civil Service Reforms - **Hota Committee Report**, 2004.

◇ **A.D.Gorwala's Report (Report on Public Administration, 1951)**

\* recommended that recruitment to all grades of Government service should be conducted in a manner which eliminates scope for patronage and suggested that this principle should also apply to temporary staff.

◇ The **first ARC** emphasized the importance of proper personnel planning and cadre management.

\* It recommended that recruitment to the IAS/IFS and other non-technical Class I services should be made only through a single competitive examination.

◇ **The D.S. Kothari Committee Report**

\* a preliminary examination followed by a main examination.

◇ The **Fifth Central Pay Commission** suggested that employment on contract basis

◇ **Yoginder K. Alagh Committee**

\* It favoured testing the candidates in a common subject rather than on optional subjects.

\* recommended that the age for entrants to the higher civil services should be between 21-24 years with a five years' age concession for members of the Scheduled Castes/Scheduled Tribes and three years' for the Other Backward Classes.

## Training

- ◇ The Report on Public Administration by **A.D. Gorwala (1951)**
  - \* highlighted the fact that in order to have suitable personnel to staff the public services, it is essential that there is proper recruitment and training and an adequate organization and methods set-up.
- ◇ The Committee to Review In-Service Training of IAS officers, (**Yugandhar Committee, 2003**)
  - \* examined the efficacy of the in-service training of IAS officers and subsequently made several recommendations to further strengthen and improve these.
  - \* included the need for three mid-career training programmes in the 12th, 20th and 28th years of service.
- ◇ **The first ARC** classified higher civil service posts into two categories:
  - \* (a) posts in the field, and (b) posts at headquarters.
  - \* The ARC recommended that the IAS should be converted into a functional service.
  - \* The selection of personnel to the eight areas of specialization was to be made through a mid-career competitive examination.
- ◇ **Surinder Nath Committee Report, 2003** suggested that assigning particular
  - \* domains to the officers should be a key step for their selection to the Central Staffing
- ◇ **The Hota Committee on Civil Services Reforms, 2004,**
  - \* Domain assignment should be introduced for civil servants to encourage acquisition of skills, professional excellence and career planning.

## Grading Reform

- ◇ The first ARC recommended a unified grading structure so that posts entailing similar qualifications, difficulties and responsibilities are grouped in the same grade.

## Efficiency

- ◇ The **Appleby Report (1953)** recommended O&M machinery and an Institute of Public Administration.
  - \* These two recommendations were implemented by Government.

## Accountability

- ◇ **Santhanam Committee**
  - \* made a range of recommendations to fight the menace of corruption.
  - \* It recommended the CVC, and administrative vigilance divisions in all Departments of the Government.
- ◇ Changes were also suggested in Art. 311 of the Constitution of India for conducting disciplinary proceedings against government servants.
- ◇ **The first ARC** suggested the introduction of performance budgeting.
  - \* recommended the Lok Pal at the Centre and the Lok Ayuktas in States.

## 11.3 Need for Reforms

### ◇ World Bank

\* “results show a strong positive causal relationship from improved governance to better development outcomes”

### 11.3.1 Civil Services in India

Table 4.2 Classification of Services (illustrative)				
		General Management Services	Specialized Services	Technical Services
Group A	All India Services	IAS	IPS	IFoS
	Central Services		IFS, IRS, IIS, IRTS, IRAS, IA&AS, etc	Railway Engg Services, CPWD, CGHS
Group B	Central Services	CSS, RBSS, DANICS	CSCS	CSCS
Group C	Exist in all functional and general management areas			
Group D				

◇ An important characteristic of the civil service system in India is classification based on the concept of the ‘Service’

\* civil service posts are grouped into distinct homogenous cadres under a common Service

◇ The various Civil Services at the Union and State levels can be classified in several different ways.

1. Central Civil Services, All India Services and the State Civil Services.
2. The Union and State Services can be classified into Group A, B and C categories based on their role and responsibilities.
3. Services can also be classified into technical and non-technical services.

◇ The Constitution (Forty-second Amendment) Act, 1976 made provisions for constituting an all India Judicial Service, which has not yet been formed.

### 11.3.2 Need for Reforms

◇ It has been pointed out that the Civil Service in India is more concerned with the internal processes than with results.

1. The systemic rigidities, needless complexities and over-centralization
2. Size and the number of ministries and departments have both overloaded the decision-making system
3. Accountability is vague and of a generalised nature.
4. Rapid economic growth, urbanization, environmental degradation,
5. 73rd and 74th Amendments to the Constitution.

◇ Rural and urban local governments have to be enabled to become institutions of self government.

6. Far-reaching changes in the global economy, increased global interdependence
7. The role of civil society organisations, in governance, has increased with demands for better governance

### 11.3.3 Recruitment

- ◇ The quality of governance is critically dependent on the quality of its public servants.
- ◇ A major determinant of the quality of government servants is the rigour and integrity of the recruitment process.
- ◇ Therefore the recruitment process, apart from being transparent, objective, fair and equitable should also ensure that the right type of persons join the civil services
- ◇ The **Union Public Service Commission** – a Constitutional authority – has the mandate to recruit senior public
- ◇ The Staff Selection Commission recruits personnel for other positions in the Union Government.

### 11.3.4 Brief History of Recruitment to Civil Services in India

- ◇ The civil services in India have progressed from what essentially was an elitist service to a service that is now representative of Indian society.
- ◇ It was only from **1922** that the examination also began to be held in India.
  - \* a Public Service Commission (India) was constituted
  - \* to conduct the Indian Civil Service (ICS) Examination in India from 1926 on behalf of the British Civil Service Commission.
- ◇ Under the **Government of India Act, 1935**, the Public Service Commission (India) was replaced by the Federal Public Service Commission (FPSC) which from 1937
  - \* After Independence, new services called the Indian Administrative Service (IAS), Indian Police Service (IPS) and Indian Foreign Service (IFS) were established.
  - \* the FPSC was redesignated as the Union Public Service Commission (UPSC).
- ◇ **Kothari Committee** which gave its Report in 1976, recommended a new scheme of the Civil Services Examination for recruitment
  - \* (i) Preliminary Examination
  - \* (ii) Main Examination
  - \* iii) Post Training Test at the end of the Foundation Course at the Academy, including an interview by a Board constituted by the UPSC.
- ◇ This scheme was revisited by the Committee to Review the Scheme of the Civil Services Examination (the **Satish Chandra Committee**), which in its Report in 1989 recommended the continuance of this structure while introducing a compulsory **Essay paper in the Main Examination**.

### 11.3.5 Stage of Entry into the Civil Services

- ◇ 1. Post-School recruitment system and
- ◇ 2. post-School grooming for public services.



### **11.3.5.1 The Post-school Recruitment System:**

- ◇ This proposal envisages recruitment to the civil services thru Entrance Examination for students who have completed class XII
- ◇ The selected candidates would join an Institute for 3-year course
- ◇ This 3-year course would be carefully tailored to meet the essential requirements of a modern and responsive civil service.
- ◇ All candidates who pass the final test would be awarded a graduation degree that is nationally recognized.
- ◇ Those who do not wish to pursue a career in the civil services will be permitted to exit and pursue their interests elsewhere.
- ◇ Those candidates desirous of pursuing a career in the civil services would, on completion of the course, be given their service allotments on the basis of merit and their choice.
- ◇ will undergo a 2-year service-specific course in designated national academies/institutes
- ◇ Again, a final merit list for each service will be drawn up at the end of 2 years on the basis of the exams/tests carried out by the designated academies/ institutes.
- ◇ The proposed system would require the establishment of a National Civil Service College to conduct the 3-year graduation course.
- ◇ The existing age criteria would need to be correspondingly lowered.

### **Arguments For**

1. “catch” potential civil servants at a young
2. tap into a much bigger resource pool of talent than the present system of recruitment
3. A post-school system would also end the present undesirable system of coaching institutes which have mushroomed all over the country
4. Some eminent educationists have argued that the conventional principle of a Degree as the basic qualification to determine eligibility was evolved at a time when standards of school education were not as high as they are now.

### **Arguments Against**

1. It is well known that students studying in schools in rural areas particularly government schools, do not receive the same quality of education that is delivered in urban areas especially in the public schools.
2. University education is the key to the development of a well balanced personality in as much as it promotes better understanding
3. Diversity and flexibility in education have been found to produce far more innovative entrepreneurial and courageous administrators and managers
4. It may be recognized that for the Armed Forces, it makes sense to catch the potential recruits young and put them through a rigorous training and educational programme designed to uniquely serve the needs of the armed forces.
5. This may not be ideal for the civil services which have a somewhat a different nature of duties and responsibilities.

### 11.3.5.2 Post-School Grooming for a Public Services Career

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

### Recommendations

1. Government of India should establish National Institutes of Public Administration to run Bachelor's Degree courses in public administration/ governance/management.
2. Selected Central and other Universities should also be assisted to offer such graduate level programmes in public administration/governance/public management
3. Graduates of the above mentioned special courses from the National Institutes of Public Administration and selected universities would be eligible for appearing in the Civil Services Examinations.
4. Further, graduates in other disciplines would also be eligible to appear in the Civil Services Examination provided they complete a 'Bridge Course'
5. An 'Expert Committee' should be appointed immediately by the Government in consultation with UPSC to develop the curricula
6. Since this is a major reform relating to an important area of governance and will need coordinated guidance, especially in the initial years, a high-level oversight/coordination committee with the Prime Minister as Chairman
7. The permissible age for appearing in the Civil Services Examination should be 21 to 25 years for general candidates, 21 to 28 years for candidates from OBC and 21 to 29 years for candidates from SC/ST as also for those who are physically challenged.
8. The number of permissible attempts in the Civil Services Examination should be 3, 5, 6 and 6 respectively
9. The present cut-off date for determining the eligibility in terms of age (i.e. 1st of August in the year of the examination) may continue.

### Structure of Examination:

1. The Preliminary and Main Examinations for the Civil Services Examination would be conducted together on two to three consecutive days.
  - ◇ OR
2. Based on the results of the Preliminary Examination, candidates eligible for taking the main examination and the personality test would be short listed in accordance with their rankings.
  - ◇ Personality Test and the Main Examination almost simultaneously.

3. The Preliminary Examination should consist of an objective type
  - ◇ There should be no optional subjects.
4. The Main Examination should consist of two papers only in the compulsory subjects.
  - ◇ Besides, there should be a separate essay paper as a part of the Main Examination.

### 11.3.6 Other Modes of Induction into the Civil Services

1. 66 2/3rd per cent shall be by direct recruitment by a competitive examination;
  2. 28 1/3rd per cent shall be by promotion from the State Civil Service; and
  3. 5 per cent shall be by selection from among members of other services.
- ◇ The general practice is that officers of the State Civil Service get inducted into the IAS in about eight to twenty-five years, there being wide variations across States
    - \* This has been a cause of major grievance on the part of the State Civil Service officers.
  - ◇ Second ARC says the induction of officers of the State Civil Services into the IAS should be done by the UPSC on the basis of a common examination.
    - \* Special Recruitment drives'

### 11.3.7 Allotment of Cadres to the All India Services

- ◇ Till 2007, the allotment of cadres was a mix of a merit-based allotment to insiders in fulfilment of their choice of home state, combined with a random roster system for those who did not qualify for their home State.
- ◇ Government has now formulated a new **Cadre Allocation Policy (2008)**
  1. The highlight of the policy is that officers are allocated to different cadres primarily on the basis of merit and their preferences
  2. This, however, is subject to the reservation roster and the underlying principle of maintaining a ratio of 1:2 between the insiders and outsiders
  3. the list of successful candidates would be taken and if candidate(s) is/are available from the above-mentioned seven States and if a successful candidate has opted for the respective home cadre, then he/she should be first allotted to that cadre
  4. In case there is more than one eligible candidate, then the allotment may be done in the order – ST, SC, OBC and General candidates, as applicable to each state.

### 11.3.8 The Union Public Service Commission

- ◇ Promotion of officers through Departmental Promotion Committees (DPC), upto the level of Selection Grade may be delegated to the concerned Departments.
- ◇ In the case of disciplinary proceedings, consultation with the UPSC should be mandatory only in cases involving likely dismissal or removal of a government servant.

## 11.4 Capacity Building

- ◇ The pre-Independence period also saw the setting up of several national and state level training institutions.
  - \* However, after Independence the thrust of these training programmes changed with time.
  - \* Emphasis was laid on socio-economic development rather than on regulatory functions.
  - \* In the mid-eighties, the then PM, R. Gandhi, revamped the structure of training - particularly for the IAS.

### Emphasis was placed on mid-career training

- ◇ After the economic liberalization in the 1990s, training institutions have tried to re-orient the training programmes.
- ◇ Today almost all major organized services have a national level training institute/ academy.
- ◇ States have established Administrative Training Institutes (ATIs) for training of State Government employees.
- ◇ Some States have also established District Training Institutes
- ◇ The Training Division provides assistance for upgradation of the training equipment of government training institutions.
- ◇ National Training Policy which was formulated in 1996.

#### 11.4.1 The National Training Policy

- ◇ “one of the effective and tested tools for performance enhancement, as well as upgradation of knowledge and skills of the personnel.
- ◇ The Policy recognizes that training is an effective and tested tool for performance enhancement, as well as upgradation of knowledge and skills of personnel.
- ◇ Objectives of training should be:
  1. Organizational motivation and morale
  2. Keeping up-to-date and enhancing professional knowledge and skills needed for better performance of individuals and organisations
  3. Promoting better understanding of professional requirements
  4. Bringing about right attitudinal orientation
- ◇ Training programmes should focus on :
  - \* Responsiveness
  - \* Commitment:
  - \* Awareness:
  - \* Accountability
- ◇ The **National Training Policy (1996)** emphasizes training for all. It stipulates that training would be imparted to all rungs of the Civil Services
- ◇ National Training Policy envisaged that each Department should set apart 1.5% of its salary budget to be used solely for the purpose of training

## **11.4.2 Current System of Training for the Civil Services**

- ◇ All those selected for Group A Services are currently required to undergo a two-year (approximately) induction training though for some services like the Indian Forest Service the duration is longer.
- ◇ Group A
  - \* Foundation Course and a Professional Course
- ◇ For the non-Group A Services, the pattern varies

### **11.4.2.1 Foundation Training**

- ◇ It is a bridge between the academic world of college education and the structured chaos of governance.
- ◇ Main objectives
  - \* developing an esprit de corps
  - \* fostering the attitudes and values
  - \* imparting a basic understanding of the environment and the machinery
- ◇ Spread over a duration of 15 weeks, this course is conducted at the Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussoorie.
  - \* 12 out of the 15 weeks - is devoted to course work and 3 weeks to village study and extracurricular activities

### **11.4.3 Professional Training for All India Services and Other Organised Group A Services**

- ◇ The remaining part of the two-year induction training is spent on professional training where officers are given inputs that are specific to their jobs
- ◇ This professional training is coordinated by a professional training institute for each Service.
- ◇ In respect of the IAS, the professional training is divided between the LBSNAA and the State cadre to which the officer is allotted

Table 6.1: Training Programme for IAS Officers			
Component	Duration	Objectives	Broad contents
Phase I training	24 weeks	Develop the necessary skills, knowledge and attitudes to discharge the responsibilities of the assignments of an IAS officer during the first decade of his/her service	Public administration, law, economics, management, political concepts and Constitution of India
District attachment	52 weeks	To provide an opportunity to apply the knowledge and skills acquired during the phase I to real life situations	Range of attachments with district level offices and a series of study assignments
Phase II	6 weeks	To provide an opportunity to reflect on and synthesize the knowledge and skills acquired during the phase I and the district training	Seminars and group discussions

◇ Phase I and Phase II are conducted at the LBSNAA and the district training (in the State Cadre) is conducted between these two phases.

\* Phase I includes a Winter Study Tour of about eight weeks duration, popularly known as “Bharat Darshan”.

◇ The training of about 52 weeks in the State cadre is essentially spent in understanding State specific issues

◇ Officers are usually attached to a district, where the district collector “mentors” the officer during this phase

#### 11.4.4 Mid-Career Training

◇ The need for mid-career training is derived from the premise that as an officer goes up in the hierarchy the nature of his/her job changes.

◇ The current programmes of mid career training fall into two categories: compulsory training and optional programmes.

◇ **With effect from 2007**, a new and more comprehensive system of mid-career training has been introduced for the IAS.

\* is structured to bring the entire batch of officers recruited to the IAS in a particular year for the training programme

\* It is a mandatory requirement

\* Mid-career training programme is a mandatory requirement for further promotion at certain stages in an officer’s career.

1. Phase I and Phase II trainings are held at the time of induction of the officer to the Service.

2. Phase III and Phase IV of the mandatory training of 8 weeks each is a minimum requirement for promotion to the JAG and Supertime scale respectively.

3. Phase III of the training at any time between the 7th and 9th years of service

4. Phase IV between the 14th and 16th year of service
5. Phase V of 4 weeks is to be undertaken between the 26th and 28th years of service

## 11.5 Weaknesses in the Present Training System

1. one weakness that has been highlighted relates to the value attached to the Foundation Course
  - ◇ Some services also do not consider attending the Foundation Training to be mandatory
2. The induction training – for IAS officers focusses predominantly on the district and sub-divisional assignment that an IAS officer is likely to hold in the initial years of his/her career.
3. does not adequately take into account the need for development of domain expertise and knowledge of various sectors of government nor is it responsive to the officer's individual interests and academic qualifications.
4. An overarching weakness for all training programmes is the minimal value attached to training by many senior officers.
5. there is no formal evaluation of performance of trainees even in these newly introduced programmes
6. These mid-term training courses of all durations continue to be rather generic and do not adequately cater to the need for inculcating greater domain knowledge
7. Training efforts are largely focused on the senior civil services and very little goes into training the middle and lower levels of government.
8. The contents of these trainings also leave much to be desired. The conventional training programmes focus largely on enhancing professional skills and knowledge of civil servants.
9. The training programmes do not provide adequate emphasis on 'administrative law'.

### Recommendations

- ◇ Every government servant should undergo a mandatory training at the induction stage and also periodically during his/her career.
- ◇ Successful completion of these trainings should be a minimum necessary condition for confirmation in service and subsequent promotions.
- ◇ A monitoring mechanism should be set up for overseeing the implementation of the National Training Policy (1996).
- ◇ The practice of having a 'Common Foundation Course' for all Group 'A' Services – generalist, specialized and technical, should continue
- ◇ All civil servants should undergo mandatory training before each promotion
- ◇ The objective of mid-career training should be to develop domain knowledge and competence required for the changing job profile of the officer.
- ◇ Public servants should be encouraged to obtain higher academic qualifications and to write papers for reputed and authoritative journals
- ◇ A strong network of training institutions at the Union and State levels needs to be built up to cater to the training requirements of civil servants.
- ◇ A national institute of good governance may be set up by upgrading one of the existing national/state institutes.

## 11.6 Performance Management System

### 11.6.1 The Conventional Performance Management System

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

### Performance Budgeting

- ◇ Government of India introduced a scheme of performance budgeting from the financial year 1975-76.
- ◇ The performance budget is intended to present a meaningful relationship between inputs and outputs, and indicate the correlation between planned programmes and their performance in financial and physical terms.
- ◇ Four parts, indicating:
  1. Broad objectives, programmes and projects, the organizations and agencies with the responsibility to implement them, the highlights of performance
  2. Linkages between the Five Year plans, the achievements to date, and the tasks ahead.
  3. Financial statements showing the outlays required for the programmes
  4. Details of the scope, plan of action, achievements, programmes, and performance during the current year and future programmes
- ◇ It has not achieved its objective.
- ◇ factors such as bureaucratic resistance, corruption among civil servants and legislative indifference contributed to the failure of the scheme.

### Zero-based Budgeting

- ◇ Introduced in the mid-1980s and the objective of the scheme
  - \* Involve civil servants at all levels in the budgetary process
  - \* Justify the resource requirements for existing activities as well as new activities
  - \* Focus justification on the evaluation of discrete programmes or activities of each
  - \* Establish objectives against which accomplishments could be identified and measured, and assess
  - \* Analyze the probable effects of different budgetary provisions
  - \* Provide a credible rationale for reallocating resources
- ◇ It has been abandoned in spite of occasional efforts by the Ministry of Finance and the Planning Commission to revive it. The scheme has not yielded the desired results. It has now been, more or less,



## **Outcome Budgeting**

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

## **11.6.2 Prevailing Performance Appraisal Systems for Civil Servants**

### **Conventional closed system of ACR (Annual Confidential Report)**

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

### **Performance Appraisal with openness**

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

## **11.6.3 System in India**

### **11.6.3.1 Confidential Report**

- ◇ Confidential reports is a tool for human resource development
- ◇ It is not a fault finding process, but a development one.

## **Limitations**

1. It lacks in quantification of targets and evaluation against achievement
2. Confusion still prevails among civil servants regarding what is good performance and the level of performance expected from them
3. The existing performance appraisal does not solve the problem of poor performance.
4. Performance appraisal becomes meaningless in certain cases where the job fit is ignored while posting an officer, and where there are frequent transfers.
5. The format may be good but some times the way it is filled up shows lack of due care and seriousness.
6. Since the present system shares only an adverse grading, a civil servant remains unaware about how he/she is rated in his/her work.
7. Many reporting officers pay little attention to distinguish good and average workers while grading them.
8. The system of deciding on representations against an adverse entry sometimes take so long that reporting officers avoid giving an adverse entry.

## **11.6.4 Reforms**

- ◇ The **new Performance Appraisal System for the All India Services** has tried to overcome some of these shortcomings
  - \* by including a “participative workplan through a consultative and transparent process.
  - \* It still emphasizes the performance appraisal report as the key element.
  - \* The term Report is an improvement over Ratings

#### 11.6.4.1 Making Appraisal More Consultative and Transparent

- ◇ The reporting officer, at the beginning of the year, has to set quantitative/physical targets in consultation with each of the Government servants whose report he/she is required to write.
  - \* It has been observed that in practice no such effective consultation takes place at the beginning of the year for fixing the targets.
  - \* The appraisal reports for civil servants (other than the AIS) are not disclosed to the officer reported upon – except for adverse remarks. This reduces its effectiveness as a tool for performance management.

#### 11.6.4.2 Performance Appraisal Formats to be Job Specific

- ◇ The Commission is of the view that the appraisal formats of civil servants need to be more specifically linked to the tasks assigned to them and to the goals of the Department/ Organization in which the officer is working.
  1. a generic section that meets the requirements of a particular Service
  2. the appraisal format prescribed for civil servants should have three sections
  3. another section based on the goals and requirements of the department
  4. a final section which captures the specific requirements

#### 11.6.4.3 Performance Appraisal to be Year Round

- ◇ At present, the annual performance exercise is performed in a routine manner after the end of the financial year.

#### 11.6.4.4 Formulating Guidelines for Assigning Numerical Rating.

- ◇ Earlier system graded according to categories ranging from ‘average’, ‘good’ and ‘very good’ to ‘outstanding’
- ◇ The new PAR format for AIS officers replaces this with an improved rating system grades from 0 to 10 for different parameters.
- ◇ Department of Personnel and Training should formulate detailed guidelines to guide the reporting and reviewing officer for assigning numerical ratings for their subordinates.

#### 11.6.4.5 Degree Evaluation

- ◇ The **360 degree feedback**, also known as “multi-source feedback” is in vogue
  - \* involves Self, Superiors, Peers, Subordinates, Internal Customers, External Customers, Others
- ◇ In the context of India where strong hierarchal structures exist and for historical and social reasons it may not be possible to introduce this system unless concerns of integrity and transparency are addressed.

#### 11.6.5 Performance Management

- ◇ Osborne and Plastrik set out their principles of entrepreneurial Government in their book *Banishing Bureaucracy*.
  - \* **Results Oriented Government: Funding Outcomes, Not Inputs**

- ◇ Performance Management is the essence of managing, and the primary “vehicle” for getting the desired results through employees at all levels in the organization
- ◇ Development plans should contribute to organizational goals and the professional growth of the employee.
- ◇ **“What gets measured gets done”.**
  - \* The days of having a **“one-set-of-measures-fits-all”** Performance Management System are **inherently flawed and long gone.**
  - \* Performance objectives and measures need to be specific to job categories and individual roles.
- ◇ Performance management is the systematic process by which the organization involves its employees, as individuals and members of a group, in improving organizational effectiveness in the accomplishment of organizational mission and goals.
- ◇ Performance management is strategic in that it is about broader issues and long term goals and integrated as it links various aspects of the business, people management, individuals and teams.
- ◇ Government has taken a step forward towards introduction of a performance management system by making a provision in the proposed Public Services Bill 2007

#### 11.6.5.1 Performance Appraisal vs. Performance Management

- ◇ Performance appraisal is one component of the Performance management cycle
- ◇ Thus ‘Appraisal’ is an annual affair while performance ‘management’ is a year round activity.

#### 11.6.5.2 Objectives and Aspects of PMS

- ◇ The main objective of performance management is continuous improvements in performance with a view to attaining organizational goals.
  - \* The Evaluation Objective
  - \* The Development Objective



### 11.6.6 Organizational Benefits of PMS

1. Serve as the primary vehicle for implementing organisational goals and strategies
2. Align and integrate the objectives and Key Performance Indicators (KPI's) of the organization vertically and horizontally through all job categories and levels, including management.
3. Facilitate continuous performance improvement, organisation development and culture change.
4. Achieve quality, efficiency and effectiveness,
5. Ensure clarity regarding work expectations and performance standards
6. Continually enhance employee competence
7. Reduce Line Manager reluctance and fear to do Performance Appraisals with their staff.
8. facilitate performance-based remuneration and rewards, so that employees can see and experience a clear link between their performance and the rewards they
9. Pre-requisites for Implementing an Effective Performance Management System
10. Strong commitment from top management.
11. High level of participation
12. Clear definitions of what constitutes performance in a given role.
13. Identification of performance parameters and definition of Key Performance Indicators (KPIs).

### 11.6.7 Processes of PMS

#### ◇ Cyclical process

- \* Planning work & setting expectations > Monitoring performance > Developing the capacity to perform > Rating performance > Rewarding good performance

### 11.6.8 Performance Agreements

- ◇ Performance agreement is the most common accountability mechanism in most countries that have reformed their public administration systems.

- \* From explicit contracts to less formal negotiated agreements to more generally applicable principles.

- ◇ In New Zealand, for example, the Public Finance Act of 1989 provided for a performance agreement to be signed between the chief executive and the concerned minister every year

### Recommendations

- ◇ Government should expand the scope of the present performance appraisal system of its employees to a comprehensive performance management system (PMS).
- ◇ In implementing PMS in government, it must be emphasized that the PMS should be designed within the overall strategic framework appropriate to the particular ministry/department/organization.
- ◇ Annual performance agreements should be signed between the departmental minister and the Secretary of the ministry/heads of departments

## 11.6.9 Motivating Civil Servants

### 11.6.9.1 Human Resources and Governance

- ◇ Human resource development includes a wide spectrum of activities - recruitment, training, placement, motivation etc.
  - \* Motivation comes through incentives
  - \* it is the non-monetary incentives which are the key factors in motivating employees especially in the context of Government.
- ◇ Motivation can be defined as the process of driving individuals to attain the organizational as well as the individual's goals.
- ◇ Herzberg had propounded a two-factor theory.
- ◇ The **Sixth Central Pay Commission** has broadly categorized the benefits a public servant gets by virtue of his/her being in public service, into two broad categories
  - \* **'transactional benefits' and 'relational benefits'**.
  - \* Transactional returns are those returns – monetary and non- monetary - that the employee is entitled to perennially.
  - \* “Relational” returns refer to those needs that are not necessarily monetary in nature. These returns satisfy the self-esteem and self-satisfaction needs of the employees.
- ◇ The Pay Commission has recommended introduction of a new performance based pecuniary benefit
  - \* **Performance Related Incentive Scheme (PRIS)**.
    - ▷ It is based on the principle of differential reward for differential performance.

### Non-monetary Motivating Factors

#### Recognition

- ◇ Performance Appraisal System with the notification of the All India Services (Performance Appraisal Report) Rules, 2007.
- ◇ Since 2006 instituted national awards for those civil servants every year on the occasion of Civil Service Day.
- ◇ Emphasise on incentives like conferring the Padma awards more frequently to serving civil servant

#### Job Enrichment

- ◇ Job enrichment is a type of job redesign intended to reverse the effects of tasks that are repetitive requiring little autonomy.
- ◇ Some of these effects are boredom, lack of flexibility, and employee dissatisfaction (Leach & Wall, 2004).
- ◇ The underlying principle is to expand the scope of the job with a greater variety of tasks, vertical in nature, that require self-sufficiency.

## Linking Career Prospects with Performance

- ◇ The Commission is of the view that in matters of promotion, the performance of a candidate should be given due weight
- ◇ There are a large number of factors which lead to dissatisfaction among officers/ officials in the government.
- ◇ Poor working conditions b. Unfair personnel policies c. Excess or absence of supervision d. Absence of fair-play within the organization e. Indiscipline f. Lack of transparency within the organization g. Lack of opportunity for self-expression

## Disincentives for Non-performers

### A Sound Evaluation System

## 11.7 Accountability

- ◇ In all democratic countries, civil servants are accountable both to the political executive and to citizens for ensuring responsive, transparent and honest policy implementation and service delivery.
- ◇ The accountability mechanisms in any country are broadly categorized as those that are located within the State and those outside.
- ◇ The final expression of accountability in a democracy is through the medium of periodic elections
- ◇ An independent judiciary embodies the constitutional doctrine of separation of powers and is another important element in the system of checks and balances
- ◇ constitutional and statutory bodies such as the office of the Comptroller & Auditor General, the Election Commission, and the Central Vigilance Commission (CVC) are examples of other oversight mechanisms
- ◇ **“Horizontal” accountability** mechanisms which refer to those located within the State
- ◇ **‘Vertical’ accountability mechanisms** which are those outside the State

<b>Table 13.1: Institutions and Mechanisms that Promote Accountability</b>	
<b>Outside the State (Vertical)</b>	
<ul style="list-style-type: none"> <li>• To the people through elections</li> <li>• Through RTI Act to citizens</li> </ul>	High effectiveness
<ul style="list-style-type: none"> <li>• Citizens' oversight committees</li> <li>• Civil society/watchdog bodies</li> <li>• Media</li> </ul>	Low effectiveness
<ul style="list-style-type: none"> <li>• Service delivery surveys</li> <li>• Citizens' charters</li> </ul>	Low to medium effectiveness
<b>Within the State (Horizontal)</b>	
<i>External</i> (Outside the Executive)	<ul style="list-style-type: none"> <li>• Parliament</li> <li>• Judiciary</li> <li>• Lokayukta</li> <li>• CAG</li> <li>• CVC</li> </ul>
<i>Internal</i> (Within the Executive)	<ul style="list-style-type: none"> <li>• Superior officers               <ol style="list-style-type: none"> <li>1. Rewards/punishments</li> <li>2. Disciplinary procedures</li> <li>3. Performance Management System</li> </ol> </li> <li>• CBI/police/vigilance</li> <li>• Internal Audit</li> <li>• Grievance Redressal Mechanisms</li> </ul>

## Recommendations

- ◇ **A system of two intensive reviews** – one on completion of 14 years of service, and another on completion of 20 years of service
  - \* The first review at 14 years would primarily serve the purpose of intimating to the public servant about his/her strengths and shortcomings for his/ her future advancement.
  - \* The second review at 20 years would mainly serve to assess the fitness of the officer for his/her further continuation in government service.
- ◇ The services of public servants, who are found to be unfit after the second review at 20 years, should be discontinued.

### 11.7.1 Disciplinary Proceedings

- ◇ Issues relate to Article 311 discussed in the report on “Ethics in Governance”
  - \* The Commission believes that the rights of a civil servant under the Constitution should be subordinate to the overall requirement of public interest and the contractual right of the State.
  - \* Ultimately, the public servant, an agent of the State, cannot be superior to the State and it is his fundamental duty to serve the State with integrity, devotion, honesty, impartiality, objectivity, transparency and accountability.
  - \* the Commission is of the view that on balance **Article 311 need not continue to be a part of the Constitution.**
- ◇ In the proposed Civil Services law, the **minimum statutory disciplinary and dismissal procedures required to satisfy the criteria of natural justice** should be spelt out leaving the details of the procedure to be followed to the respective government departments.

- \* No penalty of removal and dismissal should be imposed, except by an Authority, which is at least three levels above the post which the government servant is holding.
- \* The two-stage consultation with the CVC in cases involving a vigilance angle should be done away with and only the second stage advice after completion
- \* Consultation with the UPSC should be mandatory only in cases leading to the proposed dismissal of government servants and all other types of disciplinary cases should be exempted from the UPSC's purview.

## 11.8 Relation between Political and Administrative Executive

◇ Some advantages of having an independent, permanent and impartial civil service

1. The spoils system has the propensity to degenerate into a system of patronage, nepotism and corruption
2. A permanent civil service provides continuity and develops expertise
3. A permanent and impartial civil service is more likely to assess the long-term social payoffs of any policy
4. Ensure uniformity in public administration
5. Likely to evolve over time an ethical basis for its functionin

### 11.8.1 Constitutional Provisions in India

- ◇ A civil servant is required to implement the orders of government without bias, with honesty and without fear or favour.
- ◇ It is precisely in this area that a degree of a difference of opinion often occurs between the political executive and the civil servants.

### 11.8.2 Areas of Friction

#### The Concept of Neutrality

- ◇ The Commission is of the view that the political neutrality and impartiality of the civil services needs to be preserved.
- ◇ The onus for this lies equally on the political executive and civil servants.
- ◇ civil servants should not confuse 'political neutrality' with 'programme neutrality'.

#### Advisory Role of Civil Servants in Policy Making

- ◇ It is the duty of the civil servant to provide the factual basis, thorough analysis of all possible implications of any measure under consideration and free and frank advice, without fear or favour, at the stage of policy formulation.
- ◇ If a policy that is being formulated is perceived by the civil servant to be against public interest, his/her responsibility is to convince the political executive about the adverse implications of such a policy.

#### Separation of staff and line functions

#### Statutory Role of the Civil Servants

- ◇ Civil servants are required to discharge statutory functions under various legislative enactments which may sometimes be quasi-judicial in nature.



## Discharge of Delegated Functions

- ◇ there is an increasing tendency in government departments to centralize authority and also after having first delegated authority downwards, to interfere in decision making of the subordinate functionaries.
- ◇ once these mechanisms are in place, there is no reason for decentralization to be held back.

## Appointments/Recruitment to the Civil Services

- ◇ while the UPSC enjoys an untarnished reputation for having developed a fair and transparent recruitment system, the same cannot be said for all the State PSCs.
- ◇ The Commission feels that it is essential to lay down certain principles/norms for such recruitments to avoid complaints of favouritism, nepotism, corruption and abuse of power
- ◇ **These principles are**
  1. Well-defined merit-based procedure for recruitment to all government jobs
  2. Wide publicity and open competition
  3. Minimisation, if not elimination, of discretion in the recruitment process
  4. Selection primarily on the basis of written examination

### ◇ CIVIL SERVICES CODE

- ◇ Ethics is a set of principles of right conduct.

- \* It has been defined as a set of values and principles which helps guide behaviour, choice and actions.

- ◇ Civil servants have special obligations because they are responsible for managing resources entrusted to them by the community, because they provide and deliver services to the community and because they take important decisions that affect all aspects of a community's life.

- ◇ India - Central Services (Conduct) Rules, 1964

- \* These conduct rules do not constitute a code of ethics.

- ◇ The Draft Public Services Bill, 2007 proposes the necessary first step towards evolving a code of ethics

- ◇ The Public Service and the Public Servants shall be guided by the **following values** in the discharge of their functions:

- \* Patriotism and upholding national pride allegiance to the Constitution and the law of the nation objectivity, impartiality, honesty, diligence, courtesy and transparency maintain absolute integrity

- ◇ In India, civil service values have evolved over years of tradition.

- \* There is no Code of Ethics prescribed for civil servants in India although such Codes exist in other countries.

- ◇ A **comprehensive Civil Service Code** can be conceptualized at three levels.

1. At the apex level, there should be a clear and concise statement of the values and ethical standards that a civil servant should imbibe

2. At the second level, the broad principles which should govern the behaviour of a civil servant may be outlined
  - \* This would constitute the Code of Ethics.
3. At the third level, there should be a specific Code of Conduct stipulating in a precise and unambiguous manner, a list of acceptable and unacceptable behaviour and actions.

◇ The Commission is of the view that in addition to commitment to the Constitution these values

- \* Adherence to the highest standards of probity, integrity and conduct, Impartiality and non-partisanship,
- \* Objectivity, Commitment to the citizens' concerns and public good
- \* Empathy for the vulnerable and weaker sections of society.

### 11.8.3 The Existing Legal Framework for Civil Services in India

◇ Part XIV of the Constitution of India - Article 308 onwards - makes provisions for dealing with the civil services.

- \* a number of Rules have been made from time to time by the Union and State Governments and these essentially govern and regulate the public services in India.

◇ Parliament in exercise of its powers under Article 309 of the Constitution has enacted the All India Services Act, 1951.

- \* All India Services (Provident Fund) Rules, 1955, All India Services (Conduct) Rules, 1958, All India Services (Discipline and Appeal) Rules, 1969 etc.

◇ Need for a Civil Services Law

◇ **Arguments against**

1. The Civil Service is an institution of great pragmatism
2. It is unwise to stir things up if you are unsure what demons you may accidentally unleash in the process.
3. 'If it ain't broke, don't fix it'
4. Many of the things which would be in a Bill already have the force of law through Orders in Council.
5. . Legislation would add nothing except perhaps greater legalism in the relationship between Ministers and civil servants
6. A Civil Service Act would make no sense unless it was part of a larger piece of legislation

◇ **Arguing in favour**

1. These arguments have weight but over the last decade the balance has gradually been tipping the other way.
2. A Civil Service Act could play a positive role in providing a framework for clarifying the boundaries
3. An Act would bring the Civil Service more directly under the oversight of Parliament
4. A slew of measures for reforming the civil services.

◇ Some of these measures would require a legislative backing

## 11.8.4 A Set of Values for Civil Servants

### 11.8.4.1 Redefining the Relationship Between Government and Civil Servants

- ◇ Article 310 provides for what is known as “doctrine of pleasure” as per which a member of the All India Service holds office during the pleasure of the President and a Government servant of a State holds office during the pleasure of the Governor.
  - \* However, this “doctrine of pleasure” is subject to the provisions of Article 311, which lays down the procedure for imposition of dismissal and removal.
  - \* The **Commission is of the view** that the status of a civil servant vis-à-vis the government could be spelt out in a new law to be enacted under Article 309.
    - ▷ Safeguards based on the principles of natural justice should be provided under the new law.
- ◇ The underlying principle for stipulating that only the appointment authority or a superior authority shall impose certain major penalties is that the accused government servant should be entitled to the judgement of a senior authority which is expected to take a fair and objective view of the case.
  - \* The Commission feels that it would be more logical to stipulate that major penalties of removal and dismissal should be imposed by an authority, in the organization where he/she is working
  - \* The Commission is of the view that the second safeguard – a mandatory enquiry - should be continued as this has been held to be a part of natural justice.

### 11.8.5 Reforms in the Recruitment Procedures to the Civil Services

- ◇ Reforms in the Procedure of Placement as well as Security of Tenure – a New Institutional Mechanism
- ◇ all positions in Government at the level of JS and above would constitute the ‘Senior management Pool’.
  - \* All appointments to positions in this pool shall be made on the recommendations of the Central Civil Services Authority,
- ◇ Creating New Organisational Structures in Government
- ◇ The constitution of the Central Civil Services Authority
- ◇ The Public Services Bill (as proposed by the Government)
- ◇ A performance management system to be laid down by the government for public service employees.
- ◇ Periodical review of pay structure, incentives etc.; making guidelines for promotional aspects and career advancement; imparting
- ◇ Constitution of an Authority known as the Central Public Services Authority.
  - \* submit an annual report to the Central Government indicating the compliance with the provisions of the Bill