



# ALAGAPPA UNIVERSITY

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## Directorate of Distance Education

**M.A. (History)**

**I - Semester**

**321 13**

**INDIAN ADMINISTRATION**

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## INTRODUCTION

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### NOTES

India is a federation of twenty-nine states and seven Union Territories and formally this federation is known as a Union. The Constitution of India lays down the framework defining fundamental political principles; establishes the structure, procedures, powers and duties of the government; and spells out the fundamental rights, directive principles and duties of citizens. The Indian administration is divided into executive, legislative and judiciary units. The executive is responsible for the overall governance and day-to-day administration of the country, the legislature sees to the making of laws and policies and the judiciary is responsible for the legal aspects of governance. The Indian Civil Service serves as the backbone of India and carries great respect and responsibilities.

This book, *Indian Administration*, discusses the history, evolution and present scenario of public administration in India. It will help students in gaining concise knowledge about the theories and issues relating to Indian public administration: its administrative system, the Constitutional authorities, the development and financial administration and administrative reforms.

This book is divided into fourteen units that follow the self-instruction mode with each unit beginning with an Introduction to the unit, followed by an outline of the Objectives. The detailed content is then presented in a simple but structured manner interspersed with Check Your Progress Questions to test the student's understanding of the topic. A Summary along with a list of Key Words and a set of Self-Assessment Questions and Exercises is also provided at the end of each unit for recapitulation.

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**BLOCK - I**  
**HISTORICAL CONTEXT**

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*Evolution of Indian  
Administration*

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**UNIT 1    EVOLUTION OF INDIAN  
ADMINISTRATION**

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**1.0    INTRODUCTION**

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With a well-organized judicial, police and espionage system, the Mauryas maintained a vast empire and was divided into many provinces called *chakra*. These provinces were further divided into districts (towns). The village was the lowest unit of administration. As the form of Mauryan kingdom was monarchical, the king was the commander of the army and chief justice. However, according to Kautilya, king's powers were not absolute. In order to function effectively, the king had the council of ministers to help him administer the vast kingdom.

The Mauryas had an efficient and an effective judicial system with the king as the supreme judge. According to Megasthenes, there were no written laws and penal system was harsh. The highest commander of the army was the king. The Mauryan Empire had a huge and well-organized army. The Mauryan state carried out welfare activities for the needy and cared for the holistic upliftment of people at large. The period also saw an unprecedented development of trade and industries. The Mauryan state formed a kind of administrative set up that the Gupta rulers followed in the later times.

The Gupta administration largely carried the features of the administrative systems of the Mauryas, the Satvahanas, the Scythians and the Kushanas. The Gupta governance was of high quality, people were happy and prosperous as the

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fifth century Chinese monk Fa Hien wrote. The administration was monarchical and feudal with the king as the axis of the central government and a council of ministers to advise and assist him in administrative affairs. As the empire was very vast, it was divided into several provinces known as *bhukti*, *bhoga* and *pradesha*. Such a division of the government was an indication of administrative intelligence and wisdom. The government of the Gupta kings was based on military power. The village was the smallest unit of administration and the judicial system was highly competent. The Gupta kings expanded their empire and established a very high quality of administration in the conquered regions.

The unit aims at analyzing the administration under the Mauryan and the Gupta periods.

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### 1.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the vastness of the Mauryan Empire
- Examine the administration under the Mauryan period
- Understand the organization of the society in the Mauryan period
- Enumerate the administrative system under the Gupta period
- Explain the features of the Gupta administration

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### 1.2 ADMINISTRATION UNDER THE MAURYAN PERIOD

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The Mauryas maintained a vast empire. The whole empire was divided into many provinces, which, in turn were divided into districts (towns). The lowest unit of administration was village. The Mauryas had developed a well-organized judicial, police and espionage system.

#### 1.2.1 Central Administration

The central administration had the following parts:

1. **King:** The form of Mauryan kingdom was monarchical. Kautilya maintains in the *Arthashastra*: 'The king should behave like a father.' The king was expected to be an efficient warrior, descendant of a high family, an able provider of justice and a wise administrator. Megasthenes opined that the king had to be just during his leisure. The king was the commander of the army and chief justice but his powers were not absolute. According to Kautilya, 'The king is not one who only enjoys the kingship but the king is one who does welfare of his subjects.'

2. **Council of ministers:** There used to be a council of ministers to provide assistance to the administrative work of the huge Mauryan Empire. The king selected only efficient people to his council. Kautilya believed that the vehicle of administration could not function on one wheel. In order to function effectively, the king had to have the council of ministers to help him administer the vast kingdom. Therefore, the king should appoint and take advice from his ministers. These ministers used to be honest, faithful and clever. Kautilya's *Arthashastra* describes about eighteen ministers with specific portfolios. Every minister used to head his department. The eighteen ministers were: Prince, Chief Minister, Commander, *Dauvarik*, *Purohit*, *Antarveshik*, Jailer, *Samaharta*, *Sannidhata*, *Pradestha*, *Nayak*, *Paur*, Chief Justice, *Karmantik*, Head of Council, *Dandpal*, *Durgpal* and *Antapal*. There used to be small committee of ministers to advise the king. Each committee consisted of ministers called *Mantrids*. According to Smith, 'The Mauryan kingdom was clearly divided into departments and minutely into category of workers whose works were defined in the absolute terms.'

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### 1.2.2 Administration of Provinces

The vast empire was divided into the following six provinces called *chakra*:

1. **Uttarapath:** This province included the cities of Gandhar, Kambhoj, Afghanistan, Kashmir and Punjab. The capital was Taxila.
2. **Madhyadesh:** This province included modern day Uttar Pradesh, Bengal and Bihar. The capital was Pataliputra.
3. **Dakshinapath:** This province included Vindhya and all the states of south India. The capital was Suvarnagiri.
4. **Avantirashtra:** Kathiawad, Gujarat, Rajputana and Malwa constituted this province. The capital was Ujjain.
5. **Kalinga:** It included modern Orissa and parts of Andhra Pradesh. Its capital was Toshali.
6. **Griharajya:** It covered the capital region of the empire. Its administration was looked after by the king with the help of *Mahamatras*.

The provincial administration was efficient and well organized. Every province was divided into several commissioners and each commissioner was further divided into districts and towns.

#### (i) Town administration

The town administration of the Mauryan Empire had a very special place in the ancient Indian history. Each town was under a chief called *Nagarak*. *Gop* and *Sthanik* were the officials to assist the *Nagarak*. Megasthenes' description of Pataliputra may be cited in this regard. 'This was a very big town of India. It was established on the banks of Ganga and Son rivers. Its length was 9 ½ miles and

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breadth 3 or 4 miles.' For the administration of town, there were six committees of five people each. Each committee had its work schedule. These committees were Artisan committee, Foreign committee, Population committee, Commerce committee, Trade committee and Tax committee.

### (ii) Village administration

Village was the basic unit of administration, where the chief official was called *Gramik*. According to the *Arthashastra*, the senior president of *Gramik* was called *Gop* who had to look after the administration of 5–6 villages. A *Sthanik* was superior to a *Gop*. The administration of village and the quality of life of the villagers were also satisfactory. The *Gramik* used to be elected by the villagers by a show of hands.

### (iii) Penal and judicial system

The Mauryas had an efficient and an effective judicial system with the king as the supreme judge. According to Kautilya, 'If the king punishes anyone wrongly, then he himself should be punished three times the same punishment.' The courts were of two kinds: *Dharmasthaniya* courts, which were equivalent to modern civil courts, and *Kantakshodhan* courts, which heard criminal matters. Apart from these two courts, the village panchayats also worked in their initial stages.

The penal system was very harsh. Big punishments were given even for small crimes. Megasthenes has written that Indians had no written laws but due to harsh penal system, death penalty was awarded even for petty crimes.

### (iv) Army

The highest commander of the army was the king. The Mauryan dynasty was established on bloodshed and hardships and in order to maintain it; the same discipline was required. A huge and well organized army was required for this purpose. Chandragupta maintained it religiously. The army was divided into six parts: Infantry, Navy, Cavalry, Chariot, Elephant riders and Services. Plini has written that the huge army was maintained by a commissioner.

There were five forts: stable fort, water fort, forest fort, hilly fort and desert fort. There were several factories for manufacturing arms and weapons. Megasthenes maintains, 'The soldiers got enough wages so that they could live life comfortably. Chandragupta with the help of powerful army succeeded in establishing the vast empire.'

### (v) Police and espionage systems

The Mauryan espionage system was very efficient. Its chief official was *Mahapatra Pasarp* to whom secret agents called *Char* reported. The secret services comprised:

1. **Sansthas:** They stayed at one place and delivered secret news and consisted of students and common men.

2. **Sancharas:** They travelled from one place to another and gathered news. Apart from this, secret writing was also known.

### 1.2.3 Socio-Economic Changes under the Mauryan Empire

The chief source of revenue was the land. The income from the state's land was called *sita*, while the income from the farmers' land was called *bhag*. 1/6 part of a farmer's total produce was taken by the state as revenue. The income from the towns was called *durg*. People were generally affluent and behaved kindly with the have-nots.

#### (i) Welfare measures

The Mauryan state carried out welfare activities for the needy and cared for the holistic upliftment of people at large. The state developed transportation facilities and constructed rest houses on highways. It also arranged for shadowy trees and drinking water for travellers. Apart from these, the state also constructed hospitals for the poor.

The Mauryan administration was very well organized. The Mauryas formed a kind of administrative set up that the Gupta rulers followed in the later times. Raichaudhary opines: 'In order to unite the bits and pieces of India, to give a practical form to the ideals of the universal king and to bring this country with the rest of the world, a courageous and gallant man was needed and it was the luck of this country that very soon it got such a universal king called Chandragupta. He founded a well-organized kingdom.'

#### (ii) Mauryan society

The Mauryan period is famous for the organization of the society in the Indian history. The chief specialties of the social organization of this time may be discussed under the following heads:

- **Social condition:** People were happy and affluent during this period. Not only the necessities of personal life but the pleasure of social life was also available to these people.
- **Varnashram system:** The society was divided into various *varnas*. According to *Arthashastra*, the society was divided into four *varnas*: Brahmanas, Kshatriya, Vaishya and Sudra, but Megasthenes has written that the society was divided into seven castes. These castes were farmer, philosopher, *gop shikari*, labourer, kshatriya, president and minister or *sabhasad*. Once someone relinquished his profession, he was not allowed to practise the profession again. The description of seven castes by Megasthenes does not seem proper, but it was definite that the caste system had become complex. Life was divided into four *Ashramas*: *Brahmacharya*, *Grihasthashram*, *Vanprasthashram* and *Sanyas*. According to Kautilya, truth, *suchita*, non-violence, compassion, forgiveness, etc., were necessary for all the *varnas*. Slavery was also in vogue.

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- **Marriage:** The basis of family life was marriage. The main reason for marriage was the production of children. Usually marriages took place within the same castes. It was considered to be a main ritual. Marriage was of eight types: *Brahma, Dev, Arya, Prajapatya, Aasur, Gandharv, Rakshas* and *Paisach*.
- **Condition of women:** The condition of women in the Mauryan age was worse as compared to the Vedic period. Sati and widow remarriage was practised. After the death of husbands, the wives happily burnt themselves on the pyre of their husbands and those who restrained from doing so were not considered respectful. Women had no individual, civil or political rights. There are also evidences of prostitution. Kautilya maintained that a prostitute gave a part of her income as tax. Women had right to basic education.
- **Sources of entertainment:** The abundance and variety of sources of entertainment reflect the affluence of the materialistic life of the common people during the Mauryan period. The chief sources of entertainment were hunting, wrestling, chariot racing, horse racing, animal fights, dance, *chaupad* and music. People celebrated many festivals.

### (iii) Economic condition

The economic life during the Mauryan period had prospered abundantly. Agriculture, trade and industry developed and strengthened the economic conditions of people. The chief occupation in the Mauryan period was agriculture. The economic life was dependent on agriculture. There were three types of lands: *krista* (arable land), *akrista* (non-arable land) and *sthal* (barren land). The chief produces were wheat, rice, legume, cotton and sesame, of which a certain percentage was taken by the state as tax. Megasthenes has written that India had never experienced famine; the farmers were affluent and happy.

### (iv) Religious life

The foundation of the Mauryan Empire witnessed a major transformation in religious beliefs of the Indians. In this period, Brahminical religion was in dominance. People believed in rituals promoted by the Brahmins and prayed to various Vedic gods and goddesses like Indra, Varun, Skandh, Shiv and Vishnu. Yagna and other rituals were performed for personal benefits. Buddhism became famous due to Ashoka's propagation of it. Apart from Buddhism; Jainism was also practised. One other religion which was constantly growing during this period was *Bhagwat* religion, which gave more emphasis on the complete devotion and surrender to one's own divine.

### 1.2.4 Trade and Commerce in the Mauryan Period

The Mauryan period saw an unprecedented development of trade and industries. Kautilya's accounts state that homemade silk and Chinese silk industry was quite developed during the Mauryan period. Apart from these, the industries producing

metal and ivory objects were also developing. Pot makers, blacksmiths and carpenters had also diversified their profession.

### **(i) Commerce**

Imports as well as exports were in vogue during this period. Clothes, jewellery, artefacts, scent, horses, etc., were exported. According to Greek writers, trade was carried out on land as well as sea routes. Mention of weaver and blacksmith organizations, which had political and economic powers, is also available in contemporary accounts. The foreign and inland trade got promotion from affluent industries.

### **(ii) Trade**

The growth of agriculture and different professions gave a great fillip to trade. There was a brisk internal trade. Fa-Hein's description reveals that traders were given full freedom. They could easily move from one place to another. During this period, a good trade relation existed with foreign countries also. For internal trade, there were good means of transportation. The people carried their goods from place to place through seas and land routes. In those days, Ujjain, Banaras, Vaisali, Gaya, Prayaga, Pataliputra and Mathura were the important centres of trade. These towns were linked through a network of roads. The roads were safe and Fa-Hien did not come across any road accident. The merchants carried their goods on bullock carts. Rivers Ganga, Krishna, Godavari and Brahmaputra were utilized for trade. Trade commodities are not known definitely but it can at least be said that it must have been carried on in cloth, wheat, spices, salt, diamonds and precious stones.

Trade through rivers proved cheap and comfortable. During this period, the ship-building industry also flourished. Tamralipti, a port in Bengal, was an important centre from where trade was carried on with the eastern countries like China, Ceylon, Java and Sumatra. In Andhra, there were many ports on the banks of rivers Godavari and Krishna. Tondai was a famous port of the Chola state. These ports not only helped trade flourish but also carried Indian culture and civilization in all parts of Asia. Ports also helped trade with western countries. There are various evidences on the basis of which it can be said that the Roman merchants used to trade through these ports. On important places, lighthouses were erected for sailors' convenience. Kalyana, Chol, Broach, Cambay were the important ports of South India through which pearls, precious stones, clothes, scents, spices, medicines, coconut and ivory were exported. Copper, tin, lead, dates and horses were other important articles of import.

## **NOTES**

### **Check Your Progress**

1. Which are the main parts of the central administration in the Mauryan Empire.
2. List the provinces of the Mauryan Empire.

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## 1.3 ADMINISTRATION UNDER THE GUPTA PERIOD

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### NOTES

The Gupta administrative system was based on earlier historical tradition to which several amendments had been made to adapt it to the contemporary situation. Gupta administration featured elements of the administrative systems of the Mauryas, the Satvahanas, the Scythians and the Kushanas. According to Chinese accounts, 'The Gupta administrative system was always appreciable because it was liberal and in public interest. And the kings could not have been unrestrained and autocratic in spite of having limitless power.' Undoubtedly, the Gupta governance was of high quality. The fifth century Chinese monk Fa Hien writes about this period, 'The people were happy and prosperous. The people had to give neither account of small things in their houses nor attendance before any justices or kings.'

### Features of the Gupta Administration

The Gupta government had the following two bases:

1. **Monarchy:** The nature of the Gupta administration was monarchical, with the emperor as the supreme authority. In the Prayaga Edict, Samudragupta has been referred to as a king who lived on earth like god.
2. **Feudal system:** The Gupta Empire was vast and, therefore, ruling over it was very difficult without decentralization. Hence, the feudal system was introduced.

### Central Government

#### (i) King

The king was the axis of the central government because it was a monarchy. The king was the highest official in the government, army, justice and other aspects of administration. According to the Prayaga edict, 'It is the duty of the king to provide good governance. An ideal king is one who has the firm resolve to provide his people from the core of his heart all comfort and happiness.' Officials were appointed and sacked by the king. There was no such concept that the king had the right to be autocratic on account of having a divine character. In spite of having a divine character, serving in the battlefield and obtaining suitable education were essential for the king. The king took up numerous titles such as *Maharajadhiraja*, *Parameshwara Paramamdaivat* and *Rajadhiraja*.

#### (ii) Council of ministers

There was a council of ministers to advise and assist the king in administrative affairs. As a basis for governance, Kautilya's concept that the discharge of royal functions should be done with mutual co-operation and goodwill was recognized.

Therefore, it was expedient for the king to appoint a council of ministers to get co-operation and proper advice. Ministers were appointed on the basis of their qualifications. However, this position later became hereditary. Names of some prominent ministers have come down to us. They include *Mahadandanayaka*, *Mahapratihara*, *Mahasandhivighraha*, *Bhandagaridhikrita*, *Mahapaksapatalika* and *Dandapashika*. Although the king took their advice, he was not bound to accept it.

### (iii) Provincial administration

The Gupta Empire was very vast. Direct control of such a vast empire was not possible. Hence, it was divided into several provinces. Provinces were known as *bhukti*, *bhoga* and *pradesha*. Such a division of the government was an indication of administrative intelligence and wisdom. Provincial rulers were appointed by the king. They were known as *uparika maharaja*. They generally belonged to the royal family. Their duties were maintenance of peace, law and order in the empire, public interest, and obeying the emperor.

### (iv) Visaya (district) administration

The province was divided into *visayas* (districts). The head official of the visaya was called *visayapati*. He was appointed by the king or *uparika*. Other officials of the province included *sarthavaha*, *prathamakulika*, *prathama kayastha* and *pustapala*.

### (v) Town administration

There were several towns in a province. The chief of the town was known as *nagarapati*. He was appointed by the *visayapati*. Each town had a council, the functions of which were to collect tax, take care of the public health and run the town administration.

### (vi) Village administration

The village was the smallest unit of administration. The area of a village was fixed. The head of the village was called *gramapati* or *mahattar*. A grama panchayat was indeed a small democracy. People in the grama panchayat performed acts of simple officials. Sub-committees were constituted in the panchayats if there was more work. There were separate committees for the management of irrigation, agriculture, religion, etc.

### (vii) Judicial system

The judicial system was highly competent. It is evident from Narada Smriti that there were four types of judicial courts – (1) *royal* (2) *puga* (3) *guild* and (4) *family*. According to Fa Hien, ‘The punishment during the Gupta age was not severe. Capital punishment or punishment by amputation was rarely carried out.’

## NOTES

He adds that there were few crimes and criminals were only given medium or high economic punishment. The decision of the king was final. However, according to Kalidasa and Visakhadatta, punishments were very severe.

## NOTES

### (viii) Military organization

A big and strong army was necessary for the defense of such a vast empire. The government of the Gupta kings was based on military power. The army had four parts – *infantry, chariot, cavalry* and *elephants*. The smallest unit of infantry was called *chamuya*. The chief of the army was known as *mahasenapati* or *mahabaladhikrita*. ‘The highest official of the army was the *senapati* (general). *Mahadandanayaka, ranabhandagarika, mandashvapati* were under him. No discrimination was made in the military service in respect of any specific caste. The army was under the control of the king. Provinces had some army and they helped the king in the time of need.’ There was an armoury to store weapons.

### (ix) Revenue system

The main source of income was land-tax. The share of produce, which was given to the king or state, was called *bhaga*. There were five kinds of tax that made up the income of the state: (1) controlled tax such as land-tax, (2) periodical tax, (3) economic penalty (4) income from the state’s wealth and (5) income from the subjugated feudal. It is evident from Kalidasa’s *Raghuvamsha* that the ideal of the tax-collection of the Gupta king was people’s welfare. One-sixth of the produce was levied as land-tax. The Guptas’ empire was an ideal Hindu state, and they adopted the ancient system to run it. During this time, state tax was not a kind of punishment.

### Demerits of the Gupta Administration System

The Gupta administration was extremely competent. Its organization in the centre and provinces was very able. The Gupta emperors expanded their empire and established a very high quality of balanced and appreciable administration in the conquered regions, the parallel of which can hardly be found. However, it suffered from a few demerits as well. It was, above all, a feudal system. Feudal rulers became autocratic. As the provincial rulers were conferred more powers, this proved to be disastrous for the Gupta empire in the course of time.

#### Check Your Progress

3. How did the Gupta period adapt to the earlier and contemporary administrative systems?
4. List the bases of the Gupta government.
5. How did the king rule under the Gupta administration?

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## 1.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. The central administration had the following parts:
  - (i) King: The form of Mauryan kingdom was monarchical. The king was expected to be an efficient warrior, descendant of a high family, an able provider of justice and a wise administrator.
  - (ii) Council of ministers: There used to be a council of ministers to provide assistance to the administrative work of the huge Mauryan Empire. The king selected only efficient people to his council.
2. The Mauryan Empire was divided into the following six provinces called *chakra*:
  - (i) *Uttarapath*: This province included the cities of Gandhar, Kambhoj, Afghanistan, Kashmir and Punjab. The capital was Taxila.
  - (ii) *Madhyadesh*: This province included modern day Uttar Pradesh, Bengal and Bihar. The capital was Pataliputra.
  - (iii) *Dakshinapath*: This province included Vindhya and all the states of south India. The capital was Suvarnagiri.
  - (iv) *Avantirashtra*: Kathiawad, Gujarat, Rajputana and Malwa constituted this province. The capital was Ujjain.
  - (v) *Kalinga*: It included modern Orissa and parts of Andhra Pradesh. Its capital was Toshali.
  - (vi) *Griharajya*: It covered the capital region of the empire. Its administration was looked after by the king with the help of Mahamatras.
3. The Gupta administrative system was based on earlier historical tradition to which several amendments had been made to adapt it to the contemporary situation. Gupta administration featured elements of the administrative systems of the Mauryas, the Satvahanas, the Scythians and the Kushanas.
4. The Gupta government had the following two bases:
  - (i) Monarchy: The nature of the Gupta administration was monarchical, with the emperor as the supreme authority. In the Prayaga Edict, Samudragupta has been referred to as a king who lived on earth like god.
  - (ii) Feudal system: The Gupta Empire was vast and, therefore, ruling over it was very difficult without decentralization. Hence, the feudal system was introduced.
5. The king was the axis of the central government in the Gupta Administration because it was a monarchy. The king was the highest official in the government, army, justice and other aspects of administration.

## NOTES

## NOTES

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### 1.5 SUMMARY

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- The Mauryas maintained a vast empire. The whole empire was divided into many provinces, which, in turn were divided into districts (towns). The lowest unit of administration was village. The Mauryas had developed a well-organized judicial, police and espionage system.
- There used to be a council of ministers to provide assistance to the administrative work of the huge Mauryan Empire. The king selected only efficient people to his council. Kautilya believed that the vehicle of administration could not function on one wheel. In order to function effectively, the king had to have the council of ministers to help him administer the vast kingdom.
- For the administration of town, there were six committees of five people each. Each committee had its work schedule. These committees were Artisan committee, Foreign committee, Population committee, Commerce committee, Trade committee and Tax committee.
- The Mauryas had an efficient and an effective judicial system with the king as the supreme judge. The penal system was very harsh. Big punishments were given even for small crimes. Megasthenes has written that Indians had no written laws but due to harsh penal system, death penalty was awarded even for petty crimes.
- The Mauryan dynasty was established on bloodshed and hardships and in order to maintain it; the same discipline was required. A huge and well organized army was required for this purpose. Chandragupta maintained it religiously.
- The Mauryan state carried out welfare activities for the needy and cared for the holistic upliftment of people at large. The state developed transportation facilities and constructed rest houses on highways. It also arranged for shadowy trees and drinking water for travellers. Apart from these, the state also constructed hospitals for the poor.
- The Gupta administrative system was based on earlier historical tradition to which several amendments had been made to adapt it to the contemporary situation. Gupta administration featured elements of the administrative systems of the Mauryas, the Satvahanas, the Scythians and the Kushanas. According to Chinese accounts, 'The Gupta administrative system was always appreciable because it was liberal and in public interest. And the kings could not have been unrestrained and autocratic in spite of having limitless power.'
- The king was the axis of the central government because it was a monarchy. The king was the highest official in the government, army, justice and other aspects of administration. According to the Prayaga edict, 'It is the duty of

the king to provide good governance. An ideal king is one who has the firm resolve to provide his people from the core of his heart all comfort and happiness.’

- There was a council of ministers to advise and assist the king in administrative affairs. As a basis for governance, Kautilya’s concept that the discharge of royal functions should be done with mutual co-operation and goodwill was recognized. Therefore, it was expedient for the king to appoint a council of ministers to get co-operation and proper advice.
- The Gupta Empire was very vast. Direct control of such a vast empire was not possible. Hence, it was divided into several provinces. Provinces were known as *bhukti*, *bhoga* and *pradesha*. Such a division of the government was an indication of administrative intelligence and wisdom.
- The Gupta administration was extremely competent. Its organization in the centre and provinces was very able. The Gupta emperors expanded their empire and established a very high quality of balanced and appreciable administration in the conquered regions, the parallel of which can hardly be found.

## NOTES

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### 1.6 KEY WORDS

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- **Arthashastra:** Kautilya’s *Arthashastra* is an excellent treatise on statecraft, economic policy and military strategy.
- **Feudal System:** It was a way of structuring society around relationships derived from the holding of land in exchange for service or labour.
- **The Prayag Edict:** It is a eulogy. This is the name given to the Allahabad Pillar. It is an Ashokan pillar but has 4 different inscriptions.
- **Raghuvamsha:** This is a Sanskrit epic poem by the most celebrated Sanskrit poet, Kalidasa. Composed in 19 cantos, the stories related to the Raghu dynasty.

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### 1.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Discuss the authority of king in the Mauryan state.
2. Write a short note on the role of town administration during the Mauryan period.
3. Discuss the welfare measures carried out in the Mauryan state.
4. Write a brief note on the condition of women in the Mauryan age.

5. Discuss trade and commerce during the Mauryan Empire.
6. Write a brief note the judicial system in the Gupta period.
7. Write a brief note on demerits of the Gupta administration

## NOTES

### Long-Answer Questions

1. Discuss the structure of the central administration under the Mauryan Empire.
2. Analyse the selection process of various ministers during the Mauryan period.
3. Discuss the penal and judicial system of the Mauryan state'.
4. Analyse the role of the army in the Mauryan period.
5. Discuss the various socio-economic changes during the period.
6. Analyse the features of the Gupta administration.
7. Write a comprehensive analysis on the revenue system under the Gupta regime.

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## 1.8 FURTHER READINGS

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## UNIT 2 THE CHOLA DYNASTY, DELHI SULTANATE AND THE MUGHAL PERIOD

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*The Chola Dynasty,  
Delhi Sultanate and  
the Mughal Period*

### NOTES

#### Structure

- 2.0 Introduction
- 2.1 Objectives
- 2.2 The Chola Administration
- 2.3 The Delhi Sultanate Administration
  - 2.3.1 The Central Government
  - 2.3.2 The Administration of Provinces (IQTAS)
  - 2.3.3 Finance Administration
- 2.4 Administration in the Mughal Period
  - 2.4.1 Salient Features of the Mughal Administration
  - 2.4.2 The Emperor
  - 2.4.3 The King's Council
  - 2.4.4 Central Ministers and their Duties
  - 2.4.5 Chief Departments of Administration
  - 2.4.6 Local Administration
  - 2.4.7 The Mansabdari System
- 2.5 Answers to Check Your Progress Questions
- 2.6 Summary
- 2.7 Key Words
- 2.8 Self Assessment Questions and Exercises
- 2.9 Further Readings

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### 2.0 INTRODUCTION

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Although concentrated mainly around the peninsula and Southeast Asia, the Chola was the most important dynasty in the subcontinent during the period. The nucleus of the Chola power in the late 9th century was Thanjavur. The Empire was extensive and prosperous and the rulers enjoyed high powers and prestige. The position of the king was hereditary and, normally, the eldest son of the king was nominated as the successor. It maintained powerful armies and navies and spent huge amounts to maintain an efficient cavalry and imported the best horses from the Arab countries to equip their army. The empire was divided into Mandalas for the convenience of administration. The arrangement of local self-government has been regarded as the basic feature of the administration of the Cholas.

In the Delhi Sultanate, the head of the State was the Sultan who enjoyed unlimited powers in every sphere of State activity. There was no law of succession during the period of the Sultanate. In cases where a competent successor was not available, the nobles got the right to choose the Sultan. Iltutmish, all brothers of

## NOTES

Sultana Raziyya, Qutb-ud-din Mubarak Khilji and Firuz Tughluq were chosen Sultans with the consent of the nobility. Different ministers and other officials assisted the Sultan in administering the State. Besides, the Sultan created several other departments and appointed officers to carry on certain specific duties.

The Mughal administration, known as the *mansbadri* system, was in essence a military one because every official was expected to enroll in the army. The unit aims at analyzing the administration under the Chola dynasty, the Delhi Sultanate and the Mughal periods and also explains comprehensively about their power structure, strengths, and socio-economic situations, etc.

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## 2.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the administrative system of the Chola dynasty
- Enumerate the arrangement of local self-government under the Chola dynasty
- Explain the role of the Sultan and the succession policy in the Delhi Sultanate
- Explain the dominance of the Mughal Empire
- Examine the salient features of the Mughal period
- Understand the role of king and central ministers during the Mughal period

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## 2.2 THE CHOLA ADMINISTRATION

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The Chola dynasty was one of the most important ruling dynasties in ancient India. It maintained a well-organized administrative system. It is famous for its promotion to local self-government.

### **The Central and Provincial Administration**

The king was the head of the administration and all powers were concentrated in his hands. The Chola king assumed high sounding titles. Tanjore, Gangaikonda-Cholapuram, Mudikondan and Kanchi remained the various capitals of different Chola rulers at various times. The Chola Empire was extensive and prosperous and the rulers enjoyed high powers and prestige. The images of the kings and their wives were also maintained in various temples which indicated that they believed in the divine origin of kingship. Yet, the Chola rulers were not despotic rulers. They accepted the welfare of their subjects as their primary duty. The Chola rulers started the practice of electing their successor or Yuvaraja and of associating him with administration during their life-time. That is why there were no wars of succession among the Cholas. The position of the king was hereditary and, normally, the eldest son of the king was nominated as the successor. But sometimes, if the eldest was found incompetent, the successor was chosen from amongst the younger sons or the brothers of the king.

The king was assisted by ministers and other high officials of the state in administration who were given high titles, honours and lands as Jagirs. The Cholas had organized an efficient bureaucracy and their administration was successful.

### **Army and Warfare**

The Cholas maintained powerful armies and navies. The infantry, the cavalry and the war elephants constituted the main parts of the army of the Cholas. It seems that the Cholas had seventy regiments. Probably, the army consisted of 1, 50, 000 soldiers and 60,000 war elephants. The Cholas spent huge amounts to maintain an efficient cavalry and imported the best horses from the Arab countries to equip their army. During peace time, the army remained in cantonments where proper arrangements were made for its training and discipline. The kings kept their personal bodyguards, called the Veiaikkaras, who were sworn to defend the persons of the king at the cost of their lives. The soldiers and the officers, who distinguished themselves in war, were given titles like Kshatriyasikhamani. The credit of maintaining a strong navy, both for offensive and defensive purposes, went first to the Cholas among Indian rulers. The Cholas attacked and forced the kings of Ceylon and Srivijaya Empire to accept their suzerainty, defended their trade on high seas and became the masters of the Bay of Bengal. But, the Cholas did not observe the Hindu morality of warfare, i.e., Dharma Yudha. The Chola army caused much injury to the civil population, including women. The soldiers engaged themselves in loot, destruction, killing of civil population and dishonouring of woman during warfare.

### **Revenue System**

The primary source of the income of the state was land revenue. Rajaraja I took one-third of the produce as land revenue from his subjects. The revenue was collected both in cash and kind. The land was divided into different categories on the basis of its productivity and it was measured and revenue was charged upon the actual produce. The revenue was charged directly from the cultivators but, in certain cases, from the entire village as one unit. The officers observed severity while collecting the revenue. However, the Cholas also tried their best to develop artificial means of irrigation. They built several dams on the river Kaveri and also made lakes for the purposes of irrigation. Besides land revenue, taxes on trade, various professions, forests, mines, irrigation, salt etc., were other sources of the income of the state. The main items of expenditure of the state were the expenses of the king and his palace, the army, the civil services and public welfare works.

### **Administrative Divisions**

The empire was divided into Mandalas for the convenience of administration. They were either seven or eight in number. The Mandalas were divided into Nadus and Nadus into Kurrams or Kottams. Every Kurram had several villages, which were the smallest units of administration.

### **NOTES**

## NOTES

### Local Self-Government

The arrangement of local self-government has been regarded as the basic feature of the administration of the Cholas. Probably, no other ruling dynasty of either north or south had such an extensive arrangement of local self-government at different units of the administration as the Cholas. The Mahasabha of the village played an important role in the administration of the village. Besides, there was a provision of representative bodies at the level of Kurram, Nadu and Mandal as well, which all helped in the administration. An assessment can be made of the nature of the local self-government by the rights and duties of the Mahasabha of the village.

For the formation of Mahasabha, first a village was divided into thirty wards. The people of each ward used to nominate a few people possessing the ownership of about an acre and a half of land, residence in a house built at one's own site, aged between thirty-five and seventy, possessing knowledge of one Veda and a Bhahsya. Moreover, he or any of his relations must not have committed any wrong or received punishment. Besides those who had been on any of the committees for the past three years and those who had been on the committee but had failed to submit the accounts, were excluded from being the nominees. From among the persons duly nominated, one was chosen from every ward to be the member of the Mahasabha. At this stage the members were not chosen by election but by the lot-system. Names of persons were written on palm-leaf tickets which were put into a pot and shuffled and a young boy was directed to take out the ticket. The same procedure was followed for the formation of the different committees of the Mahasaha. Thus, the Mahasabha of a village was constituted of educated and economically independent persons of the village and in all, had thirty members. There were also different committees of the Mahasabha to look after different things concerning the village like the judicial committee, the garden committee, the committee to look after tanks and irrigation, etc.

The Mahasabha enjoyed wide powers. It possessed proprietary rights over community lands and controlled the private lands within its jurisdiction. The central or the provincial government consulted the Mahasabha of the village concerning any change in the management of the land of the village. It helped the officials of the government in the assessment of production and revenue of the village. It collected revenue and, in cases of default, had the power to sell the land in question by public auction. It looked after the reclamation of waste land and forest which were within its jurisdiction. It imposed taxes and appointed paid officials to look after the administration of the village. The judicial committee of the Mahasabha, called the Nyayattar, settled cases of disputes, both civil and criminal. It looked after the roads, cleanliness, lighting of temples, tanks, rest-house and security of the village.

Thus, the Mahasabha looked after the civic, police judicial, revenue, and all other functions concerning the village. It was an autonomous body and functioned mostly independently. The central government interfered in its working only when it was felt absolutely necessary. Thus, the villages under the administration of the Cholas were practically 'little republics' which drew admiration from even British administrators. Dr K.A. Nilakanta Sastri maintains that it was an able bureaucracy which in various ways fostered a lively sense of citizenship. There was a high standard of administrative efficiency and purity. The highest ever attained by the Hindu state.

### **Social Condition**

Society was based upon *Varnaashramdharma* but different *varnas* or castes lived peacefully with each other. Inter-caste marriages were permitted and it had led to the formation of different sub-castes. The position of women was good. They were free from many restrictions which came to be imposed on them by the Hindu society later on. There was no purdah system and women participated freely in all social and religious functions. They inherited and owned property in their own right. There were stray cases of Sati but it was not a widely practiced system. Normally monogamy was the prevalent rule but the kings, the *Samantas* and the rich people kept several wives. The Devadasi system was also in vogue and there were prostitutes in cities. The slave system was also prevalent.

### **Economic Condition**

The Chola Empire enjoyed a widespread prosperity. The Cholas had arranged for proper means of irrigation which had helped in the reclamation of waste land and increased agricultural production which provided the base for the prosperity of both the rulers and the ruled. The Cholas maintained peace and security within their territory, constructed well-connected roads, provided safety to travelers and traders and, above all, kept a strong navy on high seas. In such conditions, trade, both internal and external, grew which resulted in increased prosperity of the state. The traders had brisk trade with China, Malaya, Western gulf and the island South-East Asia. Industries also grew up under the protection of the Cholas. Cloth, ornaments, metals and their different products, production of salt and constructions of images and temples were a few important industries which grew and prospered under the protection of the Cholas.

#### **Check Your Progress**

1. What was the central administration and succession plan in the Chola dynasty?
2. How did the revenue system during the Chola period work?
3. What role did the Mahasabha play in the Chola dynasty?

### **NOTES**

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## 2.3 THE DELHI SULTANATE ADMINISTRATION

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We will begin our study of the administration of the Delhi Sultanate by looking at the practices at the Delhi court.

### 2.3.1 The Central Government

#### I. The Sultan

In the Delhi Sultanate, the head of the State was the Sultan who enjoyed unlimited powers in every sphere of State activity. There was no law of succession during the period of the Sultanate. It was not necessary that the eldest son or the daughter of the Sultan should succeed the father. However, tradition developed from the reign of Sultan Iltutmish that the throne belonged to the eldest son or the daughter of the Sultan. Besides, the Sultan also had the right to nominate anyone as his successor to the throne. Thus, the principle of hereditary succession and nomination of successor by the Sultan came into vogue. Raziyya, Shihab-ud-din Khilji and Tughluq Shah were accepted rulers on the basis of one of these principles. However, the experiment of placing a woman or a minor on the throne of Delhi failed. Therefore, the practice developed that the right of heredity was to be applicable only in cases of a competent successor. In cases where a competent successor was not available, the nobles got the right to choose the Sultan. Iltutmish, all brothers of Sultana Raziyya, Qutb-ud-din Mubarak Khilji and Firuz Tughluq were chosen Sultans with the consent of the nobility. In spite of this tradition, the sword was also used to decide the issue of succession. Ala-ud-din Khilji, Khirz Khan and Bahlul Lodi ascended to the throne by sheer force.

The Sultan, according to his strength, behaved as an all-powerful despot. The Sultan was the absolute master of the State and all legislative, executive and judicial powers vested in him. He was also the highest commander of the army. All ministers, nobles and other officers of the State were appointed, promoted and dismissed by him. His order was the law in his State. But, these were his legal powers. Their effectiveness, in practice, depended on his military strength. The nobility also wielded influence, particularly if the Sultan was weak. The Ulema, being interpreter of Islamic laws, also influenced the policy of the Sultan. Only Alauddin Khilji and Mubarak Khilji refused to accept the interference of the Ulema in matters of the State. Apart from the maintenance of law and order within the empire, its protection from foreign invasions, another important duty of the Sultan was to extend its territories.

#### II. Ministers and Other Officers

Different ministers and other officials assisted the Sultan in administering the State. They were as follows:

- (i) **The Naib (Naib-i-Mamlukata):** This post was created during the reign of Sultan Bahram Shah after the fall of Sultan Raziyya. The nobles had chosen one among themselves as the Naib who, in fact, enjoyed all powers of the

State. However, this post was effective only during the reigns of weak rulers. In such cases, the post of Naib was next only to the Sultan and was above the Vazir. The powerful Sultans either abolished this post altogether or gave it to a noble simply to honour him, as was done by Alauddin Khilji. In that case, Naib enjoyed no special powers in administration.

- (ii) **The Vazir:** The Prime Minister was called the Vazir. He was primarily the head of the finance department called the Dewan-i-Vizarat and was empowered not only to supervise the income and expenditure of the State, but of all other departments as well. Whenever there was no post of Naib, the position of the Vazir was next to the Sultan. He, therefore, supervised the entire administration and looked after State matters whenever the Sultan fell ill or was out of the capital. He appointed officers for the different posts and performed various other duties. He was assisted by many officers and subordinates, most important among them being the Naib-Vazir and the Mushrif-i-Mamalik (auditor-general).
- (iii) **Ariz-i-mumalik:** He was the head of the department of Diwan-i-Arz, and in that capacity, was the controller-general of the military department. He recruited soldiers, fixed their salaries, arranged for their supplies and inspection and maintained the descriptive rolls of horses and men. He was, however, not the commander of the army, though the Sultan assigned him this responsibility on certain occasions.
- (iv) **Dabir-i-Khas (Amir-Munshi):** He was the head of the department of Diwan-i-Insha. All formal or confidential correspondence between the Sultan and the rulers of other states or subordinate chiefs, governors and officials was carried out by his department. He was assisted by a large number of Dabirs (writers) in his work.
- (v) **Diwan-i-Risalat:** He was the minister of foreign affairs and looked after the diplomatic relations with foreign states and the welfare of foreign diplomats and ambassadors.
- (vi) **Sadr-us-Sudur:** He was the head of the religious department. The propagation of Islam, the observance of its principles and protection of privileges of Muslims, constituted his primary duties. He controlled the funds of the tax called zakat, which was a religious tax on the Muslims. He provided financial assistance to mosques, Maqtabs (educational institutions for the Muslims), and Muslim scholars and religious saints. He also looked after the distribution of charity by the state.
- (vii) **Qazi-ul-quzat:** He was the highest judicial officer in the state after the Sultan. He had both original and appellate jurisdiction. Mostly, the offices of Sadr-us-sudur and Qazi-ul-quzat were combined in one person.
- (viii) **Barid-i-Mamalika:** He was the head of the intelligence and postal department. He was responsible for the espionage system, collection of news and their quick dispatch and disposal.

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Besides, the Sultan created several other departments and appointed officers to carry on certain specific duties. For instance, Muhammad Tughluq created the department of Diwan-i-Amir Kohi or the department of agriculture. The Sultan also kept his personal bodyguards and other officers to manage his household. The Vakil-i-Dar-Mahal looked after the officials of the palace; the Barbak maintained the tradition of the court and its glamour; Amir-i-hajib looked after the visitors to the Sultan; Amir-i-Shikar-i-shahi arranged for the hunting parties of the Sultan; Amir-i-majlis-i-Shahi looked after the festivals of the state; and Sar-i-Jahandar were the Sultan's bodyguards. The Sultan also maintained various *karkhanas* to manufacture different articles such as clothes, arms, etc., and various officers were appointed there. Many officers among these were the trusted officers of the Sultan. They did not enjoy the rank of ministers but as some of them looked after the personal security and comfort of the Sultan; they were very close to him and wielded good influence.

### 2.3.2 The Administration of Provinces (IQTAS)

The Delhi Sultanate was divided into provinces for the convenience of administration. They were called Iqtas. The number of Iqtas was not fixed and there was no uniformity in their administration. The head of the Iqta was called by different names, i.e., Naib Sultan, Nazim, Muqti or Wali. During the reign of Alauddin Khilji, Iqtas were divided into two categories. First, the Iqtas which were under the Delhi Sultanate from the beginning and the second, the Iqtas which were brought under the control of the Delhi Sultanate during the rule of Alauddin Khilji. The Muqtis or the Wali of the second category of Iqta were given a little more extensive powers so that the newly added territory could be brought about under the effective control of the Sultanate. Besides, these were tributary states of South India. The Hindu rulers of the South who had accepted the suzerainty of the Sultanate were independent in matters of internal administration, but paid yearly tribute to the Sultan. The Walis or the Muqtis enjoyed the same powers in relation to their Iqtas as the Sultan enjoyed in the empire.

However, they were under the supervision of the Central Government and carried on orders of the Sultan in their administration. They sent yearly reports of their income and expenditure to the centre and deposited the balance in the central treasury. They maintained large armies and were required to come to the support of the Sultan whenever needed. They could not engage themselves in wars for extension of territory without the prior permission of the Sultan and when they did it, they were required to pay part of the booty to the Sultan. The elephants and the members of the royal family captured during wars were the monopoly of the Sultan. No Muqti was allowed to assume the title of the Sultan, to hold his own court or use as a canopy or the royal emblem. They were not allowed to mint coins in their names and Khutba could not be read in their names. Yet, during the rule of a weak Sultan, the Muqtis enjoyed extensive powers. During the period of Lodi Sultans, they even kept elephants, which was the exclusive right of the Sultan. In general, the Muqtis enjoyed wide powers during the period of the Sultanate. That was one

reason of occasional revolts and frequent dynastic changes during this period. Besides the Muqti, there were other officers of the central government in every Iqta. There was a Vazir, an Ariz and a Qazi in each Iqta. The revenue officers, the news reporters and similar officers were also appointed in Iqtas by the Central Government. The efficiency of administration of an Iqta depended on the power of the Sultan on the one hand and on the capability of Muqti on the other.

There was no smaller administrative unit than the Iqta till the end of the thirteenth century. After that, Iqtas were divided into smaller units called Shiqqs which were put under Shiqqdars. When the empire decayed, the Shiqqs emerged as a Sarkar and the officer in charge of a Sarkar was called the Shiqqdar-i-Shiqq-Daran or the chief Shiqqdar. The Shiqqs were further divided into *parganas*. The important officials of a pargana were the Amil, the Mushrif, also known as Amin or Munsif the treasurer, the Qanungo and two Karkun (clerks). The *pargana* was an important administrative unit because it was there that the government came into direct contact with the peasant. The smallest unit of administration was the village which was administered by local hereditary officers and the panchayat of the village. The Chaudhri, the Patwari, the Khut, the Muqaddam and the Chaukidar were the hereditary officers of the village who helped the government in collection of the revenue and enjoyed certain privileges, except during the reign of Alauddin Khilji. The Panchayat of the village looked after education, sanitation, etc, and acted as a judicial body.

### **2.3.3 Finance Administration**

The Sultan mainly collected five categories of taxes besides certain others. Those taxes were:

- (i) **Ushr:** It was a land tax which was collected from Muslim peasants. It was 10 per cent of the produce on the land watered by natural resources and 5 per cent on the land which enjoyed man-made irrigation facilities.
- (ii) **Kharaj:** It was a land tax charged from non-Muslims and ranged from 1/3 to 1/2 of the produce.
- (iii) **Khams:** It was 1/5 of the booty captured in the war and 1/5 of the produce of mines or buried treasure that was found. Four-fifth of it went to the army which fought the war or to the person who found the treasure. But, except Firuz Tughluq, all Sultans collected 4/5 instead of 1/5, while Sikandar Lodi took nothing of the treasure that was found.
- (iv) **Jizya:** It was a religious tax on non-Muslims. According to Islam, a Zimmi (non-Muslim) had no right to live in the kingdom of a Muslim Sultan. But this concession was permitted after the payment of the tax called Jizya. The non-Muslims were divided into three categories for the purpose of payment of this tax. The first category paid at the rate of 48 dirhams, the second at 24 dirhams and the third at 12 dirhams. Women, children, beggars, cripples, blind, old men, monks, priests, Brahmins (except during the period of Firuz Tughluq) and all those who had no source of income were exempted from

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this tax. All Sultans collected this tax on principle but, as a practical measure, nobody collected it with severity. Dr Banarsi Prasad Saxsena has expressed another view about Jizya. He has opined that Jizya was a non-agricultural tax. Barani, Amir Khusrav and Nizam-ud-din Auliya have said that the word Jizya was used for all taxes except land revenue.

- (v) **Zakat:** This was a religious tax which was imposed only on rich Muslims and consisted of 2 per cent of their income. Besides the above taxes, 2 per cent was charged from the Muslims and 5 per cent from the Hindus as trade tax. There was 5 per cent tax on the sale and purchase of horses. Alauddin Khilji imposed house-tax and grazing-tax as well, while Firuz Tughluq charged 10 per cent of the produce as irrigation tax from the land which enjoyed irrigation facilities provided by the State. All property which had no heirs also passed to the State. Another important source of income was presents offered to the Sultan by the people, nobles, provincial governors and feudatory chiefs.

The main items of expenditure were expenses on the army, salaries of civil officers and the personal expenditure of the Sultan and his palace.

### Check Your Progress

4. What was the role of Sultan during the Delhi Sultanate?
5. How did the administration of provinces in the Delhi Sultanate function?
6. Who were the Muqtis or the Wali in the Delhi Sultanate?

## 2.4 ADMINISTRATION IN THE MUGHAL PERIOD

The early death of Sher Shah (AD 1545), and later, the Second Battle of Panipat (AD 1557), assured Mughal dominance. Their administration, known as the *mansbadri* system, was in essence a military one because every official was expected to enroll in the army. Each officer held a *mansab*—an office of rank as well as of profit—and was obliged to supply the Emperor with a number of troops. He was also required to maintain a given quota of horses, elephants and carriages. He was paid either in cash or gifted with a *jagir*—a tract of land which he did not own, but collected tax on it equivalent to his salary. The *jagir* was transferable from one *Mansabdar* to another; the office itself was not hereditary. The *Mansabdars* were directly recruited by the Emperor and were subject to his rule. The Emperor himself was an absolute ruler. Under him, there were several departments of the administration headed by the appointed officials such as the Imperial Household (*Khan-i-Saman*), the Exchequer (*Diwan*), Military Pay and Accounts (*Mir Bakshi*), the Judiciary (*Qazi*), Religious Endowments (*Sadr-us-Sudur*), and Censorship of Public Morals (*Muhtasib*). The village administration remained as it was traditionally under the headman and his subordinate watchman.

In the cities, the police duties were given to the *Kotwals*, and at the district level there was the *Faujdar*. The judges followed the Quranic precepts, its previous interpretations (*fatwa*), and the ordinances of the Emperor (*qanun*). Justice was speedy and impartial, as it was meted out equally to all, including the officials.

#### 2.4.1 Salient Features of the Mughal Administration

- (i) **Import of foreign element in administration:** The Mughals imported certain foreign elements into their administrative system. They came to India from the Central Asia where they had their own system of administration. In India, they modified the same according to the Indian traditions and setting. Thus, the Mughal administration presented a combination of India and extra-India elements. More correctly, it was a Perso-Arabic system in the Indian setting.
- (ii) **Administration based on the military system:** In its formal configuration, the Mughal government was based on the military system. For instance, it was mandatory for government officers to enroll in the army. He was given a *mansab* as the nominal commander of a certain number of horsemen, and that determined his status and pay. They were also paid by the *bakshis* or the military paymasters.
- (iii) **Despotic:** Being military in nature, the Mughal administrative system was based on centralized despotism. The king had unlimited powers and his word was the law.
- (iv) **Mixture of religion and politics:** A strong blend of religion and politics existed in the system. The king was expected to rule according to the Islamic traditions and obey the commands of the *Ulemas*. Resultantly, as Jadunath Sarkar observes, ‘a difference existed in the attitude of the emperor towards his Muslim and Hindu subjects. For the Muslims, he undertook socialistic functions but towards his non-Muslim subjects, he followed the policy of minimum interference and thus confined himself to discharging the police and revenue functions’.
- (v) **Paper government:** The Mughal government, except, in the actual conduct of campaigns, was a *kagazi raj*, i.e., paper government. Because of the large territory, slow means of transport and communications and no political initiative left to the people, there was a multiplication of the official correspondence and the growth of massive records.
- (vi) **Police duties and revenue collection as the major function:** As regards the aims of the state, it contented itself with police duties and revenue collection. The state did not take any initiative in social progress or the economic welfare of the common man. Areas like education, health and promotion of art were largely left to a private initiative. Except for Akbar, the policy of benevolent intervention and paternal guidance was not pursued by the Mughal emperors.

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- (vii) **State as an entrepreneur:** The concept of the state as an entrepreneur and the system of public corporations were firmly entrenched. The state maintained many *karkhanas* (factories) of its own in the principal cities of the Empire and produced several commodities.
- (viii) **Administration of justice and maintenance of peace:** A striking feature characterized the Mughal administration's attitude towards law and order. While the administration of justice and maintenance of peace are considered as essential functions of the modern state, during the Mughal era, however, it was left to the initiative of the local administration. Policing in the vast rural areas was done by the local *chaukidars* who were maintained by the villagers themselves. No doubt, the *faujdar* acted as the agent of the government, but the area under him was so large that he could not supervise all the villages.
- (ix) **'Parochial' self-government:** Though the administration was decentralized into the provincial and the local administrations, it would be more correct to say that the villages and small towns of the Mughal Empire enjoyed 'parochial' self-government rather than local autonomy. They had no political freedom as such and were more payers of taxes.

### 2.4.2 The Emperor

In the Mughal system of governance, the emperor enjoyed real sovereignty which was indivisible and inalienable. Within this realm, he stood supreme as the symbol of unity and preserver of peace. He actively performed all the major functions of the government. He was the head of the civil and military administrations, responsible for the appointment and removal of all high officials. No *farmans* could be issued without his seal. The exchequer was also not outside the royal authority and the king determined the expenditure and sources of revenue. He was in no formal way responsible or accountable to the people. But, it may be said to the credit of the most Mughal emperors that they did not abuse the powers vested in them. Actually, they covered their despotism with a thick veil of paternalistic benevolence. There are accounts of the king touring the country extensively to keep a finger on the pulse of the administration. Consequently, the idea of a fixed capital did not possess much attraction for them. They carried their capital with them. It is wrong to think of the emperor's life as one of 'elysian ease'. Akbar, for instance, dealt with all the administrative work in an open *darbar* called *Diwan-i-Aam*.

### 2.4.3 The King's Council

Although the emperors had a few important officers to assist them, they, in no way, bore any resemblance to the modern-day council of ministers. These officials invariably included the *Wazir* and the *Diwan*, and the rest of the strength of the officials was determined exclusively by the emperor. These officials were mere delegates of the royal polity. Their primary function was to advise the sovereign but this advice was not binding. He heard them but did not always act according

to them. They provided no checks on the royal will and, in no sense, were they his colleagues. Sarkar observes that they deserved to be called ‘secretaries rather than ministers.’

They could never influence his policy except by gentle persuasion and veiled warning. Little wonder, they never resigned if he rejected their counsels.

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### 2.4.4 Central Ministers and their Duties

#### 1. *Wakil* or Prime Minister

The literal meaning of the term *Wakil* is representative. He was the representative of the state. The minister is called *Wakil* who could enjoy all the rights of the emperor on his behalf. This office continued in vogue in Akbar’s, Jahangir’s and Shah Jahan’s reign. During their time, the Prime Minister was called *Wakil* or (*Wakil-i-Mutalak*). Some later emperors reviewed the office of *Wakil*, e.g., Jahandar Shah appointed Asad Khan as the *Wakil-i-Mutalak* and appointed his very son Zulfikar Khan as *Wazir*.

#### Rights and duties of *Wakil*

*Wakil* generally had these rights and duties:

- (i) To advise the emperor about the appointment and dismissal of *subedars*, *faujdar*s and *Diwan*.
- (ii) He advised the emperor on matters related to allocation of *jagirs*.
- (iii) Every evening he presented all the papers, etc., before the emperor
- (iv) He used to have custody of the royal stamp.
- (v) He had the right to acquire one copy of all the information coming from the provinces. A copy of all the papers of the *Diwan* used to come to him.
- (vi) His stamp and signatures were needed on all the appointment letters. He had the right to have band and move about in a palanquin.

#### 2. The *Wazir* or *Diwan*

The *Wazir* or *Diwan* was the head of the revenue department. In case of non-appointment or the absence of *wakil*, all his works used to be performed by the *wazir*. The office of the *wazir* got revenue papers, and returned despatches from the provinces and the armies in the field. On many ceremonial occasions, he acted as the representative of the emperor. All orders of payments had to be signed by him and all the payments were made only through his department. Under the directions of the emperor, he himself passed orders. All questions concerning the revenue were settled by him and he consulted the emperor only in important cases. He had two assistants known as the *Diwan-i-Aam* or the *Diwan* of salaries and the *Diwan-i-Khas* or the *Diwan* of the crown land. After the death of Aurangzeb, the *wazir* became virtually the ruler of the state.

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### 3. *Mir Bakshi*

The *mir bakshi* was the chief military adviser. He worked as the inspector general of the *mansabdars* inculcating a high standard of military strength. When the review was complete, he issued a certificate which enabled the *mansabdars* serving in the various capacities at the capital or outside, their ranks, the salaries including special awards, the way in which they drew their salaries, a complete record of their services as well as the result of the annual reviews of their troops and horses. He assigned the *mansabdars* present at the imperial camp of the capital to guard duty, though the list so prepared had to be sent to the *diwan* for the final sanction. As the chief of the state, he drew up the plans of campaigns of the various armies in consultation with the commanders and also with the emperor. He took part in all military expeditions and advised the emperor regarding reinforcements or when the smouldering jealousies of the rival commanders in an expedition rendered the recall or transfer of one of them necessary.

### 4. *Khan-i-Saman* or High Steward

The *khan-i-saman* was a very important officer of the Mughal time, as he was the head of the emperor's household department, and accompanied him during all his journeys and campaigns.

### 5. *Sadr-us-Sudur*

The *sadr-us-sudur* was the chief *sadar* of the Empire. He was also called by the names of the *sadr-i-khul* and *sadr-i-jahan*. *sadr-us-sudur* was the connecting link between the emperor and the people. He was the guardian of the Islamic Law and the spokesman of the *Ulema*.

### 6. *Muhatashib*

The *muhatashib* was appointed by the emperor to inspect the moral of the people. He used to perform both the religious and the secular duties. As a secular official, he ensured that the traders and grocers charged the right price for their commodities. Beside these roles, he also had to oversee the general cleanliness of the city.

### 7. *Qazi-ul-Quzat*

The *qazi-ul-quzat* was the highest judicial officer next to the emperor. He was responsible for the proper and an efficient administration of justice. The provincial *qazis* were appointed by him. In every province, district and city, there were *qazis* who decided the outcome of the cases. The duty of the chief *qazi* was to hear appeals from their courts and supervise their conduct.

### 8. Other ministers and officers

Besides these ministers, as mentioned above, there were two other important ministers:

- (i) **Daroga-i-Dak-Chauki** – He was the superintendent of intelligence and posts.
- (ii) **Mir-i-Atish** – He was the superintendent of the artillery. He was originally a subordinate of the *mir bakshi*; but as artillery came to play a very important role in wars, the head of this department rose to the position of the minister.

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### 2.4.5 Chief Departments of Administration

The chief departments of the Mughal administration were:

- (i) **Exchequer and revenue:** The revenue department was headed by the *Diwan* or *Wazir*.
- (ii) **Imperial household:** The Department of Imperial Household was headed by the *Khan-i-Sama*. All the personal servants of the emperor were under this officer's control and he also supervised the emperor's daily expenditure, food, stores, etc. He enjoyed the trust of the emperor and there are examples of *wazirs* being appointed from among the *Khan-i-Samas*.
- (iii) **Military pay and accounts office:** The military pay and accounts office were under the *Mir Bakshi*. He was the paymaster of the central government. Since all the civil officers were part of the military, their salary also was released by the *Mir Bakshi*. He assisted the king in the appointment of *mansabdars*. His other duties included the recruitment of the army, the maintenance of the troops, determining the strength of troops, assisting the king in the conduct of foreign relations, leading the army or a section of it and accompanying the king on tours.
- (iv) **Canon law, both civil and criminal:** The department of law had the *Qazi* as its head. He was responsible for the administration of law in the land and, besides, was the chief judge in criminal suits which he tried according to the Muslim law.
- (v) **Religious endowments and charity:** The *Sadar* was the head of the department of religious affairs. He was the guardian of the Islamic law and the spokesman of the *Ulema*. He made religious grants and it was his duty to see that such grants were applied to the right purpose. He was also a judge in some types of civil cases.
- (vi) **Censorship of public morals:** The Department of Censorship of Public Morals, under the *Muhtasib*, was the censor of public morals. It regulated the behaviour of the people, curbed immorality and punished those who indulged in anti-religious acts.
- (vii) **The artillery:** It was headed by the *Mir Atish* or *Daroga-i-Topkhana*.
- (viii) **Intelligence and posts:** It was headed by the *Daroga of Dak Chouki*.

### 2.4.6 Local Administration

During the Mughal administration, each *subah* was divided into a number of units called the *sarkars*. Each *sarkar* was subdivided into *parganas* or *mahals*. At this

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level, people came in direct touch with officials. Below the *parganas*, there were villages called *mawdah* or *dih*. In the Mughal terminology, a village included the land surrounding it and, therefore, the boundary of each *mawdah* was clearly demarcated. In a *mawdah*, there were smaller hamlets called *naglah*. Under Shahjahan, his *wazir* created another unit called the *chakla* between *sarkar* and *pargana* which included a number of *parganas*. The *sarkar* however continued to exist.

### **Village administration**

Village administration, during the Mughal period, was in the hands of the village panchayat. The organization of the village life and the observation of the accepted codes of conduct were maintained through the village panchayat which acted as a social development agency, catering to the welfare of the people. It was also a judicial agency for disposing of cases involving disputes among the villagers. However, an appeal against the decision of the panchayats could be taken to the higher authorities of the government.

### **2.4.7 The Mansabdari System**

The *Mansabdari* system during the Mughal administration is discussed under the following heads.

#### **1. Mansab was granted to the military as well as the civil officials**

*Mansab* was granted not only to the military officials, but also to all Mughal officers in the revenue and judicial services. Even the scholars of the court were the holders of *mansab*. It is, therefore, that Irvin says, *mansabdari* meant nothing 'beyond the fact that the holder of *mansab* was the employee of the state'. R.P. Khosla in a way reiterates the same when he remarks, 'In the Mughal state the army, the peerage and the civil administration were all rolled into one'.

#### **2. Categories or grades of Mansabdars**

In AD 1573-1574, the *mansabdars* were classified into thirty-three grades ranking from commanders of ten to those of 12,000. Those who held command of ten to 400 were called *mansabdars*. Higher up, those who held the command of 500–2500 were styled as *amirs*, while the holders of 3000 and upward were known as *Amir-i-Azam* or *Umra*. The highest graded commanders from 8000–12,000 were reserved for the princes of the royal blood. A common official could not hold a *mansab* beyond 7000.

#### **3. Appointment of the Mansabdars**

The emperor used to appoint the *mansabdars* personally and they could retain the *mansab* so long as he desired. Generally, a *mansab* of 8000 was given to the members of royal family.

#### 4. Pay and allowances of the *Mansabdars*

The *mansabdars* during Mughal period were very highly paid. They were generally given salary in cash. Sometimes, the revenue of a particular *jagir* was assigned to them as salary.

They had to manage their own horsemen and the expenditures of horses from their own salary. They were necessary for the transport of the army. Prof. Satish Chandra says regarding the pay of the Mughal *mansabdars*, 'The Mughal *Mansabdars* were paid very handsomely; in fact, their salaries were probably the highest in the world, at that time'. A *mansabdar* of 5000 got from ₹ 28,000 – ₹ 30,000, out of which he would spend ₹ 16,000 to maintain the soldiers and the other obligations. A *mansabdar* of 1000 got nearly ₹ 8000 of which ₹ 3000 were spent to meet his obligations. Moreover, there was no income tax in those days. The purchasing power of the rupee in those days has been calculated to be sixty times of what it was in 1966. Even though the nobles had to spend roughly half of their personal salary in the keep up of the animals for transport and in the administration of their *jagirs*, they could lead lives of ostentation and luxury.

#### 5. Duty of the *mansabdars*

*Mansabdars* could be sent to the battlefield on military campaigns as the military commanders or under some commander, who himself was a *mansabdar*. They could be called upon to quell a revolt, conquer new area or perform non-military and administrative duties. Sometimes, they were allowed to recruit their own troops and to purchase their equipment.

#### 6. Restrictions on *mansabdars*

Great care was taken to ensure that the *sawars* recruited by the *mansabdars* were experienced and well mounted. Akbar started the practice of keeping a record of the description (*huliya*) of each horseman under a *mansabdar* and of branding their horses (*dag*) to prevent the *mansabdars* from going as they pleased. Each horse bore two marks—the government mark on the right thigh and the *mansabdar*'s mark on the left thigh. Every *mansabdar* had to bring his contingent for a periodic inspection before persons appointed by the emperor for the purpose. The horses were carefully inspected and only good quality horses of Arabic and Iraqi breeds were employed. For every ten cavalymen, the *mansabdar* had to maintain twenty horses. This was so because the horses had to be rested while on march, and replacements were necessarily in the times of war.

#### 7. Pure and mixed troops of *mansabdars*

Generally, a provision was made that the contingents of the nobles should be mixed ones, and drawn from all the groups—Mughal, Pathan, Hindustani, Muslims, Rajputs, etc. Thus, Akbar tried to weaken the forces of tribalism and parochialism. The Mughal and Rajput nobles were allowed to have contingents exclusively of

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the Mughals or the Rajputs, but in course of time, mixed contingents became the general rule.

### 8. Recruitment, promotion and dismissal

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During the Mughal period, the recruitment, promotions and dismissals of *mansabdars* were in the hands of the emperor. A person desirous of joining the Mughal service may contact the emperor through a *mansabdar* or through *mir bakshi* to the emperor. It was up to the mood and satisfaction of the emperor to accept the recommendation of *mir bakshi* to assign a *mansab* to the concerned person. If he was granted a *mansab*, his whole record, known as '*hakikat*' was prepared. Promotions of the *mansabdars* were also in the hands of the emperor and were made generally on such occasions as (i) before and after an expedition, (ii) at the time of vacancy and (iii) on some auspicious occasions or festivals. A *mansabdar* could be dismissed at any time by the emperor if the latter felt that the former was disloyal or dishonest to him or had lost his utility for the empire.

#### Check Your Progress

7. What was the role of emperor in the Mughal period?
8. List the rights and duties of Wakil in the Mughal government.

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### 2.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. In the Chola dynasty, the king was the head of the administration and all powers were concentrated in his hands. The Chola rulers started the practice of electing their successor or Yuvaraja and of associating him with administration during their life-time. That is why there were no wars of succession among the Cholas.
2. During the Chola dynasty, the primary source of the income of the state was land revenue. Rajaraja I took one-third of the produce as land revenue from his subjects. The revenue was collected both in cash and kind. The land was divided into different categories on the basis of its productivity and it was measured and revenue was charged upon the actual produce. The revenue was charged directly from the cultivators but, in certain cases, from the entire village as one unit. The officers observed severity while collecting the revenue.
3. The Mahasabha of the village played an important role under the Cholas in the administration of the village. Besides, there was a provision of representative bodies at the level of Kurram, Nadu and Mandal as well,

which all helped in the administration. An assessment can be made of the nature of the local self-government by the rights and duties of the Mahasabha of the village.

4. In the Delhi Sultanate, the head of the State was the Sultan who enjoyed unlimited powers in every sphere of State activity.
5. The Delhi Sultanate was divided into provinces for the convenience of administration. They were called *Iqtas*. The number of *Iqtas* was not fixed and there was no uniformity in their administration. There was no smaller administrative unit than the *Iqta* till the end of the thirteenth century. After that, *Iqtas* were divided into smaller units called *Shiqqs* which were put under *Shiqqdars*.
6. The head of the *Iqta* was called by different names, i.e., Naib Sultan, Nazim, *Muqti* or *Wali*. The *Muqtis* or the *Wali* of the second category of *Iqta* were given a little more extensive powers so that the newly added territory could be brought about under the effective control of the Sultanate. Besides, these were tributary states of South India. The Hindu rulers of the South who had accepted the suzerainty of the Sultanate were independent in matters of internal administration, but paid yearly tribute to the Sultan. The *Walis* or the *Muqtis* enjoyed the same powers in relation to their *Iqtas* as the Sultan enjoyed in the empire.
7. In the Mughal system of governance, the emperor enjoyed real sovereignty which was indivisible and inalienable. Within this realm, he stood supreme as the symbol of unity and preserver of peace. He actively performed all the major functions of the government. He was the head of the civil and military administrations, responsible for the appointment and removal of all high officials. No *farmans* could be issued without his seal. The exchequer was also not outside the royal authority and the king determined the expenditure and sources of revenue.
8. *Wakil* generally had these rights and duties:
  - (i) To advise the emperor about the appointment and dismissal of *subedars*, *faujdars* and Diwan.
  - (ii) He advised the emperor on matters related to allocation of *jagirs*.
  - (iii) Every evening he presented all the papers, etc., before the emperor
  - (iv) He used to have custody of the royal stamp.
  - (v) He had the right to acquire one copy of all the information coming from the provinces. A copy of all the papers of the Diwan used to come to him.
  - (vi) His stamp and signatures were needed on all the appointment letters. He had the right to have band and move about in a palanquin.

## NOTES

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## 2.6 SUMMARY

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- The Chola king assumed high sounding titles. Tanjore, Gangaikonda-Cholapuram, Mudikondan and Kanchi remained the various capitals of different Chola rulers at various times. The Chola Empire was extensive and prosperous and the rulers enjoyed high powers and prestige. The images of the kings and their wives were also maintained in various temples which indicated that they believed in the divine origin of kingship.
- The primary source of the income of the state was land revenue. Rajaraja I took one-third of the produce as land revenue from his subjects. The revenue was collected both in cash and kind. The land was divided into different categories on the basis of its productivity and it was measured and revenue was charged upon the actual produce.
- The arrangement of local self-government has been regarded as the basic feature of the administration of the Cholas. Probably, no other ruling dynasty of either north or south had such an extensive arrangement of local self-government at different units of the administration as the Cholas. The Mahasabha of the village played an important role in the administration of the village.
- In the Delhi Sultanate the Sultan, according to his strength, behaved as an all-powerful despot. The Sultan was the absolute master of the State and all legislative, executive and judicial powers vested in him. He was also the highest commander of the army. All ministers, nobles and other officers of the State were appointed, promoted and dismissed by him. His order was the law in his State.
- In the Mughal system of governance, the emperor enjoyed real sovereignty which was indivisible and inalienable. Within this realm, he stood supreme as the symbol of unity and preserver of peace. He actively performed all the major functions of the government. He was the head of the civil and military administrations, responsible for the appointment and removal of all high officials.
- Although the emperors had a few important officers to assist them, they, in no way, bore any resemblance to the modern-day council of ministers. These officials invariably included the Wazir and the Diwan, and the rest of the strength of the officials was determined exclusively by the emperor.
- The Wazir or Diwan was the head of the revenue department. In case of non-appointment or the absence of wakil, all his works used to be performed by the *wazir*. The office of the *wazir* got revenue papers, and returned despatches from the provinces and the armies in the field.
- The *qazi-ul-quzat* was the highest judicial officer next to the emperor. He was responsible for the proper and an efficient administration of justice.

The provincial qazis were appointed by him. In every province, district and city, there were *qazis* who decided the outcome of the cases.

- The appointment of all *mansabdars* was entirely in the king's hands. He granted *mansabs* or ranks to them and dismissed them at his free will. The orders of appointment were issued by the High Diwan. The king remained the source of all administrative authority and, by his powers of appointment and removal, he kept all-embracing control over the administrative machinery.
- The revenue administration under the Mughal rule was under the *wazir*. The nomenclature of the *diwan* and the *wazir* was used interchangeably by the various Mughal emperors. For instance, Akbar preferred the designation *diwan* while Jahangir reversed it to *wazir*.

## NOTES

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### 2.7 KEY WORDS

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- **Kurram:** The 'Kurram' of Chola period were union of villages.
- **Kharaj:** It was a land tax charged from non-Muslims and ranged from 1/3 to 1/2 of the produce.
- **Farman:** An oriental sovereign's edict, a grant or permit.
- **The Muhtasib:** The head of the Department of Censorship of Public Morals. He was the censor of public morals.

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### 2.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Discuss briefly the central and provincial administration in the Chola dynasty.
2. Write a short note on administrative divisions in the Chola dynasty.
3. Discuss the role of the Mahasabha in the Chola period.
4. Write a brief note on the policy of succession during the Delhi Sultanate.
5. Enumerate the role of the Wazir in the Delhi Sultanate.
6. Write a brief note the role of Mansabdars in the Mughal period.
7. Write a brief note on the roles of a Mir Bakshi in the Mughal administration.

#### Long-Answer Questions

1. Discuss the role of local self-government under the Chola dynasty.
2. Analyse the social condition during the Chola period.
3. "The Chola Empire enjoyed a widespread prosperity." Analyse this statement with relevant references.

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4. Discuss the absolute authority of the Sultan in the Delhi Sultanate.
5. Analyse the role of Iqtas in the Delhi Sultanate.
6. Discuss the various socio-economic changes during the period.
7. Analyse the features of taxation in the Delhi Sultanate.
8. Write a comprehensive analysis on the administration in the Mughal period.
9. Analyse the functions of the chief departments of the Mughal administration.

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## 2.9 FURTHER READINGS

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## UNIT 3 ADMINISTRATION UNDER BRITISH TILL 1858

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*Administration Under  
British Till 1858*

### NOTES

#### Structure

- 3.0 Introduction
- 3.1 Objectives
- 3.2 The Regulating Act, 1773
  - 3.2.1 Main Provisions
  - 3.2.2 Important Features of the Act
  - 3.2.3 The Defects of the Regulating Act
- 3.3 Nature of Administration
  - 3.3.1 Emergence of a Colonial Structure of Government
- 3.4 Answers to Check Your Progress Questions
- 3.5 Summary
- 3.6 Key Words
- 3.7 Self Assessment Questions and Exercises
- 3.8 Further Readings

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### 3.0 INTRODUCTION

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After the Mughals the British became India's rulers. In order to improve its administration in India through Parliamentary control, the British Parliament passed the Regulating Act, 1773. This was the first major measure taken to remove the problems inherent in the constitution of the Company in England.

The colonial structure of Government had the system of army, police and judiciary. The Indian troops formed the bulk of the Company's army. Under the provisions of the Regulating Act, a Supreme Court was established in Calcutta in 1774, which administered English law but whose jurisdiction was undefined. However, this was addressed by the Act of 1781 which restricted English law to the English populace and defined the Court's jurisdiction. In 1793, Cornwallis started the system of Permanent Settlement, in which he was supported by Sir John Shore. Under this system, the land was held by a zamindar or landlord who paid a fixed amount of revenue to the Company.

The unit aims at analyzing the various provisions, features and defects of the Regulating Act, 1773 that the British government enacted to deal with the affairs of the Company. It also explains the various aspects of nature of administration prevalent then.

## NOTES

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### 3.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the reasons that led to the enactment of the Regulating Act, 1773
- Explain the features and defects in the Regulating Act
- Discuss the emergence of the colonial structure of government
- Discuss the land revenue system Company rule
- Explain the Permanent Settlement system started by Cornwallis

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### 3.2 THE REGULATING ACT, 1773

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The British government directed the affairs of the East India Company through the Regulating Act, 1773. It was particularly initiated to serve this purpose. Warren Hastings was formally declared to be as Governor General of Bengal and he was to be assisted by an executive council comprising four members.

The Act empowered the Governor General-in-council to make rules, ordinances and regulations that were meant to bring order and establish civil government. Through this Act, Hastings was able to convert a trading company into an administrative body that formed the basis of the British Empire in India.

#### 3.2.1 Main Provisions

The main specifications of the Regulating Act, 1773, are listed below:

- The King of England was in charge of the East India Company. High officials of the company, judges and member of the court of directors were to be nominated.
- The qualifying sum to gain voting right in the court of proprietors was increased from £500 to £1000.
- The directors, who were earlier elected annually, had to continue office for four years, and a quarter of the number were to be re-elected annually.
- A Supreme Court comprising a Chief Justice and three other judges was established in Bengal. Apart from the Governor General and the members of his Council, it entailed civil, criminal, admiralty and ecclesiastical jurisdiction over all British subjects in the Company's dominions.
- The Governor General and his four councillors were to look after civil and military affairs and they who were mentioned in the Act in the first instance. They were to hold office for five years and during their tenure they could only be removed by the king on the representation of the court of directors.

- Though he had a casting vote which were to be used to break a stalemate, the Governor General had to abide by the decision of the majority of the Council.
- In matters of war and peace, the Governor General's decision was considered final, above the opinions expressed by the Governors of Madras and Bombay. Salaries were augmented if officers showed better merit. Company servants were not permitted to accept presents or bribes and indulge in private trade.
- Only with the prior permission of the Home Secretary could the Governor General- in-council make rules.
- The Governor General-in-council had the right to issue rules, ordinances and regulations, though they had to be registered in the Supreme Court.

## **NOTES**

### **3.2.2 Important Features of the Act**

Important features of this Act include:

- It made it clear that the administration of Indian territories was not a personal affair of the Company servants. The British Parliament was empowered to make amendments.
- This Act initiated the course of territorial integration and administrative centralization in India.
- It started a process of parliamentary control over administrative decisions taken by the Company.
- The Act set up a Supreme Court of Judicature comprising a Chief Justice and three other members. The Act provided the license to the British government to have a say in the internal affairs of the Company.
- A council of four members was established to help the Governor General. Though these members were to hold office for five years, they could only be removed by the British Crown.
- The Supreme Government was entrusted 'from time to time to make and issue rules, ordinances, and regulations the good order and civil government' of the British territories.
- The Presidency of Bengal was made superior to other presidencies and the governor of Bengal was appointed as Governor General. Governors and the Councils of Madras and Bombay were had to follow the decisions taken by the Governor General and Council of Bengal.

### **3.2.3 The Defects of the Regulating Act**

The defects of the Regulating Act of 1773 have been outlined below:

- The Governor General did not have any veto power. Hastings often had to struggle with his councillors who could easily impose their decisions on him by majority voting.

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- The jurisdiction of the Supreme Court and its relation with the Governor General in Council was not specified.
- The presidencies of Madras and Bombay often declared war, without consulting the Governor General and Council of Bengal. In case of Marathas and Haidar Ali, the Bombay government and Madras Council, respectively, chose to decide on their own.
- The reports sent by the Governor General in council in India was not considered seriously and was not analyzed systematically.
- The Court of Directors had become ‘more or less permanent oligarchy’ Also, the Court of proprietors enjoyed immunity from any scrutiny based on moral grounds. These privileges gave them allowance to participate in intrigues and create factions which plagued the home government internally.

### Check Your Progress

1. Why was the Regulating Act, 1773, enacted?
2. List the main provision of the Regulating Act.

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## 3.3 NATURE OF ADMINISTRATION

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Warren Hastings did not formulate a definite policy of administration with regard to the Indian states except using them as the first line of defense for the protection of Bengal, Bihar and Orissa. In fact, it was Lord Wellesley who evolved a specific policy of administration for the Indian states.

### Policy of Subsidiary Alliance

A subsidiary alliance is an agreement between a prevailing country and a country that it takes over. The policy of subsidiary alliance was launched by Lord Wellesley, British Governor-General in India from 1798 to 1805. Near the beginning of his governorship, Wellesley implemented a rule of non-intervention in the princely states. However, he then took up the policy of developing subsidiary alliances. This is discussed in detail in Unit 4 of this book.

### Doctrine of Lapse

The Doctrine of Lapse was a seizure policy supposedly created by Lord Dalhousie, who was the Governor General of India between 1848 and 1856. As per this Doctrine, any princely state or province under direct power (supremacy) of the British East India Company (the central colonial power in the subcontinent), as a dependent territory under the British Subsidiary System, would inevitably be taken over if the ruler was either distinctly ineffectual or died without leaving a direct heir. This is discussed in detail in Unit 4 of this book.

### **3.3.1 Emergence of a Colonial Structure of Government**

The colonial structure of Government had the system of army, police and judiciary. Let us study this structure in detail.

#### **1. Civil Service**

Several historians have claimed that it was not the directors of the East India Company or the British Crown but the Governor-General, acting via the Civil Servants, who was ruling India.

It was Cornwallis who laid the foundation of the Company's Civil Service. The Charter Act of 1793 excluded Indians from all high offices and made sure that all posts worth more than £ 500 a year were given to the servants of the Company. Earlier the Company's servants were ill-paid and corrupt. But now Cornwallis offered generous salaries and also avenues of promotion to higher posts. Thus, the service attained a high standard of duty and by the turn of the century there were a host of highly regarded civil servants such as Metcalfe, Elphinstone, Malcolm and Lawrence.

The Governor-Generalship of Lord Wellesley is an important landmark in the history of the British Civil Service in India. Wellesley realized the importance of giving adequate training to the civil servants in India. Wellesley recommended that the education of the civil servants should be of a mixed character, its foundations should be judiciously laid in England and the superstructure should be systematically completed in India. It was with this in mind that Fort William College was founded in Calcutta on 24 November 1800, at the behest of Wellesley. The purpose was to provide specialized training in liberal arts, law and language to the Company's civil servants. Those who taught at this College included G. H. Barlow, J. H. Harrington, H. T. Colebrooke, Lt. John Baillie, Francis Gladwin, Rev. Buchanan and Rev. W. Carey of Serampore. Between 1801 and 1805, Fort William College saw tremendous expansion and it may be said that Wellesley's aspiration of a University of the East had been met to a large part. The College was a centre of linguistic research where dictionaries in various languages were compiled. Initially, Charles Metcalfe, William Bailey, William Martin, William Brid, John Digby, Thomas Fortesque and many others attended classes in Fort William College. Most of them had had six or seven years of formal education that enabled them to organize data and to formulate policies for the government.

Lord Minto (1807–13) continued Wellesley's policy of alluring bright students with monetary awards and the promise of responsible posts in the government. Some of the best students who graduated during this period from Fort William College were Henry Prinsep, Holt Mackenzie, James Sutherland and Andrew Stirling. The Persian Department of the Government had the most competent students of the Fort William College. Some of them were assigned as residents in various cities. Metcalfe served as Delhi Resident from 1811 to 1819 and as Hyderabad Resident from 1820 to 1825. Remarkably, during his eight

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years in Delhi, there was not one case of capital punishment. He was instrumental in abolishing slavery in Delhi in 1812. However, the training structure at Fort William College had to be stopped a few years down the line when it was felt that it was 'Indianizing' the British youth. Charles Grant was of the belief that the task of training should be shifted from the Orientalists to Cambridge clergymen who could nurture the boys in England before sending them to India. In 1806, the Company established a college at Haileybury, near London. Here, young officers, who were nominated for service in the East undertook training for two years. No other plan was made again until the introduction of competitive civil service examination.

Haileybury College was censured for several reasons initially. In 1813, in his famous speech on India, Lord Grenville criticized the Company for giving the future administrators of India an education that would cut them off from the mainstream of the English national life. Moreover, it was felt that undue emphasis was given to English literature. Charles Grant refuted these criticisms and stressed that those who graduated from Haileybury were both good servants of the Company and good citizens and enlightened patriots. While great territories might be conquered by arms, he said in 1819, 'the due administration of them ... must depend on the principles, the talents and the zeal of the civil servants'. The Charter Act of 1833 underlined the principle of competition in appointing the civil servants. But there were no plans of holding a competitive examination to choose candidates. During the twenty years that the Directors held on to their right of patronage, new ideas were being floated.

In 1853, Sir Charles Wood, President of the Board of Control, recommended an open competitive examination for recruitment to civil services. This found strong support from Macaulay and was even sanctioned by Parliament.

### **2. Army**

The Company's army comprised both Europeans and Indians. When the Mutiny of 1857 ended, Europeans numbered roughly 16,000 men. In the beginning, the Europeans had been below standard, but gradually they improved in discipline and efficiency. The bulk of the army consisted of the Sepoy regiments. In 1830, the Sepoy regiments included 187,000 men. The figure rose to 200,000 men in 1857. Europeans comprised the officer class of the army.

The Indian troops formed the bulk of the Company's army. Regularity of pay, comparatively good working conditions and respect for Indian customs, attracted the natives to the military profession. The Indian troops in the Company were by far the most efficient army in India. Even as they were loyal and faithful to their European masters they could not dream of achieving high promotions.

### **3. Police**

The police system was introduced in 1791, when Lord Cornwallis created the post of a Superintendent of Police for Calcutta. A district was divided into a number of thanas. The landlords no longer had to perform the police duties. Instead, a

Daroga, assisted by a number of ranked men, was put in charge of a thana. This system proved to be an expensive failure. The Darogas did not have adequate resources to curtail crime and often their conduct was reproachable. At the instructions of Lord Minto, a Superintendent of Police was posted in a Division in 1808. He was to engage with spies or goyendas to carry out his tasks. However, the goyendas committed atrocities of the same nature as those of the dacoits. In 1814, the Court of Directors ordered that the establishment of darogas and their subordinates be abolished in all parts of the Company's territories except in Bengal.

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### 4. Judicial Organization

In archaic times, the zamindars were responsible for administering justice in all petty cases. Naturally, this system was not always fair and had the potential of abuse and of allowing the rich to oppress the poor. Hastings brought it upon himself to reform the judicial system. He established two courts in each district, the Diwani Adalat, which would decide civil cases and the Faujdari Adalat, which would try criminal cases. The Collector presided over the Diwani Adalat and was assisted in his undertakings by a dewan, who was a native. Even as the Faujdari Adalat was headed by the Qazi or Mufti of the district and two *maulavis*, it was under the overall supervision of the Collector. In addition to the Diwani Adalat and Faujdari Adalat, two superior Courts were also established in Calcutta – Sadar Diwani Adalat, to hear civil cases and Sadar Nizamat Adalat to hear criminal appeals. In 1774, the district courts were brought under the charge of Indian officers called Amins. In the same year the Sadar Diwani Adalat was closed down and the Sadar Nizamat Adalat was moved to Murshidabad. Under the provisions of the Regulating Act, a Supreme Court was established in Calcutta in 1774, which administered English law but whose jurisdiction was undefined. However, this was addressed by the Act of 1781 which restricted English law to the English populace and defined the Court's jurisdiction. In September 1780, Hastings restarted the Sadar Diwani Adalat and, the Chief Justice of the Supreme Court, Sir Elijah Impey, was appointed as the head of this court.

In 1781, Hastings set up eighteen new district courts. Some covenanted servants were appointed as judges and they decided civil cases. Judicial proceedings from these district courts were submitted to Sadar Diwani Adalat. Impey outlined some regulations for the conduct of judicial business in the district judicial courts. The English understood that justice must be administered in keeping with the law of the land. Keeping this in mind, a Code of Hindu Law was compiled and translated into English and a translation of Muslim Law was also made available.

Impey was recalled in 1782 and thereafter the Governor-General and Council took on the task of presiding over the Sadar Diwani Adalat.

### 5. Judicial Reforms of Lord Cornwallis

Lord Cornwallis made sweeping changes in the field of justice. He understood that it was the Indians who were carrying out the job of dispensing criminal justice.

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In a minute dated 3 December 1789 he opined: 'We ought not, I think, to leave the future control of so important a branch of government to the sole discretion of any native, or indeed, of any single person whatsoever'. Muhammad Reza Khan, who was the chief justice of the chief criminal court, (Sadar Nizamat Adalat) was asked to quit office in 1790. Thereafter the court was moved to Calcutta.

Now it was the Governor-General and members of the Supreme Council who were in charge of the chief criminal court. Besides, the central criminal court in Calcutta, four other circuit courts came into existence in the cities of Calcutta, Murshidabad, Dacca and Patna. Two covenanted servants presided over each of them, and they were assisted by Indian advisors. These advisors were asked to tour their divisions twice a year. Cornwallis divested Collectors of magisterial power. Diwani Adalats were renamed District or Zillah Courts and were set up in 23 districts. These courts were under the charge of English judges, and dealt with both civil and revenue cases. Above them in the hierarchy were four Provincial Courts of Appeal. These were also set up in Calcutta, Dacca, Patna and Murshidabad. At the top of the hierarchy was the Sadar Diwani Adalat in Calcutta, which was chaired by the Governor-General and his Councilors. The three judges who presided over the four Provincial Courts of Appeal were also asked to head the criminal circuit courts in the same towns. Thus, the same judicial officer had both the civil and criminal powers.

The judges were European and were naturally influenced by their expert advisers. The legal process was cumbersome because even though procedures of the new courts were British, the law administered was either Hindu or Islamic. Lord Cornwallis divested the Indians of any real power in the administration of criminal justice over which they had absolute control earlier. The Darogas in every district worked under the direct supervision of the Magistrate. An elaborate Code of Regulations known as the Cornwallis Code of 1793 came into force, which would provide direction to the officers of the new judicial system. Cornwallis mistakenly believed that the new courts would be fair in their dispensation of justice.

### **6. Land Revenue Policy**

Land revenue was the principal source of income and the Company made full use of it. In 1762 it started an experiment in the districts of Burdwan and Midnapur. In a bid to maximize their revenues from these regions the Company started selling the estates by public auction. Lands were sold for a short term of three years. This policy, lucrative as it was to the Company, was unfair to the peasants.

In 1765 the East India Company was able to wrest the Diwani of Bengal, Bihar and Orissa from the Mughal Emperor. Clive described it as 'the superintendency of all the lands and the collection of all the revenue of the Provinces of Bengal, Bihar and Orissa'.

Up to 1772 it was the two Naib Diwans who collected the land revenue. In 1769, the Company appointed 'Supervisors' who would understand how revenue

was to be collected. Now in 1772 the Court of Directors ordered Warren Hastings to remove the two Naib-Diwans, Muhammad Reza Khan and Shitab Rai and in fact close their offices. This was done so that the tracks were clear for the Company to stand 'forth as Diwan' and be solely responsible for the management of the revenue. In October 1772, a Revenue Board comprising of the Governor and Council was constituted in Calcutta. An assessment was carried out for a period of five years, and land was sold to the highest bidder at a public auction. Many of the zamindars became farmers of revenue. Each district had a Collector and an Indian Diwan. These officials were responsible for overseeing the revenue administration. However the Five-year farming system did not benefit anyone: the zamindars, farmers and Ryots were depleted of their means and the Company suffered serious losses. The system had to be overhauled. In November 1773, the collectors were removed from office. In their place five Provincial Councils were established for the collection of revenue. The headquarters of the Provincial Council were located in Murshidabad, Burdwan, Dinajpur, Dacca and Patna. A Committee of Revenue was set up in Calcutta. This did not bring about any change for the better hence, the five years' settlement was abolished in 1777. The Company instead decided on a method of annual settlement preferably with the zamindars and it continued up to 1789. But soon its adverse effects were felt. A revenue servant recorded: 'The fluctuations of the revenue since the English ... have opened the largest field for abuses'. In 1781, the Provincial Councils were abolished and European Collectors returned to the districts with lesser power. A Committee of Revenue was set up in Calcutta under the supervision of the Governor-General in Council.

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### **7. Permanent Settlement**

In 1793, Cornwallis started the system of Permanent Settlement, in which he was supported by Sir John Shore. Under this system, the land was held by a zamindar or landlord who paid a fixed amount of revenue to the Company. The relationship between the landlord and his tenants was based on contract that was decided mutually. Landlords possessed the right to transfer, sell or mortgage the land in their possession. But here was the caveat: if they were not able to pay the fixed amount of revenue on the fixed date to the government they would have to forfeit all their rights. Permanent Settlement was an advantageous system as it ensured a regular flow of income to the British. Moreover, it was easy as they did not have to bother about appropriating it from individual peasants. The peasant also knew beforehand the amount of revenue that had to be paid. The zamindars, now secure in their lands, made extra effort to augment the cultivation. R.C. Dutt remarked: 'If the prosperity and happiness of a nation be the criterion of wisdom and success,

Lord Cornwallis's Permanent Settlement of 1793 is the wisest and most successful measure which the British nation has ever adopted in India'. However, this evaluation was not entirely true if one took the economic factor into consideration. It is evident that no one bothered to take the fertility of the soil into account or the area of the land. It is possible that appraisal was too high for many

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of them and their estates were sold to the government. Some zamindars, who were unable to pay their dues, leased parts of their estate to middlemen. This created another problem: The resident zamindars were replaced by absentee landlords who had no personal connection with the cultivators. The rights of the Ryots were surrendered and the zamindar could make any settlement with them as he chose. As Ilbert said: 'The legislation of 1793 left the Ryot's right outstanding and undefined and by solving them it tended to obscure them, so efface them and in many cases to destroy them'. Half-hearted efforts were made in the following years to protect the Ryots from landlords.

It was not until 1859 that the Bengal Land Act was passed which to some extent addressed their problems. Even as the Permanent Settlement did put rural order back on its feet in Bengal and gave an impetus to agriculture, it further strained the relationship between the landlord and the Ryot. The zamindars were a very important part of the imperial structure and the British recognized this. Therefore, they were clear in upholding their authority and not the interests of the common man. Between 1802 and 1805, the policy of Permanent Settlement was applied to three other states i.e. Orissa, Benares and to the Northern Sarkars. By now the administrators had become aware of the malicious nature of this policy. Utilitarian thinkers such as James Mill, John Stuart Mill, Thackeray and Munro stridently opposed the application of this system to other states of India. Thackeray contested it by saying: 'But in India that haughty spirit of independence, deep thought which the possession of great wealth sometimes gives, ought to be suppressed... We do not want generals, statesmen and legislators; we want industrious husbandmen'.

### **8. Ryotwari Settlement**

The British espoused an alternate policy of settlement in the southern presidency of Madras. It was called the Ryotwari system. The system came into being under the governorship of Sir Thomas Munro (1820-1827) and is thus associated with him. Under this system, a settlement was made directly with the cultivator for an x number of years, the standard being thirty. Under this system, the government and the cultivator enjoyed a direct relationship. The government's share was usually fixed at half the estimated net value of the crop, with concessions of reductions provided during periods of drought and consolidation of British Rule famine. Even though the farmer felt more secure under this system, very often he could not meet the heavy demands of government officers. Munro observed: 'The Ryot is the real proprietor, for whatever land does not belong to the Sovereign belongs to him'. In Bombay presidency, the revenue system followed by Mountstuart Elphinstone was similar to the Ryotwari system. In 1835, Goldsmith and Wingate conducted an elaborate survey to remove any defects of the system as they could find. The total amount fixed in each district was distributed among the cultivated fields according to their relative values. The settlement was fixed for thirty years. The government had the power to increase or decrease the demand at the end of each

settlement. One major flaw of the system, which deeply affected the farmer, was that he had no way of expressing his opinion in the settlement. He was merely called upon to pay the revenue or be evicted from his land.

### **Check Your Progress**

3. What do you mean by Doctrine of Lapse?
4. What was Lord Wellesley's role in the making of the British Civil Service in India?
5. What changes were made in the judicial organization under the provisions of the Regulating Act?
6. When was the Indian Law Commission set up?
7. Who started the permanent settlement system in India?

### **NOTES**

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## **3.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS**

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1. The British government directed the affairs of the Company through the Regulating Act, 1773. It was particularly initiated to serve this purpose.
2. The main provisions of the Regulating Act, 1773, are listed below:
  - (i) The King of England was in charge of the East India Company. High officials of the company, judges and member of the court of directors were to be nominated.
  - (ii) The qualifying sum to gain voting right in the court of proprietors was increased from £500 to £1000.
  - (iii) The directors, who were earlier elected annually, had to continue office for four years, and a quarter of the number were to be re-elected annually.
  - (iv) A Supreme Court comprising a Chief Justice and three other judges was established in Bengal.
  - (v) The Governor General and his four councillors were to look after civil and military affairs and they who were mentioned in the Act in the first instance.
3. The Doctrine of Lapse was a seizure policy supposedly created by Lord Dalhousie, who was the Governor General of India between 1848 and 1856. As per this Doctrine, any princely state or province under direct power (supremacy) of the British East India Company (the central colonial power in the subcontinent), as a dependent territory under the British Subsidiary System, would inevitably be taken over if the ruler was either distinctly ineffectual or died without leaving a direct heir.

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4. The Governor-Generalship of Lord Wellesley is an important landmark in the history of the British Civil Service in India. Wellesley realized the importance of giving adequate training to the civil servants in India. Wellesley recommended that the education of the civil servants should be of a mixed character, its foundations should be judiciously laid in England and the superstructure should be systematically completed in India.
5. In 1774, the district courts were brought under the charge of Indian officers called Amins. In the same year the Sadar Diwani Adalat was closed down and the Sadar Nizamat Adalat was moved to Murshidabad. Under the provisions of the Regulating Act, a Supreme Court was established in Calcutta in 1774, which administered English law but whose jurisdiction was undefined. However, this was addressed by the Act of 1781 which restricted English law to the English populace and defined the Court's jurisdiction.
6. In 1833, the Indian Law Commission was set up under Lord Macaulay. This was a significant step in correcting the judicial system. In 1860, the Indian Penal Code was enacted and the following year, the Code of Criminal Procedure came into being. The law courts were reorganized, and a proportion of judges were members of the Indian Civil Service.
7. In 1793, Cornwallis started the system of Permanent Settlement, in which he was supported by Sir John Shore.

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### 3.5 SUMMARY

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- The Regulating Act empowered the Governor General-in-council to make rules, ordinances and regulations that were meant to bring order and establish civil government. Through this Act, Hastings was able to convert a trading company into an administrative body that formed the basis of the British Empire in India.
- A Supreme Court comprising a Chief Justice and three other judges was established in Bengal. Apart from the Governor General and the members of his Council, it entailed civil, criminal, admiralty and ecclesiastical jurisdiction over all British subjects in the Company's dominions.
- The Regulating Act, 1773 made it clear that the administration of Indian territories was not a personal affair of the Company servants. The British Parliament was empowered to make amendments.
- Several historians have claimed that it was not the directors of the East India Company or the British Crown but the Governor-General, acting via the Civil Servants, who was ruling India.
- The Indian troops formed the bulk of the Company's army. Regularity of pay, comparatively good working conditions and respect for Indian customs,

attracted the natives to the military profession. The Indian troops in the Company were by far the most efficient army in India.

- Lord William Bentinck created the posts of the Divisional Commissioners or Commissioners of Revenue and Circuit and abolished the office of Superintendent of Police. The Collector-Magistrate was the head of the police in his jurisdiction and the Commissioner for each division performed the duties of the Superintendent of Police.
- In 1781, Hastings set up eighteen new district courts. Some covenanted servants were appointed as judges and they decided civil cases. Judicial proceedings from these district courts were submitted to Sadar Diwani Adalat. Impey outlined some regulations for the conduct of judicial business in the district judicial courts.
- Lord Cornwallis's Permanent Settlement of 1793 is the wisest and most successful measure which the British nation has ever adopted in India'. However, this evaluation was not entirely true if one took the economic factor into consideration. It is evident that no one bothered to take the fertility of the soil into account or the area of the land.
- The British espoused an alternate policy of settlement in the southern presidency of Madras. It was called the Ryotwari system. The system came into being under the governorship of Sir Thomas Munro (1820-1827) and is thus associated with him.
- During 1833 and 1853, R.M. Bird and James Thomson conducted a detailed survey and at the end of it, it was decided to fix the assessment term for thirty years. This system of settlement came to be known as Mahalwari or village wise settlement. Under this system, the settlement was not made with the zamindar or with the cultivator but with the village. Villagers, both collectively and individually, took the responsibility for the payment of revenue for the whole village.

## NOTES

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### 3.6 KEY WORDS

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- **The Charter Act 1793:** The East India Company Act 1793 was an Act of the British Parliament which renewed the charter issued to the British East India Company (EIC), and continued the Company's rule in India.
- **The Sepoy Mutiny:** Indian Mutiny was widespread but unsuccessful rebellion against British rule in India in 1857–58. Begun in Meerut by Indian troops (sepoys) in the service of the British East India Company, it spread to Delhi, Agra, Kanpur, and Lucknow.
- **The Ryots:** This was a general economic term used throughout India for peasant cultivators but with variations in different provinces. While zamindars were landlords, ryots were tenants and cultivators,.

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### 3.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### NOTES

#### Short-Answer Questions

1. Write a short note on the main provisions in the Regulating Act.
2. Discuss some of the defects of the Regulating Act.
3. Write a brief note on the Doctrine of Lapse.
4. List the various steps that led to the making of the British Civil Service in India.
5. Write a brief note on the role of the police system as started by Lord Cornwallis.
6. Write a brief note on the concept of rule of law as started by the British.

#### Long-Answer Questions

1. Discuss the main features of the Regulating Act, 1773.
2. Discuss in detail the emergence of colonial structure of government in India.
3. Discuss the role of Fort William College for an effective training for civil servants.
4. Write a comprehensive note on the judicial reforms brought in by the British.
5. "Permanent Settlement was an advantageous system." Analyse this statement with relevant references.
6. Analyse the significance of Ryotwari Settlement under the British government in India.

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### 3.8 FURTHER READINGS

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*Administration Under  
British Till 1858*

## **NOTES**

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## **UNIT 4 INDIAN ADMINISTRATIVE SYSTEM IN THE 19TH AND EARLY 20TH CENTURY**

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### **Structure**

- 4.0 Introduction
- 4.1 Objectives
- 4.2 British Administrative Acts in the 19th Century
  - 4.2.1 Indian Council Act, 1861
  - 4.2.2 Indian Council Act, 1892
- 4.3 Indian Administration under the Act of 1909 and 1919
  - 4.3.1 Government of India Act, 1919
- 4.4 Answers to Check Your Progress Questions
- 4.5 Summary
- 4.6 Key Words
- 4.7 Self Assessment Questions and Exercises
- 4.8 Further Readings

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### **4.0 INTRODUCTION**

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The growing resentment against the functioning of the Company led the British parliament to enact Government of India Act 1858, originally titled as “An Act for the Better Government of India”. It provided legal framework that India was to be governed directly and in the name of the crown. The 1858 Act abolished the Company rule, abolished the Court of directors and abolished the Board of control. The principle of Doctrine of Lapse was withdrawn, liberty was given to Indian rulers subject to British suzerainty and it also opened some door for Indians in Government services. The entire authority for the governance of India – civil, military, executive and legislative was handed over to the Governor-General of the Council, who was accountable to the Secretary of the State. The office of secretary of state was vested with complete authority and control over Indian administration.

For the first time, the Indian Council Act, 1861 introduced a representative institution in India. The Act converted the Executive Council of the Viceroy of India into a cabinet on the portfolio system. This cabinet had six ordinary members, each of whom was in charge of an independent department in the Calcutta Government comprising home, government, revenue, law and finance, and public works. The Act also introduced a number of legislative reforms in the country. The number of members in the Viceroy’s executive council was increased, wherein, it was declared that additional members should be minimum six and maximum twelve. These were directly nominated by the Governor-General for two years.

Lord Morley, the Secretary of State for Indian Affairs, announced that his government wished to create new reforms for India, wherein the locals would be granted more powers in legislative affairs. The Act of 1909 was passed by the British Parliament, also referred as the Minto-Morley Reforms. The Government of India Act, 1919 was an Act of the Parliament of the British government. It was passed to expand participation of the natives in the Indian government. The Act embodied the reforms recommended in the joint report of Sir Edwin Montagu and Lord Chelmsford. This Act introduced important changes in the Home Government, at the Centre, as well as at the provinces.

The unit aims at analyzing the various Government of India Acts that the British parliament enacted to deal with the affairs of India after abolishing the Company rule.

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### **4.1 OBJECTIVES**

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After going through this unit, you will be able to:

- Examine some of the important Government of India Acts by the British parliament
- Explain the Government of India Act, 1858
- Analyse the features of the Government of India Act, 1858
- Understand the purpose of the Indian Council Act, 1861
- Enumerate the evolution of Indian Council Act, 1892
- Explain the Act of 1909 known as the Minto-Morley Reforms.
- Understand the passage of the Government of India Act, 1919

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### **4.2 BRITISH ADMINISTRATIVE ACTS IN THE 19TH CENTURY**

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The Government of India Act, 1858 ended the Company's rule and transferred the governance of the country directly to the British Crown. The Company's rule was, thus, terminated and the administration was carried out in the name of the Crown through the Secretary of the State. The Secretary assumed the powers of the Company's Board of Directors as well as the Board of Control. The Secretary of State, accountable to the British Parliament, needed to be supported by the Council of India consisting of fifteen members. The Crown was required to appoint eight members for the Council, while the Board of Directors was to elect the remaining seven. The main features of this Act were as follows:

- It made the administration of the country unitary as well as rigidly centralized. Though the territory was divided into provinces with a Governor or Lieutenant Governor headed by his executive council, yet the provincial

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governments were mere agents of the Government of India. They had to function under the superintendence, direction and control of the Governor-General in all matters related to the governance of the province.

- It made no provision for separation of functions. The entire authority for the governance of India – civil, military, executive and legislative was handed over to the Governor-General of the Council, who was accountable to the Secretary of the State.
- The Secretary of the State had absolute control over the Indian administration.
- The entire machinery of administration was made bureaucratic.

The Act of 1858 was initiated for ‘a better Government of India’. Thus, it introduced many significant changes in the Home Government. However, these changes were not related to the administrative set-up of India. Major changes were made in the Constitution of India after the severe crisis of 1857–58. There were many reasons behind the introduction of these changes. All legislative procedures were centralized by the Charter Act of 1833. The sole authority for legislating and passing decrees, while implementing them for the economy, rested with the Legislative Council (Centre). Though the functioning of the Legislative Council was set up by the Charter Acts of 1833, the Act was not followed properly. The Council became a debating society or a Parliament on a smaller scale, claiming all privileges and functions of the representative body. While acting as an independent legislature, the Council did not function well with the Home Government. As a result, the first Council Act was passed in 1861 after discussions between the Home Government and the Government of India.

### 4.2.1 Indian Council Act, 1861

The Indian Council Act, 1861 introduced a representative institution in India for the first time. As per this Act, the Executive Council of the Governor-General was to comprise some Indians as non-official members for transactions of legislative business. It initiated the process of decentralization by restoring the legislative powers to the Bombay and the Madras Presidencies. Another feature of the Act was its statutory recognition of the portfolio system.

If we see in depth, the Indian Council Act was a part of a legislation that was passed by the Parliament of Great Britain in 1861, which converted the Executive Council of the Viceroy of India into a cabinet on the portfolio system. This cabinet had six ordinary members, each of whom was in charge of an independent department in the Calcutta Government comprising home, government, revenue, law and finance, and public works (post 1874). The Military Commander in Chief worked with the Council as a special member. Under the provisions of the Act, the Viceroy was allowed to overrule the Council when he deemed it necessary.

The Act offered many advantages to the members of the legislative council. They could discuss legislation and give their inputs or suggestions. The legislative

power that was taken away by the Charter of 1833 was restored through this Act. On the other hand, there were some drawbacks of the Act as well. The members of the Council were not allowed to implement any legislation on their own.

The Act added a fifth member to the executive council of the Viceroy. The member was assumed to be a gentleman of legal professional service and a jurist. The Act further gave powers to the Governor-General to enact rules for convenient business transactions in the Council. Lord Canning used the power to pioneer the portfolio system in the Government of India. Until then, the government's rules administered the executive council as a whole due to which all official documents were brought under the notice of the council members.

As per the provisos of the Act, Canning divided the government amongst the council members. With this, the foundation of the cabinet government was formed in India. The Act further declared that each administrative branch would have its own spokesman and Head in the government, who would be responsible for the entire administration and defence. The new system witnessed the daily administrative matters taken care by the member-in-charge. In important cases, the concerned member had to present the matters before the Governor-General and consult him before taking any decision. The decentralization of business brought in some efficiency in the system, however, it could not be accomplished thoroughly.

The Indian Council Act of 1861 also introduced a number of legislative reforms in the country. The number of members in the Viceroy's executive council was increased, wherein, it was declared that additional members should be minimum six and maximum twelve. These were directly nominated by the Governor-General for two years. Not less than fifty per cent of the members were non-official members. The Act did not make any statutory provisions for admitting Indians. However, a few non-official seats of high rank were offered to Indians. The Council's functions were strictly confined to the legislative affairs. It did not have any control over the administration, finance and the right of interpellation.

The Act reinstated the legislative powers of implementing and amending laws to the provinces of Madras and Bombay. Nevertheless, the provincial councils could not pass any laws until they had the consent of the Governor-General. Besides, in few matters, the prior approval of the Governor-General was made compulsory. After the Act, the legislative councils were formed in Bengal, Punjab and the north-western provinces during 1862, 1886, 1889, and so forth.

The Act significantly laid down the mechanical set-up of the government. There were three independent presidencies formed into a common system. The legislative and the administrative authority of the Governor-General-in-Council was established over different provinces. Further, the Act also gave legislative authority to the governments of Bombay and Madras. It laid many provisos for creating identical legislative councils in other provinces. This led to the decentralization of legislative powers which culminated in autonomy grants to the provinces under the Government of India Act, 1935.

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However, no attempts were made under the Council Act of 1861 to distinguish the jurisdiction of the central legislature from the local legislature in the federal constitution. Furthermore, the main functions of the legislative councils, as established under the Act, were not carried out properly. Even the Councils could not perform in conformity to the Act. The Act could not establish representative government in India on the basis of the England government. It declared that the colonial representative assemblies would largely discuss financial matters and taxation. The Act paved the way for widespread agitation and public alienation.

### **4.2.2 Indian Council Act, 1892**

It is important to understand the evolution of this Act. The Indian Constitution was incepted after the Act of 1861. The legislative reforms created under the Act of 1861 failed miserably in meeting the demands and aspirations of the people of India. The small elements of non-officials, which mainly comprised big zamindars, Indian princes or retired officials, were entirely unaware of the problems of the common man. Thus, the commoners of India were not happy.

The nationalist spirit began to emerge in the late 19th century. The establishment of universities in the presidencies led to educational developments in the country. The gulf between the British and the Indians in the field of Civil Services was not liked by the Indians. The Acts enacted by Lord Rippon, that is, the Vernacular Press Act and the Indian Arms Act of 1878, infuriated Indians to a great extent.

The controversy between the two governments over the banishment of five per cent cotton duties made Indians aware of the injustice of the British government. This gave rise to the formation of the Indian National Congress in 1885. The main aim of the Congress was to organize public opinions in India, make the grievances public and demand reforms from the British government.

Initially, the attitude of the British government towards the Indian National Congress was good but it changed when Lord Dufferin attacked the Congress and belittled the significance of the Congress leaders. He ignored the importance of the movement launched by the Congress. Dufferin secretly sent proposals to England to liberalize the councils and appoint a committee which can plan the enlargement of the provincial councils.

As a result, a Committee report was sent to the Home authorities in England to make changes in the Councils' composition and functions. The report was aimed at giving Indians a wider share in the administration. In 1890, the Conservative Ministry introduced a bill in the House of Lords in England based on these proposals. The House of Lords took two years to adopt measures in the form of the Indian Council Act of 1892.

The Indian Council Act of 1892 was known to have dealt entirely with the powers, functions and compositions of the legislative councils in India. In respect

of the central legislature, the Act ensured that the number of additional members should only be between six and twelve. An increase in the members was regarded worthless. Lord Curzon supported it saying that the efficiency of the body had no relation with the numerical strength of its members.

The Council Act of 1892 affirmed that 2/5th of the total members in the Council should be non-officials. Some of them were to be nominated and others elected. The election principle was compromised to some extent. According to the Act, the members of the legislatures were given equal rights to express themselves in financial issues. It was decided that all financial affairs statements would be prepared in the legislation. However, the members were not allowed to either move resolutions or divide the houses as per financial concerns. The members could only put questions limited to the governmental matters of interest on a six days' notice.

The Indian Council Act of 1892 also brought in many new rules and regulations. However, the only significant feature of the Act was the introduction of election procedure. The term 'election' was carefully used in the Act. In addition to the elected official members, the Act pronounced that there should be five non-official members. It further said that these members should be elected by the official members of the provincial legislatures of Bombay, Madras, Calcutta, the north-western province and the Calcutta Chamber of Commerce. The Governor-General had the authority to nominate the five non-official members.

The bodies were allowed to elect the members of District Boards, Municipalities, Universities and the Chamber of Commerce but the election methods were not clearly mentioned. The elected members were officially regarded as 'nominated' in spite of the fact that the recommendations of each legislative body was taken into consideration for the selection of these members. Often the person favoured by majority was not considered 'elected', but was directly recommended for nomination. According to this Act, the members were allowed to make observations on the budget and give their suggestions on how revenue can be increased and expenditure can be reduced. The principle of election, as introduced by the Acts of 1892, was used in the formation of the Constitution as well.

Nevertheless, there were numerous faults and drawbacks in the Acts of 1892 because of which the Act could not satisfy the needs of the Indian nationalists. It was criticized in various sessions of the Indian National Congress. The critics did not like the election procedure mentioned in the Act. They also felt that the functions of the legislative councils were rigorously confined.

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### Check Your Progress

1. What was the purpose of Government of India Act, 1858?
2. List the main feature of Indian Council Act, 1892.

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### **4.3 INDIAN ADMINISTRATION UNDER THE ACT OF 1909 AND 1919**

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This Act changed the name of the Central Legislative Council to the Imperial Legislative Council. The size of the Councils of provinces was enlarged by including non-official members. The functions of the legislative councils were increased by this Act.

Lord Morley, the Secretary of State for Indian Affairs, announced that his government wished to create new reforms for India, wherein the locals would be granted more powers in legislative affairs. Both Lord Morley and Lord Minto believed that terrorism in Bengal needed to be countered. The Indian government appointed a committee to propose a scheme of reforms. The committee submitted the report and the reforms mentioned in the report were agreed upon by Lord Minto and Lord Morley. Thus, the Act of 1909 was passed by the British Parliament, also referred as the Minto-Morley Reforms.

The Act of 1909 was significant due to the following reasons:

- It facilitated elections of Indians in legislative councils. Prior to this, some Indians were appointed in legislative councils, majority of which remained under the appointments of the British government.
- The electoral principle introduced under the Act laid down the framework for a parliamentary system.
- Muslims had expressed serious concern that a 'first past the post' British type of electoral system would leave them permanently subject to Hindu majority rule. The Act of 1909 as demanded by the Muslim leadership stipulated:
  - i. That Indian Muslims should be allotted reserved seats in the municipal and district boards, in the provincial councils, and in the Imperial legislature;
  - ii. That the number of reserved seats be in excess of their relative population (25 per cent of the Indian population); and
  - iii. That only Muslims should vote for candidates for Muslim seats ('separate electorates')

The salient features of the Act of 1909 were as follows:

- The number of members of the legislative council at the Centre was increased from sixteen to sixty.
- The number of members of the provincial legislatures was also increased. It was made fifty in the provinces of Bengal, Bombay and Madras. For the rest of the provinces, the number was thirty.
- The members of the legislative councils were divided into four categories both at the Centre and within the provinces. These categories were ex-

officio members (Governor-General and the members of their executive councils), nominated government official members by the Governor-General, nominated non-governmental and non-official members by the Governor-General, and members elected by different categories of Indians.

- Muslims were granted the right of a separate electorate.
- Official members were needed to be in majority. However, in provinces, non-official members formed the majority.
- The legislative council members were allowed to discuss budgets, recommend amendments, and vote in some matters excluding some matters which were categorized under 'non-voted items'. The members were also entitled to seek answers to their concerns during the legislative proceedings.
- India's Secretary of State was empowered to increase the number of executive councils from two to four in Madras as well as Bombay.
- Two Indians were to be nominated in the Council of the Secretary of State for Indian Affairs.
- The power for nominating one Indian member to the executive council was with the Governor-General.

The provision for concessions under the Act was a constant source of strife between the Hindu and Muslim population from 1909 to 1947. British statesmen generally considered reserved seats as regrettable as it encouraged communal extremism. The Hindu politicians tried to eliminate reserved seats as they considered them to be undemocratic. They also believed that the reserved seats would hinder the development of a shared Indian national feeling among Hindus and Muslims.

#### **4.3.1 Government of India Act, 1919**

The Government of India Act, 1919 was an Act of the Parliament of the United Kingdom. It was passed to expand participation of the natives in the Indian government. The Act embodied the reforms recommended in the joint report of Sir Edwin Montagu and Lord Chelmsford. The retraction of British imperialism was a result of India's enthusiastic participation in the First World War.

The Act broadly ideated a dual form of government, called diarchy, for the major provinces. It also affirmed that a High Commissioner residing in London would represent India in Great Britain. The Government of India Act was enacted for ten long years, that is, from 1919 to 1929.

According to the Act, the Viceroy was responsible for controlling areas of defence, communications and foreign affairs. The government was responsible to take care of the matters related to health and education. Besides, there was a bicameral legislature located at the Centre, comprising legislative assembly with 144 members, out of which forty-one were nominated.

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The Council of States constituted thirty-four elected members and twenty-six nominated members. The princely states were responsible for keeping control over political parties. The Indian National Congress was not satisfied with this law, and regarded it as ‘disappointing’. There was a special session held in Bombay under Hasan Imam, wherein reforms were degenerated. Nevertheless, leaders such as Surendranath Banerjee appreciated these reforms.

This Act introduced important changes in the Home Government, at the Centre, as well as at the provinces. The changes introduced by the Act were as follows:

- **System of diarchy in the provinces:** According to this system, the subjects of administration were to be divided into two categories: central and provincial. The central subjects were exclusively kept under the control of the central government. On the other hand, the provincial subjects were sub-divided into ‘transferred’ and ‘reserved’ subjects.
- **Central control over the provinces was relaxed:** Under this provision, subjects of all-India importance were brought under the category ‘central’, while matters primarily relating to the administration of the provinces were put under ‘provincial’ subjects. This meant a relaxation of the previous central control over the provinces not only in administrative but also in legislative and financial matters. The previous provincial budgets were removed by the Government of India and the provincial legislatures were empowered to present their own budgets and levy taxes according to the provincial sources of revenue.
- **Indian legislature was made more representative:** The Indian legislature was made bicameral. It consisted of the upper house named the Council of States and the lower house named the Legislative Assembly. The Council of States had sixty members out of which thirty-four were elected. The Legislative Assembly had 144 members out of which 104 were elected. Nevertheless, the Centre did not introduce any responsibility and the Governor-General in Council remained accountable to the British Parliament. The Governor-General’s overriding powers in respect of the central legislation were retained in many forms.

The British government in 1927 appointed a Statutory Commission, as envisaged by the Government of Act of 1919, to make an enquiry in the functioning of the Act and to announce that the domination status was the goal of Indian political developments. Sir John Simon was the Chairman of the Commission which gave its final report in 1930. This report was given consideration at a Round Table Conference that created a White Paper.

The White Paper was examined by the Joint Select Committee of the British Parliament. Lord Linlithgow was appointed the President of the Joint Select Committee. The Committee presented a draft Bill on 5 February, 1935. The Bill was discussed for forty-three days in the House of Commons and for thirteen

days in the House of Lords. After the signatures of the King, the Bill was enforced in July 1935 as the Government of India Act, 1935.

*Indian Administrative System in the 19th and Early 20th Century*

### Check Your Progress

3. List the various reasons which made the Act of 1909 significant.
4. What was the role of 'the white paper' in the enactment of the Government of India Act, 1935?

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## 4.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The Government of India Act, 1858 ended the Company's rule and transferred the governance of the country directly to the British Crown. The Company's rule was, thus, terminated and the administration was carried out in the name of the Crown through the Secretary of the State. The Secretary assumed the powers of the Company's Board of Directors as well as the Board of Control.
2. The Indian Council Act of 1892 also brought in many new rules and regulations. However, the only significant feature of the Act was the introduction of election procedure. The term 'election' was carefully used in the Act. In addition to the elected official members, the Act pronounced that there should be five non-official members.
3. The Act of 1909 was significant due to the following reasons:
  - It facilitated elections of Indians in legislative councils.
  - The electoral principle introduced under the Act laid down the framework for a parliamentary system.
  - Muslims had expressed serious concern that a 'first past the post' British type of electoral system would leave them permanently subject to Hindu majority rule.
4. The British government in 1927 appointed a Statutory Commission, as envisaged by the Government of Act of 1919, to make an enquiry in the functioning of the Act and to announce that the domination status was the goal of Indian political developments. Sir John Simon was the Chairman of the Commission which gave its final report in 1930. This report was given consideration at a Round Table Conference that created a white paper. The white paper was examined by the Joint Select Committee of the British Parliament. Lord Linlithgow was appointed the President of the Joint Select Committee. The Committee presented a draft Bill on 5 February 1935. The Bill was discussed for forty-three days in the House of Commons and for thirteen days in the House of Lords. After the signatures of the King, the Bill was enforced in July 1935 as the Government of India Act, 1935.

## NOTES

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### 4.5 SUMMARY

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- The Government of India Act, 1858 ended the Company's rule and transferred the governance of the country directly to the British Crown. The Company's rule was, thus, terminated and the administration was carried out in the name of the Crown through the Secretary of the State. The Secretary assumed the powers of the Company's Board of Directors as well as the Board of Control.
- The Act of 1858 was initiated for 'a better Government of India'. Thus, it introduced many significant changes in the Home Government. However, these changes were not related to the administrative set-up of India. Major changes were made in the Constitution of India after the severe crisis of 1857–58.
- If we see in depth, the Indian Council Act was a part of a legislation that was passed by the Parliament of Great Britain in 1861, which converted the Executive Council of the Viceroy of India into a cabinet on the portfolio system.
- The Indian Council Act of 1861 also introduced a number of legislative reforms in the country. The number of members in the Viceroy's executive council was increased, wherein, it was declared that additional members should be minimum six and maximum twelve.
- However, no attempts were made under the Council Act of 1861 to distinguish the jurisdiction of the central legislature from the local legislature in the federal constitution. Furthermore, the main functions of the legislative councils, as established under the Act, were not carried out properly.
- The legislative reforms created under the Act of 1861 failed miserably in meeting the demands and aspirations of the people of India. The small elements of non-officials, which mainly comprised big zamindars, Indian princes or retired officials, were entirely unaware of the problems of the common man. Thus, the commoners of India were not happy.
- The Indian Council Act of 1892 also brought in many new rules and regulations. However, the only significant feature of the Act was the introduction of election procedure. The term 'election' was carefully used in the Act. In addition to the elected official members, the Act pronounced that there should be five non-official members.
- The Government of India Act, 1919 was an Act of the Parliament of the United Kingdom. It was passed to expand participation of the natives in the Indian government. The Act embodied the reforms recommended in the joint report of Sir Edwin Montagu and Lord Chelmsford. The retraction of British imperialism was a result of India's enthusiastic participation in the First World War.

- Under the system of diarchy in the provinces, the subjects of administration were to be divided into two categories: central and provincial. The central subjects were exclusively kept under the control of the central government. On the other hand, the provincial subjects were sub-divided into ‘transferred’ and ‘reserved’ subjects.
- The British government in 1927 appointed a Statutory Commission, as envisaged by the Government of Act of 1919, to make an enquiry in the functioning of the Act and to announce that the domination status was the goal of Indian political developments. The Committee presented a draft Bill on 5 February, 1935. The Bill was discussed for forty-three days in the House of Commons and for thirteen days in the House of Lords. After the signatures of the King, the Bill was enforced in July 1935 as the Government of India Act, 1935.

## NOTES

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### 4.6 KEY WORDS

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- **The Indian Arms Act of 1878:** The Act was enacted by legislated during Lord Lytton’s time. By this act, no Indians could manufacture, sell, possess, and carry firearms. However, the English people could do so.
- **The Vernacular Press Act:** Proposed by Lord Lytton, then Viceroy of India, the act was intended to prevent the vernacular press from expressing criticism of British policies.
- **The Government of India Act, 1935:** It was passed by British Parliament in August 1935. This act ended the system of diarchy introduced by the Government of India Act, 1919 and provided for establishment of a Federation of India to be made up of provinces of British India and some or all of the Princely states. It is said to be the longest Act (British) of Parliament ever enacted by that time.

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### 4.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. What was necessity for enacting the Government of India Act, 1858?
2. How did the Indian Council Act, 1861 initiate the process of decentralization?
3. Discuss briefly some of the legislative reforms in the country introduced by the Indian Council Act of 1861.
4. Write a brief note on the passage of the Indian Council Act, 1892.
5. Enumerate the significance of the Minto-Morley Reforms.

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6. Write a short note on the significance of Government of India Act, 1919.
7. Discuss the system of diarchy as enunciated in the Act of 1919.

### Long-Answer Questions

1. Discuss the main features of the Government of India Act, 1858.
2. Analyse the advantages of the Indian Council Act, 1861.
3. How did Indian Council Act, 1861 fail to establish the representative government in India?
4. Discuss the role Indian Council Act, 1892 in bringing new rules and regulations.
5. Analyse the significance of the Act of 1909.
6. Write a comprehensive note on various changes introduced by the Act of 1919.

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### 4.8 FURTHER READINGS

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**BLOCK - II**  
**GROWTH OF INDIAN ADMINISTRATIVE SYSTEM**

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*Development of Indian  
Administration Under the  
Government of India  
Act 1935*

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**UNIT 5 DEVELOPMENT OF INDIAN  
ADMINISTRATION UNDER  
THE GOVERNMENT OF  
INDIA ACT 1935**

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**NOTES**

**Structure**

- 5.0 Introduction
- 5.1 Objectives
- 5.2 Government of India Act 1935
  - 5.2.1 Salient Features of the Act
  - 5.2.2 Nationalist Politics (1935-1939)
- 5.3 Answers to Check Your Progress Questions
- 5.4 Summary
- 5.5 Key Words
- 5.6 Self Assessment Questions and Exercises
- 5.7 Further Readings

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**5.0 INTRODUCTION**

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Prior to yet another installment of constitutional reforms by the British Parliament, the British colonial government took recourse to extremely repressive measures to suppress the spirit of the Indian nationalists. Hundreds of peasants in UP, thousands of people in Bengal and many Congressmen were arrested and detained on flimsy grounds without any trial. Numerous new ordinances, namely, the Emergency Powers Ordinance were issued by the Government on 4th January, 1932. These ordinances were aimed at ruthlessly suppressing the Indian people. However, the repressive measures of the Government could not prevent the Civil Disobedience Movement. Thousands of people organized meetings and demonstrations.

In the meantime, the Third Round Table Conference that took place in London resulted in a White Paper containing proposals incorporated in a Bill and presented to the Parliament for passage. This came to be known as the Government of India Act of 1935 and was passed by the British Parliament. The 1935 Act was the second installment of constitutional reforms passed by British Parliament. The Act of 1935 envisaged a federal form of government and as such was a radical departure from its predecessors.

Under the Act of 1935, the subjects for administrative purpose were catalogued into three lists the Federal list, the Provincial list and the Concurrent

## NOTES

list. However, in the Act, no Indian legislature whether Federal or provisional was authorised to modify or amend it. The British Government alone was given the authority to make changes in it.

The unit aims at analyzing the features of constitutional and administrative reforms as envisaged in the Government of India Act, 1935 that the British parliament passed to deal with the affairs of India.

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### 5.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the Government of India Act 1935
- Discuss various negotiations and reports that led to the enactment of the Act
- Explain the salient features of the Act
- Analyse the policy for legislatures in the Act

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### 5.2 GOVERNMENT OF INDIA ACT 1935

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The Government of India Act was passed by the British Parliament in August 1935. The Act was an outcome of the following:

- Simon Commission Report
- The Three Round Table Conferences
- Nehru Committee Report
- The White Paper (March 1933)
- The Joint Select Committee Report
- Lothian Report (It determined the electoral provisions of the Act)

The British Government was wary of mass movements in India. After suppressing the Nationalist Movement, it wanted to weaken the country through the divide and rule policy.

#### 5.2.1 Salient Features of the Act

The Act is considered a milestone which led to the birth of a full-responsible government. It had 321 Sections and 10 Schedules. The salient features of the Act are as follows:

- (i) **All India Federation:** This Act made provisions for the establishment of an All India Federation. The Federation included the British provinces and those India states which wished to be a part of this alliance. It segregated powers between the Centre and the units (the provinces and Indian States) into three lists, i.e., the Federal List, the Provincial List and the Concurrent List. There was a provision for Residuary Subjects also.

The Federal List for the Centre consisted of fifty-nine items such as external affairs, currency, coinage and the naval, military and air forces. The Provincial List consisted of fifty-four items which dealt with subjects such as police, provincial public services and education. The Concurrent List comprised thirty-six items dealing with subjects like criminal law and procedure, civil procedure, marriage and divorces, and abortion.

The Residuary powers were given to governor-general. He was authorized to ratify a law for any matter if not listed in any of the Legislative Lists. The provinces were given autonomy with respect to subjects delegated to them.

**(ii) Diarchy at the Centre:** The Act abolished the system of diarchy in the British provinces and introduced it at the Centre. According to this system, the administration of defence, external affairs, ecclesiastical affairs and matters related to tribal areas, was to be made by governor-general with the help of 'counsellors'. These counsellors were not responsible to the legislature. With regard to matters other than the above reserved subjects, governor-general was to act on the advice of Council of Ministers which was responsible to the legislature. However, as per governor-general's 'special responsibilities', he could act contrary to the advice given by the ministers.

**(iii) Provincial Autonomy:** This Act heralded the beginning of provincial autonomy. It divided legislative powers between the provinces and the Central legislatures. The provinces were now autonomous units of administration. The governor could exercise executive authority in a province on behalf of the Crown and not as a subordinate to governor-general. He was required to act with the advice of ministers who were responsible to the legislature.

Though provinces gained autonomy by the Act, the Central government retained control over the provinces in matters which required the governor to act in his discretion or exercise individual judgment. In such matters, the governor was to act not on the advice of his ministers but under the direction of governor-general and secretary of state.

**(iv) The Federal Legislature:** The Federal Legislature was divided into two houses: the Council of States and the Legislative Assembly. The Legislative Assembly or the Lower House had 375 members out of which 250 were from British Indian Provinces and 125 represented the Indian states. The tenure of the Legislative Assembly was five years unless dissolved earlier. The Council of States or the Upper House consisted of 260 members out of which 156 members were to represent the British provinces. In the Council of States, 6 members were nominated by governor-general and the rest were elected directly. The remaining 104 members were to be nominated by the Indian states. Although the Federal Legislature had limited powers, yet both its houses shared equal powers amongst them. If there was a point of difference between the two houses, a joint session could be held to solve the problem.

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## NOTES

**(v) Provincial Legislatures:** The members of the Provincial Legislative Assembly were elected directly by the people. After the Act, the legislatures of Bombay, Bengal, Madras, Bihar, Assam and the United Provinces were made bicameral, i.e., two houses, while the Legislatures of the other five provinces were unicameral.

The provincial assembly was elected for a period of five years. The distribution of seats for various Legislative Assemblies was as follows:

- (i) Bengal : 250
- (ii) United Provinces: 228
- (iii) Madras: 215
- (iv) Bombay: 175
- (v) Punjab: 175
- (vi) Bihar: 192
- (vii) Central Provinces: 112
- (viii) Orissa: 60
- (ix) Sindh: 60
- (x) North-West Frontier Province (NWFP): 50

The policy of a separate electorate continued. As per the agreement signed during the Poona Act of 1932, certain seats were reserved for the depressed class in the general constituency.

Other salient features of the Act were:

- (i) The Central Legislature was empowered to pass any Bill though the Bill required the governor-general's approval before it became a law.
- (ii) The Indian Council was removed. In its place, a few advisors were nominated to assist secretary of state of India.
- (iii) Secretary of state was not allowed to interfere in the governmental matters of Indian Ministers.
- (iv) Sind and Orissa were created as two new provinces.
- (v) One-third of members could represent the Muslim community in the Central Legislature.
- (vi) The Reserve Bank of India was established.

### **5.2.2 Nationalist Politics (1935–1939)**

The provincial elections were held in 1936–1937 as was stated in the Government of India Act 1935. During these elections, there were two major parties in India: the Congress and the Muslim League. Both the parties tried their best to convince people to vote for them by presenting their manifesto. The manifestos of both the parties were almost similar. However, there were two main differences in their manifestos.

- (i) The Congress wanted joint electorate whereas the Muslim League wanted separate electorate.
- (ii) The Congress wanted Hindi to be their official language whereas the Muslim League wanted Urdu to be the official language of their country.

Even though the Congress was a strong party yet it could not secure even 40 per cent of seats. It had 1771 seats in 11 provinces out of which it could win only 750. Also, the Congress could win seats mostly in the Hindu constituencies. The Muslim League could win only 106 seats out of 491 Muslim seats. The Congress captured 26 Muslim seats. The Muslim League had a lot of hopes from the Muslim majority province of Punjab but it could only win 2 seats from this province.

The Congress had a clear majority in UP, Central Province, Bihar, Orissa and Madras. In addition to this, it formed a coalition government in NWCP and Bombay. In Assam and Sindh, it joined the ruling coalition, thus, it was indirectly in power in these two areas as well.

The Unionist Party of Sir Fazl-i-Hussain formed government in Punjab and Praja Krishak Party of Maulvi Fazl-i-Haq formed it in Bengal without the interference of any of the two major parties. The Muslim League was not able to form government in any province. Though Quaid-i-Azam asked the Congress to form a coalition government with the Muslim League but it did not accept this offer.

After winning seats, the Congress did not form its government for four months as it did not want governor to have powers in legislative affairs. It presented this demand to the British but they did not agree to this demand. After a long discussion, the British gave verbal consent to this demand but refused to make changes in the Act of 1935. Finally, the Congress set up its government in July 1937.

#### **Check Your Progress**

1. List the various reports that led to the passage of Government of India Act, 1935.
2. Why is the Government of India Act 1935 considered as a milestone?
3. Why did the Congress not form for four months despite winning seats in the provincial elections of 1936-37?

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### **5.3 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS**

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1. The Act was an outcome of the following:
  - Simon Commission Report
  - The Three Round Table Conferences

#### **NOTES**

## NOTES

- Nehru Committee Report
  - The White Paper (March 1933)
  - The Joint Select Committee Report
  - Lothian Report (It determined the electoral provisions of the Act)
2. The Act of 1935 is considered a milestone which led to the birth of a full-responsible government. It had 321 Sections and 10 Schedules.
  3. After winning seats, the Congress did not form its government for four months as it did not want governor to have powers in legislative affairs. It presented this demand to the British but they did not agree to this demand. After a long discussion, the British gave verbal consent to this demand but refused to make changes in the Act of 1935. Finally, the Congress set up its government in July 1937.

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## 5.4 SUMMARY

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- The Government of India Act was passed by the British Parliament in August 1935. The British Government was wary of mass movements in India. After suppressing the Nationalist Movement, it wanted to weaken the country through the divide and rule policy.
- The Federal List for the Centre consisted of fifty-nine items such as external affairs, currency, coinage and the naval, military and air forces. The Provincial List consisted of fifty-four items which dealt with subjects such as police, provincial public services and education. The Concurrent List comprised thirty-six items dealing with subjects like criminal law and procedure, civil procedure, marriage and divorces, and abortion.
- The Act abolished the system of diarchy in the British provinces and introduced it at the Centre. According to this system, the administration of defence, external affairs, ecclesiastical affairs and matters related to tribal areas, was to be made by governor-general with the help of ‘counsellors’.
- Though provinces gained autonomy by the Act, the Central government retained control over the provinces in matters which required the governor to act in his discretion or exercise individual judgment.
- The Federal Legislature was divided into two houses: the Council of States and the Legislative Assembly. The Legislative Assembly or the Lower House had 375 members out of which 250 were from British Indian Provinces and 125 represented the Indian states.
- The members of the Provincial Legislative Assembly were elected directly by the people. After the Act, the legislatures of Bombay, Bengal, Madras,

Bihar, Assam and the United Provinces were made bicameral, i.e., two houses, while the Legislatures of the other five provinces were unicameral.

- The policy of a separate electorate continued. As per the agreement signed during the Poona Act of 1932, certain seats were reserved for the depressed class in the general constituency.
- The provincial elections were held in 1936–1937 as was stated in the Government of India Act 1935. During these elections, there were two major parties in India: the Congress and the Muslim League. Both the parties tried their best to convince people to vote for them by presenting their manifesto.
- Even though the Congress was a strong party yet it could not secure even 40 per cent of seats. It had 1771 seats in 11 provinces out of which it could win only 750. Also, the Congress could win seats mostly in the Hindu constituencies. The Muslim League could win only 106 seats out of 491 Muslim seats. The Congress captured 26 Muslim seats.
- The Unionist Party of Sir Fazl-i-Hussain formed government in Punjab and Praja Krishak Party of Maulvi Fazl-i-Haq formed it in Bengal without the interference of any of the two major parties. The Muslim League was not able to form government in any province. Though Quaid-i-Azam asked the Congress to form a coalition government with the Muslim League but it did not accept this offer.
- After winning seats, the Congress did not form its government for four months as it did not want governor to have powers in legislative affairs. It presented this demand to the British but they did not agree to this demand. After a long discussion, the British gave verbal consent to this demand but refused to make changes in the Act of 1935. Finally, the Congress set up its government in July 1937.

## NOTES

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### 5.5 KEY WORDS

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- **The Poona Pact:** This refers to an agreement between Dr. Babasaheb Ambedkar and Mahatma Gandhi signed on 24 September 1932 at Yerwada Central Jail in Pune. Dr Ambedkar was in favour of a separate electorate for the Depressed Classes. Gandhi was against this idea because he did not want to view the untouchables as being outside the folds of Hinduism.
- **Krishak Praja Party:** A political party with considerable influence for a short period of time in the late 1930s and early 40s.
- **The Unionist Party:** Fazl-i-Husain was an influential Punjabi politician during the British Raj and a founding member of the Unionist Party of the Punjab.

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### 5.6 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Discuss the Government of India Act's impact on the system of diarchy.
2. Write a brief note on the significance of the Act on provincial economy.
3. Enumerate the importance of the provincial elections which were held in 1936–1937.

#### Long-Answer Questions

1. Discuss the prevailing situation before the British Parliament passed the Government of India Act 1935.
2. Analyse the main features of the Government of India Act 1935.
3. Discuss the Congress' position in the provincial elections in 1936-1937.

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### 5.7 FURTHER READINGS

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## **UNIT 6 IMPROVEMENT MEASURES IN INDIAN ADMINISTRATION**

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### **NOTES**

#### **Structure**

- 6.0 Introduction
- 6.1 Objectives
- 6.2 Events Leading to Independence
- 6.3 Indian Independence Act of 1947
- 6.4 Answers to Check Your Progress Questions
- 6.5 Summary
- 6.6 Key Words
- 6.7 Self Assessment Questions and Exercises
- 6.8 Further Readings

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### **6.0 INTRODUCTION**

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Formulated at the initiative of Clement Richard Attlee, the Prime Minister of the UK, the objective of the British Cabinet Mission was to provide India with independence under Dominion status in the Commonwealth of Nations. In the general elections of England, held in 1945, the Labour Party, under the authority of Attlee, had routed the Conservatives led by Winston Churchill. Britain had decided to quit India. The Mission came to discuss and plan for the transfer of power from the British government to Indian leadership to provide India with Independence. The Mission carried various provisions. It discussed important issues with significant representatives of Indian states and those of British India.

The unit aims at analyzing the various administrative measures like the visit of British Cabinet Mission and the Mountbatten Plan before the power was finally transferred from British to Indian hands, resulting in the Partition and India's Independence.

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### **6.1 OBJECTIVES**

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After going through this unit, you will be able to:

- Understand the various events leading to India's Independence
- Explain the aim of the British Cabinet Mission
- Enumerate the political situation in England during the period
- Discuss the important provisions of the Cabinet Mission
- Explain the role of the Mountbatten Plan
- Examine the Indian Independence Act, 1947

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## 6.2 EVENTS LEADING TO INDEPENDENCE

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### NOTES

The aim of the British Cabinet Mission of 1946 to India was to discuss and plan for the transfer of power from the British Raj to Indian leadership. The objective was to provide India with independence under Dominion status in the Commonwealth of Nations. The Mission was formulated at the initiative of Clement Richard Attlee, the Prime Minister of the UK. It comprised of Lord Pethick-Lawrence, the Secretary of State for India; Sir Stafford Cripps, President of the Board of Trade; and A. V. Alexander, the First Lord of the Admiralty. However, Lord Wavell, the Viceroy of India, did not participate.

### Background

During the general elections of England, held in 1945, the Labour Party, under the authority of Attlee, routed the Conservatives, under British Conservative politician and statesman, Winston Churchill. Later on, Lord Wavell was summoned to London who informed that Britain had decided to quit India.

Soon after, general elections were also held in India in 1945-46 for provincial assemblies and the legislative assembly at the Centre. In these elections, the Congress won fifty-seven seats in the central legislative assembly, while the Muslim League took over all the thirty seats reserved for the Muslims. In 1937, the Congress had 714 seats in the provinces, while it won 923 seats in 1946. On the other hand, in 1937, the Muslim League was able to occupy only 109 seats out of the Muslim quota of 492; however, in 1946, it won 425 seats.

The British Cabinet Mission, a special mission of cabinet ministers, came to India on 24 March 1946 to enable the nation to gain independence as fast as possible. The Mission was in India for almost five weeks to discuss important issues with significant representatives of Indian states and those of British India. A conference was held on 5 May 1946 at Simla, wherein leaders of the Congress and the Muslim League participated to discuss about:

- The grouping of provinces
- Character of the federal union
- The setting up of a constitution-making machinery

However, the conference was closed due to incompatibility between the Congress and the League. On 16 May 1946, the Mission published a statement, popularly known as the Cabinet Mission Plan, with their recommendations. The important provisions of the Plan were as follows:

1. A federation comprising of both the princely states and British India was to be formed, which should deal with defence, foreign affairs and communications.
2. The federation should comprise of an executive and a legislature.

3. The provinces of British India should be vested with all residuary powers and all subjects, except the Union subjects.
4. All subjects would be under the princely states except for those surrendered to the Union.
5. Provinces should have the liberty to form groups (sub-federal).
6. A provision should be made in the constitution of the Union, which would allow any province, by a majority vote of its legislative assembly, to necessitate a reconsideration of the terms of the Constitution after an initial period of ten years.
7. A constituent assembly should be formed on the basis of the recently elected provincial legislatures. The assembly should be formed by allotting to each province a total number of seats proportional to its population. Elections should be held by a method of proportional representation with single transferable vote.
8. The administration of the country should be carried out while the Constitution of India was being formulated. An interim government should also be set up which should have the support of major political parties.

## **NOTES**

### **Direct Action Day**

The League decided that 16 August 1946 would be observed as 'Direct Action Day' throughout the country for the purpose of winning the separate Muslim state. In this tense situation, the viceroy's decision to invite the Congress to form the interim government at the Centre added fuel to the fire. In Calcutta, on 16 August 1946, the League organized public demonstrations and strikes, resulting in clashes and rioting all over the city. The mob fury continued for four consecutive days, after which normalcy was gradually restored. The Bengal government led by the League leader, H.S. Suhrawardy, had declared 16 August a public holiday, which made things worse. Nor did it call the army until the situation became completely out of control.

### **Attlee's Announcement**

It was obvious that something drastic had to be done to break the deadlock. The initiative was taken by Attlee, who on 20 February 1947, announced in Parliament that the government's 'definite intention was to transfer power' into responsible Indian hands by a date not later than June 1948. This historic declaration caught everyone by surprise. It was declared that the British would be pulling out of the country little more than a year hence. The Indian people would have to settle their differences before then.

Attlee, on 20 February 1947, announced that the British would withdraw from India by 30 June 1948, and that Lord Mountbatten would replace Wavell.

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British powers and obligations vis-à-vis the princely states would lapse with transfer of power but these would not be transferred to any successor government in British India. Partition of the country was implicit in the provision that if the constituent assembly were not fully representative then power would be transferred to more than one Central government. It was hoped that fixing a deadline would shock both parties to come to an agreement. The Muslim League launched civil disobedience in Punjab, which led to the fall of Punjab Chief Minister, Malik Khizar Hayat Khan's ministry.

Jinnah saw victory in sight and made a desperate attempt to secure control over the provinces with Muslim majority. Riots broke out in wild frenzy in Calcutta, Assam, Punjab and North-West Frontier Province. The new Viceroy reached India on 22 March 1947. He had come with instructions to work for a united India; but meetings with leaders of different parties and communities soon convinced him that partition was inevitable. Few people desired the country's dismemberment. Gandhiji declared that India would be divided 'over my dead body'. Abul Kalam Azad was vehemently opposed to the creation of Pakistan. But Jinnah was adamant: Muslims must have their own state.

### **Mountbatten Plan**

Mountbatten now set about convincing Congress leaders of the necessity of partition. He made use of two opposite lines of reasoning. On the one hand, he declared that 'the truncated Pakistan, if conceded now, was bound to come back later'; on the other hand, he promised that if India's two unwilling wings were lopped off, a strong and united Centre would be the result. This second argument appealed to Home Minister Sardar Patel, who was already taking into consideration the internal security of the country.

Mountbatten overcame Pandit Jawaharlal Nehru's objection by an appeal to his democratic instinct. No community, the Viceroy said, should be forced to join a nation against its will. Now, it was time to speak with Gandhiji. In a last desperate effort, Gandhiji suggested making Jinnah the head of the government of an undivided India. The Muslim leader could select the entire ministry himself. But after their sad experiences in the interim government, Patel and Nehru were unwilling to expose themselves to Jinnah's caprices. Finally, even Gandhiji relented. Attlee announced the plan in the House of Commons on 3 June 1947, which came to be known as the 'June 3rd Plan.'

The Government's Plan or the Mountbatten Plan dealt with the method by which power will be transferred from British to Indian hands, in particular the methods by which Muslim-majority provinces would choose whether they would remain in India or opt for the 'new entity' that is Pakistan. In Sind and Baluchistan, a straightforward decision would be made by the provincial legislatures. The legislatures of Bengal and Punjab would have to make two choices; first, whether the majority was for joining Pakistan, and, if so, whether the provinces should be partitioned into Muslim and non-Muslim areas. Special arrangements were made

to determine the popular will in the North-West Frontier Provinces and in the Muslim majority district of Sylhet in Assam. Boundary commissions would be set up if partition was desired.

The Indian constituent assembly would continue to function but a separate assembly would be convened for areas that chose to become parts of Pakistan. The provincial choices went as expected. Baluchistan, Sind and the North-West Frontier opted for Pakistan. Punjab and Bengal decided for double partition—the provinces would leave India, but their Muslim-minority areas would remain parts of the mother country. Sylhet would join the eastern wing of Pakistan. Boundary commissions were set up to delineate frontier between Muslim and non-Muslim areas of Punjab and Bengal. The English Chairman of the two tribunals, Sir Cyril Radcliffe, was ultimately requested to make his own award.

The Indian Independence Act of 1947 gave a legal effect to the June 3rd Plan. The Bill was introduced in the British Parliament on 4 July 1947. It was passed quickly and without amendment, and on 18 July 1947, it received the Royal assent. India had won her freedom but the price had been partition. The Dominion of Pakistan was inaugurated in Karachi on 14 August 1947.

At midnight of 14 August 1947, as the clock struck 12, India became free. Nehru proclaimed it to be the nation with his famous ‘Tryst with Destiny’ speech. On the morning of 15 August 1947, Lord Mountbatten was sworn in as Governor-General and he in turn swore in Jawaharlal Nehru as the first Prime Minister of a free India. The 15 August 1947 dawned, revealing the dual reality of independence and partition. Lakhs of refugees, forced to leave the lands of their forefathers, were pouring into the two new states. The symbol of this tragedy at the moment of national triumph was the forlorn figure of Gandhiji—the man who had given the message of non-violence, truth, love and courage, and manliness to the Indian people. In the midst of national rejoicing, he was touring the hate-torn land of Bengal, trying to bring comfort to people who were even then paying the price of freedom through senseless communal slaughter.

### **Check Your Progress**

1. What was the aim of the British Cabinet Mission of 1946 to India?
2. What do you understand by the Mountbatten Plan?

## **6.3 INDIAN INDEPENDENCE ACT OF 1947**

The Indian Independence Act, 1947 was the legislation passed and enacted by the British Parliament that officially announced the Independence of India and the Partition of India. The legislation of the Indian Independence Act was designed by Clement Attlee. (Attlee was leader of the labour party from 1935 to 1955, and served as Britain’s Prime Minister from 1945 to 1951). The Indian political parties,

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the Indian National Congress, the Muslim League and the Sikh community, came to an agreement on the transfer of power from the British government to the independent Indian government, and the Partition of India. The agreement was made with Lord Mountbatten, which was known as the 3rd June Plan or Mountbatten Plan.

The Indian Independence Act, 1947 can be regarded as the statute ratified by the Parliament of the United Kingdom propagating the separation of India along with the independence of the dominions of Pakistan and India.

### **Events leading to the Indian Independence Act**

#### **(a) 3 June Plan**

On 3rd June 1947, a plan was proposed by the British government that outlined the following principles:

- (i) The principle of Partition of India was agreed upon by the British government.
- (ii) The successive governments were allotted dominion status.

#### **(b) Attlee's announcement**

On 20 February 1947, the Prime Minister of United Kingdom, Clement Attlee made the following announcements:

- (i) Latest by June 1948, the British government would endow absolute self-government to British India
- (ii) After deciding the final transfer date, the future of princely states would be decided

The Indian Independence Act, 1947 came into inception from the 3rd June Plan.

### **Structure of the Act**

The structure of the Act included:

- (i) Twenty sections
- (ii) Three schedules

The Indian Independence Bill was formally introduced in the British Parliament on 4 July 1947 and received the royal assent on 18 July 1947. It removed all limitations upon the responsible government (or the elected legislature) of the natives. It said that until they developed their own Constitutions, their respective Governor-Generals and provincial governors were to enjoy the same powers as their counterparts in other dominions of the Commonwealth. It meant that India and Pakistan would become independent from 15 August 1947.

### **Legacy of British to Indian Administration**

The making of the Indian Constitution was in progress even before the country attained independence in 1947. Indian nationalism took birth in the 19th century

as a result of the conditions created by the British rule. Nationalist leaders of India demanded many reforms in constitutional arrangements during the colonial rule. To meet some of their demands, the British enacted some legislations, such as the Government of India Act, 1858; the Indian Council Act, 1861; the Indian Council Act, 1892; the Indian Council Act, 1909; the Government of India Act, 1919; and the Government of India Act, 1935.

The structure of Indian administration shows the effects of the British rule. Several functional aspects, including the education system, public services, political set-up, training, recruitment, official procedure, police system, district administration, revenue administration, budgeting and auditing, began at the time of the British rule.

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### Check Your Progress

3. What do you mean by the Indian Independence Act, 1947?
4. How many sections did the Indian Independence Act of 1947 consist of?

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## 6.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. The aim of the British Cabinet Mission of 1946 to India was to discuss and plan for the transfer of power from the British Raj to Indian leadership. The objective was to provide India with independence under Dominion status in the Commonwealth of Nations. The Mission was formulated at the initiative of Clement Richard Attlee, the Prime Minister of the UK.
2. The Mountbatten Plan dealt with the method by which power will be transferred from British to Indian hands, in particular the methods by which Muslim-majority provinces would choose whether they would remain in India or opt for the 'new entity' that is Pakistan. In Sind and Baluchistan, a straightforward decision would be made by the provincial legislatures.
3. The Indian Independence Act, 1947 was the legislation passed and enacted by the British Parliament that officially announced the Independence of India and the Partition of India. The legislation of the Indian Independence Act was designed by Clement Attlee. (Attlee was leader of the labour party from 1935 to 1955, and served as Britain's Prime Minister from 1945 to 1951). The Indian political parties, the Indian National Congress, the Muslim League and the Sikh community, came to an agreement on the transfer of power from the British government to the independent Indian government, and the Partition of India.
4. The Indian Independence Act consisted of twenty sections.

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## 6.5 SUMMARY

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- The aim of the British Cabinet Mission of 1946 to India was to discuss and plan for the transfer of power from the British Raj to Indian leadership. The objective was to provide India with independence under Dominion status in the Commonwealth of Nations. The Mission was formulated at the initiative of Clement Richard Attlee, the Prime Minister of the UK
- The British Cabinet Mission, a special mission of cabinet ministers, came to India on 24 March 1946 to enable the nation to gain independence as fast as possible. The Mission was in India for almost five weeks to discuss important issues with significant representatives of Indian states and those of British India.
- Attlee, on 20 February 1947, announced that the British would withdraw from India by 30 June 1948, and that Lord Mountbatten would replace Wavell. British powers and obligations vis-à-vis the princely states would lapse with transfer of power but these would not be transferred to any successor government in British India.
- Mountbatten now set about convincing Congress leaders of the necessity of partition. He made use of two opposite lines of reasoning. On the one hand, he declared that ‘the truncated Pakistan, if conceded now, was bound to come back later’; on the other hand, he promised that if India’s two unwilling wings were lopped off, a strong and united Centre would be the result. .
- The Government’s Plan or the Mountbatten Plan dealt with the method by which power will be transferred from British to Indian hands, in particular the methods by which Muslim-majority provinces would choose whether they would remain in India or opt for the ‘new entity’ that is Pakistan.
- At midnight of 15 August 1947, as the clock struck 12, India became free. Nehru proclaimed it to be the nation with his famous ‘Tryst with Destiny’ speech. On the morning of 15 August 1947, Lord Mountbatten was sworn in as Governor-General and he in turn swore in Jawaharlal Nehru as the first Prime Minister of a free India.
- The Indian Independence Act, 1947 can be regarded as the statute ratified by the Parliament of the United Kingdom propagating the separation of India along with the independence of the dominions of Pakistan and India.
- The Indian Independence Bill was formally introduced in the British Parliament on 4 July 1947 and received the royal assent on 18 July 1947. It removed all limitations upon the responsible government (or the elected legislature) of the natives. It meant that India and Pakistan would become independent from 15 August 1947.

- The structure of Indian administration shows the effects of the British rule. Several functional aspects, including the education system, public services, political set-up, training, recruitment, official procedure, police system, district administration, revenue administration, budgeting and auditing, began at the time of the British rule.

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### 6.6 KEY WORDS

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- **The Labour Party:** A centre-left political party in the United Kingdom.
- **NWFP:** The North-West Frontier Province was a province of British India and subsequently of Pakistan. It was established in 1901 and was known by this name until 2010. The area became Khyber Pakhtunkhwa province when the Eighteenth Amendment was passed by the then Pakistan government.
- **Pakhtoonistan:** The geographic historical region inhabited by the indigenous Pashtun people of modern-day Afghanistan and Pakistan. Pakhtoonistan issue sprung up at the time when Durand Line was marked in 1893.

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### 6.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Enumerate the various events that led to India's Independence.
2. Write a brief note on the prevailing condition in Britain just before Independence.
3. What was the purpose of the British Cabinet Mission?
4. Write a brief note on the Indian Independence Act of 1947.

#### Long-Answer Questions

1. Discuss the significance of general elections which were held in India in 1945-46.
2. Analyse the various provisions of the Cabinet Mission.
3. Analyse the role played by the Mountbatten Plan.
4. Write a comprehensive note on various events which led to the Indian Independence Act.

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# UNIT 7 INDIAN ADMINISTRATION AFTER 1947

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*Indian Administration  
After 1947*

## NOTES

### Structure

- 7.0 Introduction
- 7.1 Objectives
- 7.2 Framework of Indian Constitution
- 7.3 Union and State Administrative Relations
  - 7.3.1 Administrative Relations
  - 7.3.2 Machinery for Inter-State Relations
  - 7.3.3 Financial Relations
  - 7.3.4 Inter-State Council
- 7.4 Answers to Check Your Progress Questions
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- 7.6 Key Words
- 7.7 Self Assessment Questions and Exercises
- 7.8 Further Readings

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## 7.0 INTRODUCTION

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After independence from the British, the Indian Constitution came into being. Our Constitution is not just a mere set of fundamental laws that form the basis of governance of our country but it embodies and reflects certain basic values, philosophy and objectives that were held very dear to our founding fathers. These values do find expression in various articles and provisions of our Constitution. In short, the Constitution of India is a value-loaded document.

This unit presents an in-depth study of the Preamble to the Constitution of India and analyses the importance of the Constitution as the guardian of the Republic, i.e. India, while ensuring that the country is governed by the people and for the people in a democratic way. It also discusses the relationship of the centre with the states.

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## 7.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the Preamble to the Indian Constitution
- Enumerate values, philosophy and objectives of the Constitution
- Enumerate the fundamental duties enshrined in the Constitution
- Evaluate the administrative relations between the Union and the States
- Explain the taxing powers of the Centre and States

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## 7.2 FRAMEWORK OF INDIAN CONSTITUTION

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#### The Preamble

The Preamble to the Indian Constitution was formulated in the light of the Objectives Resolution, which was moved by Nehru on 13 December 1946 and almost unanimously adopted on 22 January 1947. Also, the drafting committee of the Constituent Assembly, after a lot of deliberations, decided that the 'Preamble stands part of the Constitution'.

The Preamble to the Constitution of India reads as follows:

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

- JUSTICE, social, economic and political;
- LIBERTY of thought, expression, belief, faith and worship;
- EQUALITY of status and opportunity; and to promote them all;
- FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;
- IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949 do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

The words of the Preamble make it clear that the basic tasks which the Constitution makers envisaged for the Indian state were to achieve the goals of justice, liberty, equality and fraternity. These objectives help us decode the messages and mandates of our Constitution in terms of our contemporary needs and futuristic perspectives.

#### A. Amendment to the Preamble

By Section 2 of the Constitution (Forty-second Amendment Act, 1976), two amendments were made in the Preamble.

- Instead of 'Sovereign Democratic Republic', India was declared 'Sovereign Socialist Secular Democratic Republic'
- For the words 'Unity of the Nation', the words 'Unity and Integrity of the Nation' were inserted.

#### B. Explanation of the Preamble

A careful study of the Preamble reveals the following points:

1. **Source of the Constitution:** The first and the last words of the Preamble, that is, 'We, the people of India'..... 'adopt, enact and give to ourselves this constitution' convey that the source of the Constitution is the people of

India. The people have formulated their Constitution through the Constituent Assembly, which represented them.

**2. Nature of the Indian political system:** The Preamble also discusses the nature of the Indian political system. The Indian polity is sovereign, socialist, secular, democratic and republic.

- (i) **Sovereign:** After the implementation of the Constitution on 26 January 1950, India became sovereign. It was no longer a dominion. Sovereignty means the absence of the external and the internal limitations of the state. It means that India has the supreme power to take its decision.
- (ii) **Socialist:** After the Forty-second Constitutional Amendment, the Constitution of India declares itself a socialist polity. A number of provisions in Part IV of the Constitution dealing with the Directive Principles of State Policy are intended to bring about a socialist order of society.
- (iii) **Secular:** Secularism is another aspect of the Indian polity, which was included by the forty-second Constitutional Amendment. It means that people have the right to follow their respective religion.
- (iv) **Democracy:** The Preamble declares India to be a democratic country. The term 'democratic' is comprehensive. In its broader sense, it comprises political, social and economic democracy. The term 'democratic' is used in this sense in the Preamble and calls upon the establishment of equality of status and opportunity.  
  
In a narrow political sense, it refers to the form of government, a representative and responsible system under which those who administer the affairs of the state are chosen by the electorate and are accountable to them.
- (v) **Republic:** Lastly, the Preamble declares India to be a republic. It means that the head of the state is elected and this position is not hereditary. The President of India, who is the head of the state, is elected by an electoral college consisting of members of federal and state legislatures.

**3. Objectives of the political system:** The Preamble proceeds further to define the objectives of the Indian political system. These objectives are: justice, liberty, equality and fraternity.

### **Philosophy and Values Embodied in the Indian Constitution**

Our Constitution is not just a mere set of fundamental laws that form the basis of governance of our country but it embodies and reflects certain basic values, philosophy and objectives that were held very dear to our founding fathers. These values do find expression in various articles and provisions of our Constitution and

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mostly, the Preamble to our Constitution embodies the fundamental values and the philosophy on which the Constitution is based.

The preamble provides a key to unlock and explore the spirit of our Constitution. Without it, a proper appreciation of the objectives and values that find place in our Constitution seems a remote possibility. Therefore, it is essential to turn to the various expressions contained in the Preamble for a better understanding and interpretation of the Indian Constitution. Recognizing its importance, the Preamble was amended in 1976 by the 42nd Constitution Amendment Act. According to an eminent Constitutional expert, Subhash C. Kashyap, the text of the Preamble stands for the fundamental constitutional values in which the founding fathers believed, which they wanted to foster among the people of the Republic and which, they hoped, would guide all those who, from generation to generation, were called upon to work. The values expressed in the Preamble are sovereignty, socialism, secularism, democracy, republican character, justice, liberty, equality, fraternity, human dignity and the unity and integrity of the Nation (all these points are discussed ahead in detail).

In addition to them, our Constitution promotes respect for diversity and minority rights, accommodates regional and political assertions through federalism and fosters international peace and cooperation.

### 1. Sovereignty

By declaring us as a sovereign entity, the Preamble emphasizes complete political freedom. It implies that our state is internally powerful and externally free and is free to determine for itself without any external interference. There is none within the state to challenge its authority. Only this attribute of sovereignty has made a country a member in the comity of nations. Without sovereignty the state has no essence. If a state cannot freely determine what it wants and how to achieve it, it loses the rationale to exist. Further, sovereignty gives the state the dignity of existence. It would not receive respect from within as well from outside if it does not possess the sovereign status. This suggests that sovereignty is one of the most important values of a state. Therefore, the government is duty bound to defend its sovereignty by preventing any kind of threat to it coming from any entity and direction.

Though our Constitution does not specify where the sovereign authority lies but by mentioning the source of our Constitution as 'We the people of India' it announces to the world that the ultimate sovereignty rests with the people of India as a whole. Political sovereignty is the hinge of our polity. Accordingly, it is implied that the Constitutional authorities and organs of government derive their power only from the people. Therefore, our political system should ensure the support and approval of the people to it.

Article-51A(c), on the other hand, says that it shall be the duty of every citizen to uphold and protect the sovereignty, unity and integrity of India.

## **2. Socialism**

The word 'socialist' was added to the Preamble by the 42nd Amendment Act of 1976. However, several articles of our Constitution were already there giving credence to the ideal. The fathers of our Constitution had a wider vision of social transformation. Despite all social, economic and political inequality present and inherent in Indian traditional society, our Constitution started a crusade against that order. The Constitution has deliberately imposed on us the ideal of socialist pattern of society, a kind of Indian model of socialism to suit our needs and temperament. It stands to end all forms of exploitation in all spheres of our existence. Our Constitution directs the state to ensure a planned and coordinated social advance in all fields while preventing concentration of wealth and power in few hands.

## **3. Secularism**

India is a home to almost all major religions in the world. To keep the followers of all these religions together, secularism has been found to be a convenient formula. The ideal of secularism in Indian context implies that our country is not guided by any religion or any religious considerations. However, our polity is not against religions. It allows all its citizens to profess, preach and practice any religion of their liking. Articles from 25 to 28 ensure freedom of religion to all its citizens. Constitution strictly prohibits any discrimination on the ground of religion. All minority communities are granted the right to conserve their distinctive culture and the right to administer their educational institutions. The Supreme Court in *S.R Bommai vs. Union of India* held that secularism was an integral part of the basic structure of the Constitution. Secularism thus is a value in the sense that it supports to our plural society. It aims at promoting cohesion among different communities living in India. Despite the constitutional provisions and safeguards it is unfortunate that we still remain insufficiently secular. Secularism has remained a challenging objective.

## **4. Democracy**

India is a democracy. We have adopted parliamentary democracy to ensure a responsible and stable government. As a form of government it derives its authority from the will of the people. The people elect the rulers of the country and the latter remain accountable to the people. The people of India elect their governments at all levels (Union, State and local) by a system of universal adult franchise; popularly known as 'one man one vote'. Elections are held periodically to ensure the approval of the people to the governments at different levels. All the citizens without any discrimination on the basis of caste, creed, colour, sex, religion or education are allowed freedom of speech, thought and expression and also association. Democracy contributes to stability in the society and it secures peaceful change of rulers. It allows dissent and encourages tolerance. It rules by persuasion, not by coercion. It stands for a constitutional government, rule of law, inalienable rights of

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citizens, independence of judiciary, free and fair elections and freedom of press, etc. Therefore, to develop a democratic political culture has been an important objective.

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### **5. Republic**

As opposed to a monarchy, our Constitution prefers to remain a republic. The office of the head of the state is elective. This idea strengthens and substantiates democracy that every citizen of India (barring some who are constitutionally disqualified) after attaining a particular age is equally eligible to become the head of the state if he is elected as such. Political equality is its chief message. Any sort of hereditary rule is thus regarded as a disvalue in India.

### **6. Justice**

Justice is called a total value. The fathers of our Constitution knew that political freedom would not automatically solve the socio-economic problems which have been deep rooted. Therefore, they stressed that the positive constructive aspect of political freedom has to be instrumental in the creation of a new social order, based on the doctrine of socio-economic justice. The message of socio-economic justice mentioned in the preamble to our Constitution has been translated into several articles enshrined in part-III and part-IV of the Constitution. A number of practical measures have been taken over the years to create more favourable social conditions for the millions of downtrodden. These include several developmental policies to safeguard minorities, backward, depressed and tribal people. Our constitution abolishes untouchability; prohibits exploitation of the women, children and the weak and advocates for reservation to raise the standard of the people. Whenever our government undertakes any developmental project, it always adds a human face to it. Therefore, this ideal of a just and egalitarian society remains as one of the foremost objectives.

### **7. Liberty**

The blessings of freedom have been preserved and ensured to our citizens through a set of Fundamental Rights. It was well understood by the fathers of our Constitution that the ideal of democracy was unattainable without the presence of certain minimal rights which are essential for a free and civilized existence. Therefore, the Preamble mentions these essential individual rights such as freedom of thought, expression, belief, faith and worship which are assured to every member of the community against all the authorities of States by Part-III of the Constitution. There are however less number of success stories. Unless all dissenting voice is heard and tolerated and their problems are addressed liberty will be a distant dream.

### **8. Equality**

Every citizen of India is entitled to equality before law and equal protection of law. As a human being everybody has a dignified self. To ensure its full enjoyment,

inequality in all forms present in our social structure has been prohibited. Our Constitution assures equality of status and opportunity to every citizen for the development of the best in him. Political equality though given in terms of vote is not found in all spheres of politics and power. Equality before law, in order to be effective, requires some economic and education base or grounding. Equality substantiates democracy and justice. It is therefore held as an important value.

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### **9. Fraternity**

Fraternity stands for the spirit of common brotherhood. In the absence of that, a plural society like India stands divided. Therefore, to give meaning to all the ideals like justice, liberty and equality, our Constitution gives ample stress on fraternity. Democracy has been given the responsibility to generate this spirit of brotherhood amongst all sections of people. This has been a foremost objective to achieve in a country composed of so many races, religions, languages and cultures. Article-51A (e) therefore, declares it as a duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities. Article 51A (f) further asks each citizen to value and preserve the rich heritage of our composite culture. However, Justice D.D. Basu believes that, 'Fraternity will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even local or provincial anti-social feelings which stand in the way of unity of India.'

### **10. Dignity of the individual**

Fraternity and dignity of the individuals have a close link. Fraternity is only achievable when the dignity of the individual is secured and promoted. Therefore, the founding fathers of our Constitution attached supreme importance to it. Our Constitution, therefore, directs the state through the Directives enshrined in the Part-IV of our Constitution to ensure the development of the quality of life to all sections of people. Our Constitution acknowledges that all citizens, men and women equally, have the right to an adequate means of livelihood (Art.-39 a) and just and humane conditions of work (Art.-42). Article-17 has abolished the practice of untouchability by declaring it as a punishable offence. Our Constitution too directs the state to take steps to put an end to exploitation and poverty.

### **11. Unity and integrity of the Nation**

To maintain the independence of the country intact and enduring, unity and integrity of the nation is very essential. Therefore, the stress has been given on the ideal of fraternity which would foster unity amongst the inhabitants. Without a spirit of brotherhood amongst the people, the ideals of unity and integration of people and nation seem unattainable. Our Constitution expects from all the citizens of India to uphold and protect the unity and integrity of India as a matter of duty.

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### 12. International peace and a just international order

Indian Constitution directs the state to make endeavour to promote international peace and security; maintain just and honourable relations between nations; and foster respect for international law and treaty obligations in the dealings of organized people with one another; and encourage settlement of international disputes by arbitration. Thus India too cherishes the ideal of universal brotherhood beyond our national border. These provisions enshrined in Article 51 of the Indian Constitution have been a beacon light that provides a ray of hope for saving the world from the impending nuclear and environmental catastrophe. To fulfill these objectives India had provided leadership during the heydays of colonialism and also during the Cold War. In a changed world scenario characterized by globalization, proliferation of the weapons of mass destruction, climate change and international terrorism, India has been making a constant bid for a permanent seat in the Security Council of the United Nations to provide direction to these world issues.

### 13. Fundamental Duties

Our Constitution too prescribes some duties to be performed by the citizens. All these duties though not enforceable in nature but reflect some basic values too. It highlights values like patriotism, nationalism, humanism, environmentalism, discipline, harmonious living, feminism, scientific temper and inquiry and individual and collective excellence. Article 51A provides a long list of these duties to be observed by all the citizens (discussed ahead in the unit in detail).

The above account shows how our Constitution is a value loaded document.

#### Check Your Progress

1. What was the objective of the Preamble to the Indian Constitution?
2. List the important and valuable words mentioned in the Preamble.
3. What does the Indian Constitution stand for?

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### 7.3 UNION AND STATE ADMINISTRATIVE RELATIONS

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A study of the Centre–State relations in the Indian Constitution shows that the Makers of the Constitution gave more powers to the Centre as compared to the state. The logic behind this was that a more potent federalism (that is, more powerful states) would have weakened the feelings of national unity. The trauma of partition, the problem of integration of princely states and the need for planned economic development for removing backwardness, poverty and food shortage prompted the Constitution makers to establish a strong centre.

The nature of Centre–State relations emerges from the starting point where formally and in the wording of the Constitution, India does not designate itself as a federal state, rather a ‘Union of States’. The reason is the Indian federation was not the result of an agreement, and therefore, no state in India had the right to secede. The Constitution of India conceived of the division of the country into states for administrative convenience. It sought to achieve a smooth working relationship between the two levels of the Union and the states by tilting heavily in favour of the Union in all fields of legislative, administrative and fiscal relations.

Articles 245 to 254 deal with the distribution of legislative powers between the Union and the states. Articles 245 to 246 provide that the Union Parliament shall have exclusive jurisdiction to make laws for the whole or any part of the territory of India, with regard to all matters included in the Union List. The subjects in the Union List are of national importance and include among its ninety-seven items—defence, foreign affairs, currency, and so forth.

The states have been empowered to make laws on all matters included in the State List. The State List in its sixty-six entries includes law and order, local government, public health, education and agriculture, and others.

A third list, that is, a Concurrent List has also been provided in the Constitution. The forty-seven entries in the Concurrent List include the legal system, trade and industry and economic and social planning. Both the Centre and the state governments can legislate on the subjects of the Concurrent List but in case of conflict between the Union and the state governments, the Union law prevails.

The Constitution also enumerates certain conditions in which the Union Parliament is authorized to make laws on a subject mentioned in the State List. These conditions are as follows:

- Under Article 249, if the Rajya Sabha passes a resolution, supported by at least two-thirds of its members, present and voting, declares a particular subject to be of ‘national interest’ the Parliament becomes competent to make law on the specified state subject, for a period of not more than one year at a time.
- Under Article 250, the Parliament has the power to make laws on state subjects for the whole or any part of the territory of India during the ‘operation of a proclamation of Emergency’.
- Under Article 251, the law passed by the Parliament under Articles 249 and 250 prevails in case of its inconsistency or repugnancy with the law made by a State Legislature.
- Under Article 252, two or more states may request the Parliament to make laws for them with respect to any state matter. But such law(s) will be applicable to only those states who so desire. Subsequently, other states may also adopt that law by passing resolutions in their legislatures. Such act can be amended or repealed by the Parliament only and not by the State Legislature.

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The provisions of this Article have been used by the states to surrender their powers in favour of the Union, for example, by the states of Andhra, Maharashtra, Odisha and Uttar Pradesh, authorizing the Parliament to enact laws for the control and regulation of prices.

- Under Article 253, the Parliament is competent to make laws for the whole or any part of the territory of India to implement India's international treaties, agreements or conventions with any other country or countries. The Parliament is competent to make law for this purpose on any subject, including the state subjects.
- Any bill passed by the State Legislature can be reserved by the Governor of that state for the consent of the President. The President may veto such a law without giving any reason. Thus, in such case, the President's power of veto is absolute. Besides, there are certain matters within the State List and the Concurrent List of which the states must take the previous sanction of the President before making laws on them.
- The states comprising the Union of India have been named in the First Schedule, yet the Constitution empowers the Parliament to admit new states to the Union or establish a new state. The Parliament can increase or decrease the areas of a state, change its name, alter its boundaries, or cause a state to completely disappear by merger or integration with adjoining states.

### 7.3.1 Administrative Relations

In the field of administration, the Centre has still more powers than it possesses in the field of legislation. Normally, the administrative powers of the Centre correspond to the matters over which it has power to make law. This is provided for under Articles 73 and 162. Union government can administer over states in the following ways:

- According to Article 256, the executive power of every state is to be exercised in such a way as to ensure compliance with the laws made by the Parliament.
- Under Article 257, the Union Executive is empowered to give such directions to a state as may appear to the Government of India to be necessary for the purpose. Not satisfied with the general power of the Union to give directions to the states, the Constitution goes a step further and calls upon every state not to impede or prejudice the executive power of the Union in the state. The Union's powers of giving directions include certain specific matters such as: (a) The construction and maintenance of means of communication which are of national or military importance, and (b) The protection of railways within the states.
- Article 258 empowers the Union government to entrust to the state, conditionally or unconditionally, any additional functions relating to any matter

to which the executive power of the Union extends. In other words, the states can be asked to exercise the executive powers of the Union. In such a case, the Union shall pay the states officials extra costs which they incur in exercising these additional functions.

- The presence of all-India services like the Indian Administrative Service, the Indian Police Service, and others further makes the authority of the central government dominant over the states. The members of these all India services are appointed by the President of India on the basis of a competitive examination held by the Union Public Service Commission. These services serve both the Centre and the states. The creation of these services is not strictly federal, for the states have no say in this matter.
- Articles 352 to 360 contain the emergency provisions which empower the President in effect to suspend the Constitution and to take over the administration of a state or states of the Indian Union if he is satisfied that there is a threat to the security of the nation, or a breakdown in the constitutional machinery of a state, or a financial emergency.
- Governors to the states are appointed by the President on the recommendations of the central government.
- Article 339(2) expressly extends the executive power of the Union to give directions to a state with regard to the drawing up and execution of schemes specified in the direction, to be essential for the welfare of the scheduled tribes in the state.

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### 7.3.2 Machinery for Inter-State Relations

The emphasis in the Constitution is on administrative cooperation and hence provisions are made for it.

1. The Constitution has an important provision embodied in Article 262 dealing with the waters of inter-state rivers and river valleys. Thus, under this Article, Parliament may establish an inter-state agency to adjudicate disputes and complaints with regard to the use, distribution or control of waters of inter-state rivers or river-valleys. An inter-state council has been established by the President on a permanent basis.
2. Article 263 provides for the establishment of another inter-state Council to enquire into, and to advise upon the disputes between the Centre and the states, or amongst the states themselves.
3. Besides, there is a framework of voluntary cooperation at administrative level for resolving problems that may arise between the Centre and the state. The Constitution provides for inter-state delegation of functions, which makes operation of Indian federalism adequately flexible. Thus, where it is inconvenient for one government to carry out its administrative functions directly, it may have those functions executed through the other state governments.

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4. The States Reorganization Act of 1956 grouped the states into five Zonal Councils. They do not constitute a layer of government between the Centre and the states; they are advisory bodies. The Zonal Council consists of the Union Home Minister, who is the Chairman and the Chief Ministers in the Zone. The idea was to provide a forum where the states could discuss and resolve inter-state disputes.

### 7.3.3 Financial Relations

The financial relations between the Centre and the states are regulated according to the provisions of Part XII of the Constitution. The Union and the State Lists also refer to the financial jurisdiction of the Centre and the state. The financial relations are, however, not a matter of concurrent jurisdiction.

#### A. Taxing Powers of the Centre and the States

By and large, taxes that have an interstate base are levied by the Centre and those with a local base by the states.

Articles 269 to 272 and entries 83 to 88 of the Union List deal with the taxes levied and collected by the Union. These taxes fall under five categories:

- Taxes levied by the Union but collected and appropriated by the state, for example, stamp duties, duties of excise on medicinal and toilet preparations, and so forth.
- Taxes levied and collected by the Centre and compulsorily distributed between the Union and the State.
- Taxes levied and collected by the Centre but assigned to the state, for example, taxes on railway fares and freight, estate duties, and others.
- Taxes levied and collected by the Centre may be distributed between the Union and the states, if Parliament by law so provides, for example, Union excise duties.
- Taxes levied and collected and retained by the Centre, for example, customs, corporation tax, surcharge on income-tax, and so forth.

The State List contains nineteen items, for example, land revenue, liquor and opium excise, stamps, taxes on land and buildings, taxes on vehicles, and others. Every state is entitled to levy, collect and appropriate these taxes.

#### B. Grants-in-Aid

A remarkable feature of the Constitution is the provision of three types of grants-in-aid by the Centre to the states:

- Article 275 makes specific provisions for grants-in-aid given to the states which are in need of assistance, particularly for the implementation of their development schemes.
- Grants-in-aid under Article 282 may be made for any public purpose.

- Grants under Article 273 are given to the states of Assam, Bihar, Odisha and West Bengal in lieu of the export of jute and jute products.

### **C. Consolidated Fund**

Under Article 266, a Consolidated Fund for the central government and a separate Consolidated Fund for each of the states have been created.

The purpose of creating these funds was to ensure that no appropriation can be made from these funds without the authority of the law so that the salaries and other allowances of the President, the Union ministers, judges of the Supreme Court and high courts, and so forth could regularly be paid without being a votable item of the budget.

### **D. Contingency Fund**

Article 267 provides for the establishment of a Contingency Fund of India (CFI), and similar contingency fund for each of the states, so that the advances may be made to the Centre and the state respectively for meeting unforeseen expenditure, pending the legislative authorization.

### **Finance Commission of India**

Article 264 provides for the creation of a Finance Commission of India, and Articles 280 and 281 deal with its composition, powers and functions. The members of the Finance Commission shall be appointed by the President. The Commission makes recommendations on the distribution of shared and shareable taxes and other assignments between the Centre and the states, or among the states themselves.

### **Planning Commission/Niti Aayog**

The Planning Commission was established in 1949 by a resolution of the cabinet with a purpose to suggest measures for augmenting the resources of the country, their effective and balanced utilization, determining the priorities, stages, progress and machinery of planning in the country. It is an extra-constitutional agency, which fulfills the role of an advisory technical body in the field of planning. It is responsible for formulating Five-Year Plans for national development. The plans finalized by the Commission are discussed and finally approved by the National Development Council.

The National Institution for Transforming India (NITI) Aayog is a think tank that has been established by the Indian government to replace the Planning Commission. The stated objective for the establishment of the NITI Aayog is to foster involvement and participation in the economic policy-making process by the State Governments of India. The scrapping of the Planning Commission was announced by Prime Minister Modi on his Independence Day address from the Red Fort in 2014. Like the Planning Commission, the chairman of the Niti Aayog is the PM. The governing council of the Niti Aayog consists of all the Chief Ministers

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of all the States and Union territories with Legislatures and lieutenant governors of other Union Territories. Along with them, experts with domain knowledge are also invited by the PM to be a part of the think tank.

The functions of the Niti Aayog are as follows:

- a. To evolve a shared vision of national development priorities sectors and strategies with the active involvement of States in the light of national objectives.
- b. To foster cooperative federalism through structured support initiatives and mechanisms with the States on a continuous basis, recognizing that strong States make a strong nation.
- c. To develop mechanisms to formulate credible plans at the village level and aggregate these progressively at higher levels of government.
- d. To ensure, on areas that are specifically referred to it, that the interests of national security are incorporated in economic strategy and policy.
- e. To pay special attention to the sections of our society that may be at risk of not benefitting adequately from economic progress.
- f. To design strategic and long term policy and programme frameworks and initiatives, and monitor their progress and their efficacy. The lessons learnt through monitoring and feedback will be used for making innovative improvements, including necessary mid-course corrections.
- g. To provide advice and encourage partnerships between key stakeholders and national and international like-minded Think tanks, as well as educational and policy research institutions.
- h. To create a knowledge, innovation and entrepreneurial support system through a collaborative community of national and international experts, practitioners and other partners.
- i. To offer a platform for resolution of inter-sectoral and inter-departmental issues in order to accelerate the implementation of the development agenda.
- j. To maintain a state-of-the-art Resource Centre, be a repository of research on good governance and best practices in sustainable and equitable development as well as help their dissemination to stakeholders.
- k. To actively monitor and evaluate the implementation of programmes and initiatives, including the identification of the needed resources so as to strengthen the probability of success and scope of delivery.
- l. To focus on technology upgradation and capacity building for implementation of programmes and initiatives
- m. To undertake other activities as may be necessary in order to further the execution of the national development agenda, and the objectives mentioned above

## National Development Council (NDC)

The NDC was constituted in August 1952. It is the highest reviewing and advisory body in the field of planning. The members of the Council are the Prime Minister, Chief Ministers of all the states, the members of the Planning Commission and since 1967, all the Union cabinet ministers. The NDC is a forum where the central government interacts with the state governments. Its purpose is to bring about cooperation between the central, state and the local governments in the huge task of development. The Five-Year Plans become operational only after they have been approved by it.

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### Areas of Centre-State Conflict

Despite the fact that there is a division of powers between the Centre and the states, the states are dissatisfied because they feel that the balance of power is heavily in favour of the Centre. They also feel that the Centre has used its power in such a way that there is no autonomy left to them even in matters mentioned in the State List.

#### 7.3.4 Inter-State Council

Article 263 of the Constitution of India provides for the establishment of an Inter-State Council. This is the only article of the sub-chapter 'Co-ordination between States' of Chapter II -Administrative Relations of Part XI of the Constitution - Relations between the Union and the States. The text of the article reads as follows:

**Article 263: Provisions with respect to an Inter-State Council -** *If at any time it appears to the President that the public interest would be served by the establishment of a Council charged with the duty of -*

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or
- (c) making recommendations upon any such subject and in particular, recommendations for the better co-ordination of policy and action with respect to that subject, it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.'

The genesis of the article can be traced directly to Section 135 of the Govt. of India Act, 1935 which provided for establishment of Inter-Provincial Council with duties identical with those of the Inter-State Council. At the time of framing of section 135 of the Government of India Act, 1935, it was felt that 'if departments or institutions of coordination and research are to be maintained at the Centre in such matters as Agriculture, Forestry, Irrigation, Education and Public Health and if such institutions are to be able to rely on appropriations of public funds sufficient to enable them to carry on their work, the joint interest of Provincial Governments

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in them must be expressed in some regular and recognized machinery of Inter-Governmental consultations.’ It was also intended that the said Council should be set up as soon as the Provincial autonomy provisions of Government of India Act, 1935 came into operation.

In the Constituent Assembly debate held on 13 June 1949, the article on Inter-State Council was adopted without any debate.

### Formations

As Article 263 makes it clear, the Inter-State Council is not a permanent constitutional body for coordination between the States of the Union. It can be established ‘at any time’ if it appears to the president that the public interests would be served by the establishment of such a Council.

The provision of Article 263 of the Constitution was invoked for the first time on 9 August 1952 when President by a notification established the Central Council of Health under the Chairmanship of the Union Minister of Health and Family Planning ‘to consider and recommend broad lines of policy in regard to matters concerning health in all aspects’.

By similar notifications the President established the Central Council for Local Government and Urban Development on 6 September 1954 and four Regional Councils for Sales Tax and State Excise Duties on 1 February 1968.

### Check Your Progress

4. What is the nature of Centre–State relations in India?
5. What is the scope of the ‘Concurrent List’ provided in the Constitution?

## 7.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The words of the Preamble make it clear that the basic tasks which the Constitution makers envisaged for the Indian state were to achieve the goals of justice, liberty, equality and fraternity. These objectives help us decode the messages and mandates of our Constitution in terms of our contemporary needs and futuristic perspectives.
2. The Preamble to the constitution declares: WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:
  - JUSTICE, social, economic and political;
  - LIBERTY of thought, expression, belief, faith and worship;

- EQUALITY of status and opportunity; and to promote them all;
  - FRATERNITY assuring the dignity of the individual and the unity and integrity of the
3. Our Constitution is not just a mere set of fundamental laws that form the basis of governance of our country but it embodies and reflects certain basic values, philosophy and objectives that were held very dear to our founding fathers. These values do find expression in various articles and provisions of our Constitution and mostly, the Preamble to our Constitution embodies the fundamental values and the philosophy on which the Constitution is based.
  4. The nature of Centre–State relations emerges from the starting point where formally and in the wording of the Constitution, India does not designate itself as a federal state, rather a ‘Union of States’. The reason is the Indian federation was not the result of an agreement, and therefore, no state in India had the right to secede. The Constitution of India conceived of the division of the country into states for administrative convenience. It sought to achieve a smooth working relationship between the two levels of the Union and the states by tilting heavily in favour of the Union in all fields of legislative, administrative and fiscal relations.
  5. The Concurrent List has also been provided in the Constitution. The forty-seven entries in the Concurrent List include the legal system, trade and industry and economic and social planning. Both the Centre and the state governments can legislate on the subjects of the Concurrent List but in case of conflict between the Union and the state governments, the Union law prevails.

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### 7.5 SUMMARY

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- The words of the Preamble make it clear that the basic tasks which the Constitution makers envisaged for the Indian state were to achieve the goals of justice, liberty, equality and fraternity. These objectives help us decode the messages and mandates of our Constitution in terms of our contemporary needs and futuristic perspectives.
- The Preamble proceeds further to define the objectives of the Indian political system. These objectives are: justice, liberty, equality and fraternity.
- The preamble provides a key to unlock and explore the spirit of our Constitution. Without it, a proper appreciation of the objectives and values that find place in our Constitution seems a remote possibility.
- The nature of Centre–State relations emerges from the starting point where formally and in the wording of the Constitution, India does not designate

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itself as a federal state, rather a 'Union of States'. The reason is the Indian federation was not the result of an agreement, and therefore, no state in India had the right to secede. The Constitution of India conceived of the division of the country into states for administrative convenience.

- In the field of administration, the Centre has still more powers than it possesses in the field of legislation. Normally, the administrative powers of the Centre correspond to the matters over which it has power to make law. This is provided for under Articles 73 and 162.
- The financial relations between the Centre and the states are regulated according to the provisions of Part XII of the Constitution. The Union and the State Lists also refer to the financial jurisdiction of the Centre and the state. The financial relations are, however, not a matter of concurrent jurisdiction.
- The Planning Commission was established in 1949 by a resolution of the cabinet with a purpose to suggest measures for augmenting the resources of the country, their effective and balanced utilization, determining the priorities, stages, progress and machinery of planning in the country. The National Institution for Transforming India (NITI) Aayog is a think tank that has been established by the Indian government to replace the Planning Commission.
- Despite the fact that there is a division of powers between the Centre and the states, the states are dissatisfied because they feel that the balance of power is heavily in favour of the Centre. They also feel that the Centre has used its power in such a way that there is no autonomy left to them even in matters mentioned in the State List.
- The genesis of the Article 263 can be traced directly to Section 135 of the Govt. of India Act, 1935 which provided for establishment of Inter-Provincial Council with duties identical with those of the Inter-State Council. At the time of framing of section 135 of the Government of India Act, 1935, it was felt that 'if departments or institutions of coordination and research are to be maintained at the Centre.
- As Article 263 makes it clear, the Inter-State Council is not a permanent constitutional body for coordination between the States of the Union. It can be established 'at any time' if it appears to the president that the public interests would be served by the establishment of such a Council.

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## 7.6 KEY WORDS

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- **Concurrent List:** The list in the Constitution that includes the power to be considered by both the central and state government.
- **State List:** The list in the constitution which lists the areas in which the state government has powers to legislate.

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## 7.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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### Short-Answer Questions

1. List the objectives of the Preamble to the Indian Constitution.
2. Write a brief note on the nature of the Indian political system as envisaged in the Preamble.
3. Discuss the values and objectives that our Constitution upholds.
4. Write a brief note on liberty, equality and fraternity as mentioned in the Preamble to the Constitution.
5. Write a brief note on the Centre-State relation in India.
6. What is the role of the NDC?

### Long-Answer Questions

1. Discuss the significance of the Preamble to the Indian Constitution.
2. Analyse the various points that the Preamble reveals.
3. Discuss the philosophy embodied in the Indian Constitution.
4. Analyse the significance of fraternity as envisaged in the Indian Constitution.
5. Write a comprehensive note on administrative relations between the Centre and the States.
6. Analyse conditions in which the Union Parliament is authorized to make laws on a subject mentioned in the State List.
7. Discuss the financial relations between the Centre and the States.

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## 7.8 FURTHER READINGS

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# UNIT 8 PARLIAMENTARY DEMOCRACY AND FUNDAMENTAL RIGHTS

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*Parliamentary  
Democracy and  
Fundamental Rights*

## NOTES

### Structure

- 8.0 Introduction
- 8.1 Objectives
- 8.2 The Indian Parliament: An Overview
  - 8.2.1 Composition of the Parliament
  - 8.2.2 Law-Making Procedure
- 8.3 Administration of Union Territories
- 8.4 Fundamental Rights and their Enforcement
- 8.5 Answers to Check Your Progress Questions
- 8.6 Summary
- 8.7 Key Words
- 8.8 Self Assessment Questions and Exercises
- 8.9 Further Readings

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## 8.0 INTRODUCTION

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The framers of Indian Constitution adopted the British model of parliamentary government. However, they did not make it a sovereign law making body like its English counterparts. They placed supremacy in the hand of legislature because unlike Great Britain, India has a lengthy written Constitution. India has a federal distribution of powers and a list of fundamental rights.

The formal executive head of the State, known as the President, is an integral part of the Parliament inasmuch as the Parliament consists of the President and the two Houses, known respectively as the Rajya Sabha and the Lok Sabha. The Rajya Sabha is the upper chamber, while the Lok Sabha is the popularly elected lower chamber. The Speaker is the most important head of the Lok Sabha. Within the walls of the House, his or her authority is supreme.

This unit discusses the salient features of Indian Parliament and also highlights the pre-eminent position of Fundamental Rights as enshrined in the Constitution.

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## 8.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the significance of the Indian Parliament
- Explain the salient features of the Parliament

- Discuss the bicameral legislature of Parliament
- Explain the law-making procedure of Parliament
- Describe the different Fundamental Rights

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### 8.2 THE INDIAN PARLIAMENT: AN OVERVIEW

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The Indian Parliament is the supreme representative authority of the people. It is the highest legislative organ and the national forum for the articulation of public opinion. The Parliament of India is the centre and focus of our political system. It is the federal legislature of the Indian Union with limited and specified powers. The Parliament has been entrusted with an exclusive jurisdiction in ninety-nine Union matters; a concurrent, yet superior jurisdiction in fifty-two (earlier it was forty-seven) matters included in the Concurrent List; an occasional and excessively restricted jurisdiction in sixty-six (now sixty-one) State matters; and a first and final say with respect to all matters not enumerated in any of the lists of the VII Schedule. The jurisdiction of the British Parliament, which is known as the mother of Parliaments, is absolutely unrestricted. It can make and unmake law on all matters, for all persons, and throughout the territory of Britain. The power of our Parliament is not unlimited and, hence, it cannot claim the same attributes of unlimited sovereignty, which the British Parliament has claimed and exercised in the last seven-and-a-half centuries.

The Indian Parliament is a bicameral legislature in the setting of a Parliamentary executive. The formal executive head of the State, known as the President, is an integral part of the Parliament inasmuch as the Parliament consists of the President and the two Houses, known respectively as the Rajya Sabha and the Lok Sabha. The Rajya Sabha is the federal upper chamber, while the Lok Sabha is the popularly elected lower chamber. Not only is the President an integral part of the Parliament, the Vice-President, too, is made the Ex-officio Chairman of the Rajya Sabha and is its Chief Presiding Officer. The Council of Ministers headed by the Prime Minister is to consist of the members of Parliament, barring a few temporary exceptions and is made directly and collectively accountable to the Lok Sabha. Making the formal and actual executive a part of the Parliament, and also accountable to it, has immensely added to the prestige and power of the Parliament.

#### 8.2.1 Composition of the Parliament

Under Article 79, the Union Parliament consists of the President, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha.)

The maximum strength of the Rajya Sabha has been fixed at 250 members, of which not more than twelve are to be nominated by the President on the ground of such matters as art, literature, science and social service.

Not more than 238 members are to be elected by the State and Union Territories in accordance with the allocation of seats in the IV Schedule. This

Schedule provides and allocates 229 seats to the states and four to the Union Territories. The remaining five seats are still unallocated. The Rajya Sabha was duly constituted for the first time on 3 April 1952 and it then consisted of 204 elected and twelve nominated members. Since then, the IV Schedule has been amended a dozen times by various Acts of the Parliament, and the allocation of seats has varied from time to time in accordance with the reorganization of states, formation of new States and the addition of Union Territories.

The representatives of each State and Union Territory in the Rajya Sabha are elected by the elected members of the State Legislative Assemblies and by members of specially constituted Electoral Colleges for Union Territories. The elections are held in accordance with the system of proportional representation and the seats are, therefore, allocated to states and Union Territories in terms of the proportion of their population, as determined at the last census. The votes are cast on the basis of single transferable vote. The voters indicate their preferences in favour of three different persons (I, II and III) contesting the membership. The candidates who receive the requisite majority of votes are declared elected. Voting at these elections is secret, and the electors are not required to disclose their identity. The Rajya Sabha is not subject to dissolution; one-third of its members retire every second year.

The maximum sanctioned strength of the Lok Sabha is 552, of which 530 are to be elected by the State, 20 by the Union Territories and the remaining two to be nominated by the President from amongst the Anglo-Indian community. These 2 members are nominated and appointed by the President only if he or she is satisfied that this community has not been adequately represented in the House through the normal channels of election. The appointment of these 2 members was originally sanctioned by Article 331 only for 10 years. (Under 8th, 23rd, 45th, 62nd, 79th Amendment Acts, this provision has been extended until 2010). At present, the strength of Lok Sabha is 545.

The allocation of seats to the States and Union Territories is in proportion to their population as ascertained in the last census. In elections to the Lok Sabha, seats are reserved in various states and Union Territories for Scheduled Castes and Scheduled Tribes. Elections to the Lok Sabha are direct and are held on the basis of universal adult franchise. All citizens who have attained the age of 18 years on the date prescribed by the Election Commission become eligible as voters. On the basis of this universally recognized principle, fourteen General Elections have so far been held for the Lok Sabha.

When a General Election falls due, the President calls upon all parliamentary constituencies to elect members to the Lok Sabha on such dates as recommended by the Election Commission. The elections are held in accordance with the provisions of the Representation of People's Act 1951, as amended up to date, and the rules or orders made under it. As soon as the notification is issued by the President, the Election Commission declares the date for filing nominations, for

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scrutiny and withdrawal of nominations and the actual dates of polling. A candidate for election is required to deposit a security of ₹10,000 to make his nomination valid. In case of the candidates belonging to scheduled castes and scheduled tribes, the security deposit is only ₹ 5,000. On the expiry of the date of withdrawals, the Returning Officer prepares and publishes a list of validly nominated candidates. Sufficient number of polling stations is set up in each constituency, keeping in view that the voters do not have to travel for more than two miles to cast their votes. The voters have to appear in person on the polling booths to cast their votes as no proxy is allowed. The candidate who receives the largest number of votes polled is declared elected by the Returning Officer, who issues to him the certificate of election. It is only when the newly elected member presents the certificate of election to the Secretary of Lok Sabha that the Presiding Officer can administer to him or her the oath of this office.

### **Qualifications for the Membership of the Parliament**

Articles 84 and 102 provide the following qualifications which the persons desiring to become members of either House of Parliament must fulfill:

- (a) He must be a citizen of India and must swear or affirm that he shall bear true faith and allegiance to the Constitution of India that he shall uphold the sovereignty and integrity of India;
- (b) In case of Rajya Sabha, he must be at least 30 years of age, and in case of Lok Sabha he must at least be 25 years;
- (c) He must not be holding any office of profit under the Government India, excepting the office of Ministers of the Union and the states, and the Speaker of Lok Sabha;
- (d) Must not have been declared by a competent court as a person of unsound mind;
- (e) Must not be an undischarged bankrupt;
- (f) Must not owe allegiance or adherence to any foreign State;
- (g) In case of Rajya Sabha, he must be an elector in the State or the Union Territory from where he is seeking the election. This condition has, however, been waived by the Union Government in March 2003.

### **Term of the Houses of the Parliament**

Members of the Rajya Sabha are elected for a period of 6 years, one-third of them retiring every second year. This makes the Rajya Sabha a continuous and permanent chamber, never subject to dissolution. On the other hand, members of the Lok Sabha are elected for a period of 5 years. Normally, the term of each member's office as well as the life of the Lok Sabha is 5 years. If the Lok Sabha is dissolved earlier, the membership of its members automatically terminates. During the Proclamation of Emergency, under Article 352, the Parliament may extend the

life of the Lok Sabha for not more than 1 year at a time, but not beyond a period of 6 months after the Proclamation of Emergency has ceased to operate. In case of extension of the Lok Sabha, the term of its members stands automatically extended.

### **Presiding Officers of Two Houses**

For the smooth, efficient and impartial conduct of its proceedings, each House of Parliament has been empowered by the Constitution to have a Chief and a Deputy Chief Presiding Officer. The Chief Presiding Officer of the Lok Sabha is known as the Speaker and that of the Rajya Sabha is known as the Chairman. The Speaker is assisted by the Deputy Speaker; while the Chairman is assisted by the Deputy Chairman. Each House also has a chairman to preside over the House in the absence of the Chief Presiding Officers.

### **Speaker of the Lok Sabha**

The Speaker is the most important head of the Lok Sabha. Within the walls of the House, his or her authority is supreme. The most salient feature of his office is his or her impartiality. He or she is expected to wield his authority with the 'cold neutrality of the impartial judge'. His impartiality is ensured by the provision that he or she would remain above party considerations and that he would vote only in case of a tie.

### **Powers and Functions of the Speaker**

As the Chief Presiding Officer of the popularly elected Lok Sabha, the Speaker has been entrusted with many powers by the Constitution and the Rules of the House. He or she is the spokesman of the House. The speaker is the custodian of the privileges and immunities of the House and its members. He or she is the ex-officio President of the Indian Parliamentary Group and the Head of the Lok Sabha Secretariat.

The following are the powers and functions of the Speaker of Lok Sabha:

- (i) The basic function of the Speaker is to preside over the sessions of the House when he or she is present in the House. As the Chief Presiding Officer of the House, he or she fixes the hour of the commencement or termination of a sitting and determines the days on which the House will sit.
- (ii) His or her decision in all parliamentary matters is final. A request may be made to him or her for reconsideration but his or her decision cannot be challenged, criticized or questioned.
- (iii) No member can speak in the Lok Sabha without the Speaker's permission. He or she also decides in what order members will speak and how long a member should continue to speak. He or she may ask a member to finish his or her speech and in case the member does not

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- listen, he or she may order that the member's speech should not go on record. The speaker may also ask a member to withdraw unparliamentarily words.
- (iv) The Speaker permits a member to speak in his or her mother tongue if he or she does not know either English or Hindi.
  - (v) The members of the House can only address to the Speaker while speaking.
  - (vi) All the bills, reports, motions and resolutions are introduced with the Speaker's permission.
  - (vii) The Speaker puts the motion to vote in the Lok Sabha. In case there is a tie, he or she is empowered with a casting vote. However, he or she is expected to cast his or her vote so as to retain his or her impartiality and independence.
  - (viii) Except making formal statements while performing his functions, the Speaker does not, ordinarily, participate in the discussion. He or she seldom addresses the House of his or her own accord and unless requested by the members, he or she refrains from expressing his or her personal opinion.
  - (ix) He or she determines a bill to be a money bill and his or her decision is final. The Speaker also certifies a money bill. The Speaker also determines whether a motion of no-confidence in the Council of Ministers is in order. He or she is also empowered to select amendment in relation to bills and motions and can refuse to allow a member to move an amendment, if he or she thinks it is unwarranted or unnecessary. Finally, his or her opinion and consent is final in determining whether a motion to adjourn the House or to postpone its regular business for discussing a matter of general public interest or urgent public importance.
  - (x) The Speaker has to conduct the meetings of the House in an orderly manner. Whenever there is conundrum or indiscipline in the House, he or she has sufficient disciplinary powers to handle such a situation. He or she derives his or her disciplinary powers from the Rules of Procedure of the House and his or her decisions in the matter of discipline cannot be normally challenged. In case of grave disorder, the Speaker may adjourn the House.
  - (xi) The Speaker is the chief spokesman of the House. He or she represents its collective voice to the outside world. In the first place, all communications of the House to the President are made through the Speaker in the form of a formal address. On the other hand, all the communications from the President to the House are made through

the Speaker. Similarly, all communications from the Lok Sabha addressed to the Rajya Sabha are sent through the Speaker. And, it is the Speaker who receives all communications addressed to the Lok Sabha by the Rajya Sabha.

- (xii) In the event of disagreement over a bill between the Lok Sabha and the Rajya Sabha, the President calls a joint-sitting of both the Houses and the Speaker presides over the joint-sitting. In this case, his or her decisions, rulings and interpretations on matters before the Joint Session are final.
- (xiii) The Speaker regulates the debates and proceedings of the House. Even at the secret sittings, which are held at the request of the leader of the House, the Speaker determines the manners of reporting, the proceedings and the procedure to be adopted on such occasions.
- (xiv) The rules relating to asking and answering of the questions depend upon the interpretation of the Speaker. He or she has a very large discretion in this matter. He or she may cut short or increase the 'question hour'. He or she may ignore the condition of the notice period for the question and may permit a question to be asked at a short notice.

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### 8.2.2 Law-Making Procedure

The primary function of the Parliament is making the law. The law proposal originates in the Parliament in the form of a bill. There are three types of bills, excluding budget that come up before the Parliament. These are as follows:

1. Ordinary or non-money bill
2. Money bill
3. Constitution amendment bill
4. Budget

The legislative process of these bills is as follows:

1. **Ordinary bill:** Every member of the Parliament has a right to introduce an ordinary bill and from this point of view, there are two kinds of ordinary bills: (i) Government bill, and (ii) Private Member's bill.

A Government bill is a bill moved by a minister and any bill not moved by a minister is a Private Member's bill, which means that the bill has been moved by a private member. A major part of the Parliament time is consumed by the Government's bill, while Private Member's bill has a little possibility of being passed. Only on Fridays, the Parliament devotes time on Private Member's bills.

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**2. Money bill:** Article 110 clearly defines what constitutes a ‘money bill’. The Speaker of the Lok Sabha certifies whether a bill is a ‘money bill’ or a non-money bill.

The money bill is also passed by the Parliament by the different phases of three readings. However, there are substantial differences in the legislative process in relation to an ordinary bill. They are as follows:

- (a) Money bill can be introduced, only along with the prior recommendation of the President, in the Lok Sabha and not in the Rajya Sabha.
- (b) After being passed by the Lok Sabha, the bill is sent to the Rajya Sabha for its recommendation. The Rajya Sabha has 14 days from the receipt of the money bill for its consideration.
- (c) The Rajya Sabha cannot reject the money bill. It can only make recommendations.
- (d) In case the Rajya Sabha makes recommendations, the Lok Sabha may accept or reject those recommendations. Thereafter, the bill will be directly sent to the President for his assent.
- (e) If the Rajya Sabha does not return the money bill within 14 days, the bill will be deemed to have passed by both the Houses after the lapse of 14 days and sent to the President for his or her assent. There can be no joint sitting of both Houses on a money bill.
- (f) The President cannot withhold his or her assent to a money bill passed by the Parliament.

**3. Constitutional Amendments:** With regard to the amendment of the Constitution, both the Rajya Sabha and the Lok Sabha have been placed at par. Though it is true that most of the bills to amend the Constitution had been introduced in the Lok Sabha, both the Houses have got equal powers with regard to the amending process. In order to amend the constitution, a bill must be passed by both the Houses of the Parliament. It may be mentioned in this connection that the Constitution (Twenty-Fourth Amendment) Bill, 1970, which was passed by an overwhelming majority in the Lok Sabha, was defeated in the Rajya Sabha by only a fraction of a vote and consequently the measure fell through. On October 13, 1989, Rajiv Gandhi’s government suffered an unprecedented defeat in the Rajya Sabha. The Rajya Sabha refused to pass two major Constitutional amendment bills. These bills were introduced for streamlining the Panchayati Raj and reorienting the municipalities and corporations.

**4. Budget in Parliament:** Every year, the budget is presented before the Lok Sabha. The Finance Ministry prepares the budget. The budget is presented in two parts: (a) Railway Budget and (b) General Budget. Railway budget is presented by the Railway Minister while the general budget is

presented by the Finance Minister. The budget passes through various stages, which are as follows:

- (i) **Presentation of the budget:** The railway budget is generally presented in the third week of February while the general budget is normally presented on the last working day of February. The general budget is presented along with the budget speech of the Finance Minister, which is divided in two parts A and B. Part A contains ‘a general economic survey’ of the country and part B deals with ‘the taxation proposal’ for the ensuing financial year. The budget remains a closely guarded secret until its presentation. After the budget speech, the Finance Minister introduces the finance bill, which contains the taxation proposal made by the government. There is no discussion by the members of the House on the day of the presentation of the budget.
- (ii) **Discussion on budget:** The discussion on budget is done through two stages: (a) General discussion and (b) demands for grants for each ministry.
- (iii) **Appropriation bill:** The next stage is the appropriation bill, which incorporates all the demands for grants voted by the Lok Sabha and the expenditures charged on the Consolidated Fund of India. The bill seeks the legal authority to be given to government to appropriate expenditure from and out of the Consolidated Fund of India.  

The appropriation bill is introduced, considered and passed in the same manner as any other bill. However, the discussion is restricted to those matters which were not covered in the debate on demands and no amendments are allowed. After the appropriation bill is passed by the Lok Sabha, the Speaker certifies it to be a money bill and sends it to the Rajya Sabha. After the Rajya Sabha’s approval, as per the procedure laid down by the Constitution, the bill is sent to the President for his or her assent.
- (iv) **Finance bill:** It contains government proposals for raising revenues. The move for leave to introduce a finance bill cannot be opposed and it is forthwith put to vote. This bill has to be considered and passed by the Parliament and assented to by the President within 75 days after it is introduced. Passing of the finance bill is the final act of Parliament’s financial procedure.
- (v) **Vote on account:** Sometimes, the Lok Sabha passes the Vote on Account. Vote on Account is passed normally for 2 months, when the passage of budget is delayed for some reason. During an election year, it may be passed for 3–4 months. As a convention, vote on account is treated as a formal matter and passed by the Lok Sabha without discussion. Thus, the House is able to consider the Budget at a convenient time.

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### Check Your Progress

1. How is Indian the Parliament the supreme representative authority of the people?
2. What is the maximum strength of the Rajya Sabha?
3. How is the allocation of seats for Lok Sabha to the States and Union Territories is done?
4. List the qualifications required to become members of either House of Parliament.
5. Which article certifies what constitutes a money bill?

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## 8.3 ADMINISTRATION OF UNION TERRITORIES

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Union Territories are administrated by the President acting to such extent, as he thinks fit, through an Administrator appointed by him. Administrators of Andaman and Nicobar Islands, Delhi and Puducherry are designated as Lieutenant Governors. The Governor of Punjab is concurrently the Administrator of Chandigarh. The Administrator of Dadra and Nagar Haveli is concurrently the Administrator of Daman and Diu. Lakshadweep has a separate Administrator.

Each of the National Capital Territory of Delhi and Union Territory of Puducherry has a legislative assembly and council of ministers. Legislative assembly of Union Territory of Puducherry may make laws with respect to matters enumerated in List II or List III in the Seventh Schedule of the Constitution in so far as these matters are applicable in relation to the Union Territory. The legislative assembly of National Capital Territory of Delhi has also these powers with the exceptions that Entries 1, 2 and 18 of the List II are not within the legislative competence of the legislative assembly. Certain categories of Bills, however, require the prior approval of the Central Government for introduction in the legislative assembly. Some Bills, passed by the legislative assembly of the Union Territory of Puducherry and National Capital Territory of Delhi are required to be reserved for consideration and assent of the President.

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## 8.4 FUNDAMENTAL RIGHTS AND THEIR ENFORCEMENT

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The Constitution of India contained seven fundamental rights originally. But the Right to Property was repealed in 1978 by the Forty-fourth Constitutional Amendment bill during the rule of the Janata Party. These Fundamental Rights constitute the soul of the Constitution and thereby, provide it a dimension of permanence. These rights enjoy an esteemed position as all legislations have to

conform to the provisions of Part III of the Constitution. Not only this, its remarkable feature is that these rights encompass all those rights which human ingenuity has found to be essential for the development and growth of human beings.

The Constitution classifies Fundamental Rights into six categories:

1. Right to equality (Articles 14–18)
2. Right to freedom (Articles 19–22)
3. Right against exploitation (Articles 23–24)
4. Right to freedom of religion (Articles 25–28)
5. Cultural and educational rights (Articles 29–30)
6. Right to constitutional remedies (Article 32)

Let us discuss some of the fundamental rights in detail.

### **1. Right to Equality (Articles 14–18)**

Article 14 declares that the state shall not deny any person the equality before the law or the equal protection of laws within the territory of India. As interpreted by the courts, it means that though the State shall not deny to any person equality before law or the equal protection of law, it shall have the right to classify citizens, provided that such a classification is rational and is related to the object sought to be achieved by the law.

#### **(i) Equality before law**

Equality before law does not mean an absolute equality of men which is a physical impossibility. It means the absence of special privileges on grounds of birth, creed or the like in favour of any individual. It also states that individuals are equally subjected to the ordinary laws of the land.

#### **(ii) Equal protection of laws**

This clause has been taken verbatim from the fourteenth amendment to the American Constitution. Equal protection means the right to equal treatment in similar circumstances both with regard to the legal privileges and liabilities. In other words, there should be no discrimination between one person and another, if their position is the same with regard to the subject matter of legislation. The principle of equal protection does not mean that every law must have a universal application for all persons, who are not by nature, circumstance or attainments (knowledge, virtue or money) in the same position as others. Varying needs of different classes or persons require separate treatment and a law enacted with this object in view is not considered to be violative of equal protection. The Constitution, however, does not stand for absolute equality. The state may classify persons for the purpose of legislation. But this classification should be on reasonable grounds. Equal protection has reference to the persons who have the same nature, attainments, qualifications or circumstances. It means that the state is debarred from discriminating between or amongst the same class of persons in so far as special

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protection, privileges or liabilities are concerned. Thus, equal protection does not require that every law must be all-embracing, all-inclusive and universally applicable.

### (iii) Prohibition of discrimination (Article 15)

Article 15(1) prohibits discrimination on certain grounds. It declares, 'The state shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them.' This discrimination is prohibited with regard to '(a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public'. Article 15 has, however, two notable exceptions in its application. The first of these permits the state to make special provision for the benefit of women and children. The second allows the state to make a special provision for the advancement of any socially and educationally backward class of citizens or for scheduled castes and scheduled tribes. The special treatment meted out to women and children is in the larger and long-term interest of the community itself. The second exception was not in the original Constitution, but was later on added to it as a result of the first amendment of the Constitution in 1951. While freedom contained in Article 14 is available to all persons, that in Article 15 is available only to the citizens and, therefore, it cannot be invoked by non-citizens.

Article 15(2) proclaims that no citizen shall, on grounds only of religion, race, casts, sex and place of birth be subject to any disability, liability, restriction or condition with regard to:

- Access to shops, public restaurants, hotels and places of public entertainment
- Use of wells, tanks, bathing-ghats, roads and places of public resort, maintained wholly or partly out of state funds or dedicated to the use of the general public

The prohibition in this clause is levelled not only against the state but also against private persons.

Article 15(3) provides that the state shall be free to make any special provision for women and children. This sub-article is in the nature of an exception in favour of women and children. Thus, the provision of free education for children up to a certain age or the provision of special maternity leave for women workers is not discrimination. However, discrimination in favour of women in respect of political rights is not justified, as women are not regarded as a backward class in comparison to men for special political representation.

Article 15(4) allows the state to make special provision for the advancement of any socially and educationally backward classes of citizens, including the scheduled castes and the scheduled tribes. The state is, therefore, free to reserve seats for them in the legislature and the services. This Article only allows the state to make special provisions for these classes. Inserted under Ninety-third

Constitutional Amendment Act, this clause conferred on the state the power to make any special provision by law for the advancement of any socially and educationally backward class or for the scheduled castes or the scheduled tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the state, other than the minority educational institutions.

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### **(iv) Equality of opportunity (Article 16)**

Article 16(1) reads: ‘There shall be equality of opportunity for all citizens in matters relating to employment to any office under the State.’ It confers on every citizen, a right to equality of economic opportunity, and subsequently provides that no citizen shall be discriminated against in this respect on grounds only of religion, race, caste, descent, place of birth or any of them. However, an equality of opportunity is only between equals, that is, between persons who are either seeking the same employment or have obtained the same employment. In other words, equality means equality between members of the same class or employees, and not between members of different classes.

Article 16 (2) reads: ‘No citizen shall, on grounds only of religion, race, caste, sex, descent, place or birth, residence or any one of them be ineligible for or discriminated against in respect of any employment or office under the State.’

Article 16 (3) says that the President is competent to allow states to make residency as a necessary qualification in certain services for ensuring efficiency of work.

Article 16 (4) allows the state to reserve appointments in favour of backward class of citizens which in its opinion is not adequately represented in the services under the State. The Supreme Court had held that such reservation should generally be less than 50 per cent of the total number of seats in a particular service. Over and above the minimum number of reserved seats, member of backward classes are free to compete with others and be appointed to non-reserved seats, if otherwise, they are eligible on merit.

Article 16 (5) allows the State to provide that in case of appointment to religious offices, or offices in religious institutions, the candidates shall possess such additional qualifications or be members of that religious institution. This is an exception to the general rule that the State shall not discriminate on ground of religion in providing equal economic opportunities to the citizens.

Although Article 16 guarantees equality of opportunity in matters of public employment, for all citizens and is expected to provide a bulwark against considerations of caste, community and religion, the result so far has been far from satisfactory.

### **(v) Social equality by abolition of untouchability (Article 17)**

Complete abolition of untouchability was one of the items in Mahatma Gandhi’s programme for social reform. The present article adopts the Gandhian ideal without

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any qualification in abolishing untouchability and in forbidding its practice. It also declares that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

The practice of untouchability is a denial of human equality in an acute form. In pursuance of Article 17, the Parliament has enacted the Untouchability Offences Act, 1955, which was later amended in 1976. It prescribes punishment for the practice of untouchability, in any form, up to a fine of ₹500 or an imprisonment of six months or both, depending upon the seriousness of the crime.

### **(vi) Social equality by abolition of titles (Article 18)**

Article 18 is a radical application of the principle of equality it seeks to prevent the power of the state to confer titles from being abused or misused for corrupting the public life, by creating unnecessary class divisions in the society. The object of the Article is to prevent the growth of any nobility in India. Creation of privileged classes is contrary to the equality of status promised to all citizens by the Preamble to the Constitution.

Article 18(1) declares: 'No title, not being a military or academic distinction shall be conferred by the State'. It means that no authority in India is competent to confer any title on any person, excepting the academic title, or military titles of general, Major or Captain. Article 18(2) prohibits the citizens of India from receiving any title from any foreign state. This is an absolute bar. On the other hand, Article 18(3) prohibits the citizens from accepting any title from any foreign state without the consent of the President of India, if and so long they are holding any office of profit or trust under the state. Also, Article 18(4) prohibits both the citizens and aliens, who are holding any office of profit or trust under the state from accepting any present, emolument or office of any kind, from or under any foreign state.

Article 18, however, does not prohibit the institutions other than the state from conferring titles of honours by way of honouring their leaders or men of merit.

## **2. Right to Freedom (Articles 19–22)**

In this section we will discuss Articles 19, 20, 21 and 22.

### **1. Article 19**

Article 19 of the Constitution guarantees civil freedoms to the citizens as a matter of their right. Included in Clause 1 of Article 19, these freedoms are as follows:

- i. Right to Freedom of speech and expression
- ii. Right to assemble peacefully and without arms
- iii. Right to form associations or unions
- iv. Right to move freely throughout the territory of India
- v. Right to reside and settle in any part of the territory of India

- vi. Right to practice any profession, or to carry on any occupation, trade or business

These freedoms are discussed under the following heads:

**(i) Right to freedom of speech and expression**

The safeguarding of the freedom of speech and expression is essential to allow men to speak as they think on matters vital to them, and also to expose falsehood. Freedom of speech and expression lie at the foundation of all democratic organizations, for without political discussion, no political education is possible.

Freedom of expression in this clause means right to express one's convictions and opinions freely by word of mouth, writing, printing, picture or any other manner addressed to the eyes or ears. Thus, it includes not only the freedom of press but also the expression of one's ideas in any other form. Freedom of speech and expression also includes the freedom not to speak. Thus, the freedom to remain silent is included in this freedom. However, an individual is not free from the obligation of giving evidence in the judicial proceedings subject to constitutional and statutory provisions.

**'Reasonable' restrictions on freedom of speech**

As amended by the First and the Sixteenth Amendment Acts, Clause 2 of Article 19(1)(a) entitles the state to impose 'reasonable' restrictions on the freedom of speech on any one or more of the following grounds:

- a. Sovereignty and integrity of India
- b. Security of the state
- c. Friendly relations with foreign states
- d. Public order
- e. Decency or morality
- f. Contempt of court
- g. Defamation
- h. Incitement to an offence

These reasonable restrictions to the freedom of speech have been subject to much criticism since its inception. It is argued that words like 'public order' and 'decency' or 'morality' are deliberately made vague through amendments to the Constitution to allow the state to suppress dissent. On the other hand, it could also be argued that in a state as diverse as India, where people's sentiments run high, such restrictions are necessary to maintain public order. While one can argue the merits of reasonable restrictions relating to public order, there can be no argument on the unreasonableness of restricting freedom of speech in relation to 'relations with foreign states'. Such a restriction theoretically puts curbs on citizens of the country from criticizing the foreign policy of the Indian state, which is the democratic right of citizens.

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### **(ii) Right to assemble peacefully and without arms**

Article 19 (1)(b) guarantees to every citizen the right to assemble peacefully and without arms. This right is subject to the following limitations:

1. Assembly must be peaceful
2. Assembly must be unarmed
3. It must not be in violation of public order

### **(iii) Right to form association and unions [Articles 19 (1) and (4)]**

Article 19(1)(c) guarantees to all citizens the right to form associations and unions, the formation of which is vital to democracy. If free discussion is essential to democracy, no less essential is the freedom to form political parties to discuss questions of public importance. They are essential as much as they present to the government alternative solutions to political problems. Freedom of association is necessary not only for political purpose but also for the maintenance and enjoyment of the other rights conferred by the Constitution.

In short, the freedom of association includes the right to form an association for any lawful purpose. It also includes the right to form trade union with the object of negotiating better conditions of service for the employees.

Clause 4 of Article 19 empowers the state to make reasonable restrictions upon this right on grounds only of:

1. Sovereignty and integrity of India
2. Public order
3. Morality

### **(iv) Right to move freely throughout the territory of India**

Articles 19(1)(d) and (e) guarantee to all citizens the right to move freely throughout the territory of India and to reside and settle in any part of the territory of India. These freedoms are aimed at the removal of all hindrances in the enjoyment of these rights.

The freedom of movement of a citizen has three aspects:

- a. Freedom to move from any part of his country to any other part
- b. Freedom to move out of his country
- c. Freedom to return to his country from abroad

The second of these provisions is not guaranteed by our Constitution as a fundamental right and has been left to be determined by the Parliament.

Freedom of movement and residence is subject to restrictions only on the following grounds:

- i. In the interest of any scheduled tribes
- ii. In the interest of the general public, that is, public order morality and health

**(v) Right to life and personal liberty (Article 21)**

Article 21 says that no person shall be deprived of his life or personal liberty, except according to procedure established by law. The object of this article is to serve as a restraint upon the executive, so that it may not proceed against the life or personal liberty of the individual, except under the authority of some law and in conformity with the procedure laid down therein. This article can be invoked only if a person is detained by or under the authority of the state.

Furthermore, the Supreme Court on various occasions ruled that the expression 'life' in Article 21 does not connote merely physical or animal existence, but includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life.

**(vi) Protection against arrest and detention (Article 22)**

Article 22 has two parts: Part I consists of Clauses 1 and 2, and deals with the rights of persons arrested under the ordinary criminal law. Part II consists of Clauses 3–7 and deals with the right of persons who are detained under the law of preventive detention.

Clauses 1 and 2 of this article recognize the following rights of the persons arrested under ordinary criminal law:

- (a) The arrested person shall, as soon as possible, be informed of the grounds of his arrest. The arrested person will be in a position to make an application to the appropriate court for bail, or move the high court, for the grant of the writ of habeas corpus.
- (b) The second protection granted by clause 1 is that the arrested person shall be given the opportunity of consulting and of being defended by the legal practitioner of his choice. This clause confers only right to engage a lawyer. It does not guarantee the right to be supplied with a lawyer, free of charge, nor does it guarantee the right to engage a lawyer who has been disqualified to practice under the law.
- (c) Clause 2 declares that the arrested person shall be produced before the nearest magistrate within twenty-four hours of his arrest, excluding the time necessary for journey from the place of arrest to the court of the magistrate.

**(vii) Preventive detention**

Clause 3 of Article 22 constitutes an exception to clauses 1 and 2. The result is that enemy-aliens (that is, foreigners belonging to the countries which are the enemies of the state) and other persons who are detained under the law of preventive detention have neither the right to consult nor to be defended by a legal practitioner.

Clause 4 requires that a person may be detained under the Preventive Detention Act for three months. If a person is to be detained for more than three months, it can only be done in the following cases:

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- i. Where the opinion of an Advisory Board, constituted for the purpose has been obtained within ten weeks from the date of detention; and
- ii. Where the person is detained under law made by the Parliament for this clause 5 considers two things, namely:
  - (a) That the detainee should be supplied with the grounds of the order of detention; and
  - (b) That he should be provided with the opportunity of making representation against that order to the detaining authority for the consideration of the Advisory Board.

Clause 6 declares that the detainee cannot insist for the supply of all the facts, which means evidence and which the government may not consider in public interest. In this context, the Supreme Court has held that an order of detention is mala fide, if it is made for a purpose other than what has been permitted by the legislature.

Clause 7 of this article gives exclusive power to the Parliament to prescribe:

- i. The circumstances under which and the cases in which a person may be detained for more than three months without obtaining the opinion of the an Advisory Board.
- ii. The period of such detention (which it has determined to be not more than twelve months); and
- iii. The procedure to be followed by an Advisory Board.

The Preventive Detention Act, 1950 was passed by the Parliament, which initially constituted the law of Preventive Detention in India. The Act was amended seven times, each for a period of three years. The revival of anarchist forces obliged parliament to enact a new Act, named The Maintenance of Internal Security Act (MISA) in 1971, having provision broadly similar to those of Preventive Detention Act of 1950. In 1974, Parliament passed the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPASA) as an economic adjunct of the MISA. MISA was repealed in 1978, but COFEPOSA still remains in force. Further, in 1980, National Security Act (NSA) was enacted. According to the NSA, the maximum period for which a person may be detained shall be six months from the date of detention. Next in the series was Essential Services Maintenance Act (ESMA), 1980, and also the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 which empowered the government to ban strikes, lockouts and lay-offs and gave powers to dismiss strikers and erring employees, arrest them without warrant, impose fine and imprison them. An upsurge in terrorist activities, further, compelled the Government to enact The Terrorist and Disruptive Activities (Prevention) Act (TADA), 1985, which, in fact, empowered the executive for suppression of all kind of dissent and was widely criticized for being undemocratic. In wake of

intensified terrorist activities in many parts of the country, Vajpayee government was compelled with yet another enactment in 2002, named as Prevention of Terrorism Act (POTA), which has been criticized for its probable misuse.

### **3. Right against Exploitation (Articles 23–24)**

Clause 1 of Article 23 prohibits traffic of human beings, beggars and other similar forms of forced labour, and makes the contravention of this prohibition an offence punishable in accordance with law. In this context, ‘traffic in human beings,’ includes the institutions of slavery and prostitution. ‘Beggar’ means involuntary or forced work without payment, for example, tenants being required to render certain free services to their landlords.

Under Clause 2 of this article, the state has been allowed to require compulsory service for public purposes, namely, national defiance, removal of illiteracy or the smooth running of public utility services like water, electricity, postage, rail and air services. In matters like this, the interests of the community are directly and vitally concerned and if the government did not have this power, the entire life would come to a standstill. In making any service compulsory for public purposes, the state has, however, been debarred from making discrimination on grounds only of religion, race, caste, class or any of them.

Article 24 provides that no child below the age of fourteen years shall be employed to work in any factory or mine, or engaged in any other hazardous employment. Our Constitution goes in advance of the American Constitution in laying down a constitutional prohibition against employment of children below the age of fourteen in factories, mines or other difficult employments, for example, railways or transport services. Our Parliament has passed necessary legislation and made it a punishable offence.

### **4. Right to Freedom of Religion (Articles 25–28)**

In pursuance of the goal of liberty of belief, faith and worship enshrined in the Preamble to the Constitution, Articles 25–28 underline the secular aspects of the Indian state.

Article 25(1) grants to all persons the freedom of conscience, and the right to freely profess, practice and propagate religion. This article secures to every person, a freedom not only to subscribe to the religion of his choice, but also to execute his belief in such outward acts as he thinks proper. He is also free to propagate his ideas to others.

Clause 2 of this Article allows the state to make law for the purpose of regulating economic, financial or other activities of the religious institutions. At the same time, it allows the state to provide from, and carry on social welfare programmes, especially by throwing open the Hindu religious institutions of a public character to all classes and sections of Hindus, including the Sikhs, the Jains and the Buddhists.

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Article 26 guarantees to every religious denomination the following rights:

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

While rights guaranteed by Article 25 are available only to the individuals and not to their groups, those under Article 26 are conferred on religious institutions and not on individuals. In this article, religious denomination means a religious sect or body having a common faith and organization and designated by a distinctive name. This was the definition accepted by the Supreme Court. This article grants to a religious denomination complete autonomy in deciding what rites and ceremonies were essential according to the tenets of a religion. No outside authority has any jurisdiction to interfere in its decisions in such matters.

Article 27 declares that ‘No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination’.

This article secures that the public funds raised by taxes shall not be utilized for the benefit of any particular religion or religious denomination. Thus, a local authority which raises taxes from persons of all communities who reside within its jurisdiction would not be entitled to give aid to those educational institutions which provide instructions relating to any particular religion. In other words, an educational institution, which provides compulsory instructions relating to a particular religion is not entitled to any financial aid from the state.

Article 28 is confined to educational institutions, maintained, aided or recognized by the state. Clause 1 of this article relates to educational institutions wholly maintained out of the state funds. It completely bans imparting religious instructions in such institutions. Clause 2 relates to educational institutions which are administered by the state under some endowment or trust, like the Banaras Hindu University. In such institutions, religious instructions may be given.

### **5. Cultural and Educational Rights (Articles 29–30)**

The object of Article 29 is to give protection to the religious and linguistic minorities. Clause 1 of Article 29 declares that any section of the Indian citizens, having a distinct language, script or culture of its own, shall have the right to conserve the same. The right to conserve or protect a language includes the right to agitate for the protection of that language. It also means that every minority group shall have the right to impart instructions to the children of their own community in their own languages.

## **6. Right to Constitutional Remedies (Articles 32–35)**

A declaration of fundamental rights is meaningless unless there are effective judicial remedies for their enforcement. The Constitution accords a concurrent jurisdiction for this purpose on the Supreme Court under Article 32, and on the state high courts under Article 226. An individual who complains the violation of his fundamental rights can move the Supreme Court or the state high court for the restoration of his fundamental rights.

Article 32(1) declares that the right to move the Supreme Court by appropriate proceedings for the enforcement of the fundamental rights included in Part III of the Constitution is guaranteed. Clause 1, thus, guarantees the right to move the Supreme Court for the enforcement of fundamental rights. In other words, the right to move the Supreme Court for the violation of fundamental rights is itself a fundamental right.

Article 32(2) empowers the Supreme Court to issue directions, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto or certiorari, whichever may be appropriate for the enforcement of any of the fundamental rights.

### **Check Your Progress**

6. List the categories of the Fundamental Rights.
7. List rights guaranteed under Article 26 to every religious denomination.

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## **8.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS**

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1. The Indian Parliament is the supreme representative authority of the people. It is the highest legislative organ and the national forum for the articulation of public opinion. The Parliament of India is the centre and focus of our political system. It is the federal legislature of the Indian Union with limited and specified powers
2. The maximum strength of the Rajya Sabha has been fixed at 250 members, of which not more than twelve are to be nominated by the President on the ground of such matters as art, literature, science and social service.
3. The allocation of seats to the States and Union Territories is in proportion to their population as ascertained in the last census. In elections to the Lok Sabha, seats are reserved in various states and Union Territories for Scheduled Castes and Scheduled Tribes. Elections to the Lok Sabha are

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direct and are held on the basis of universal adult franchise. All citizens who have attained the age of 18 years on the date prescribed by the Election Commission become eligible as voters. On the basis of this universally recognized principle, fourteen General Elections have so far been held for the Lok Sabha.

4. Articles 84 and 102 provide the following qualifications which the persons desiring to become members of either House of Parliament must fulfill:
  - (a) He must be a citizen of India and must swear or affirm that he shall bear true faith and allegiance to the Constitution of India that he shall uphold the sovereignty and integrity of India;
  - (b) In case of Rajya Sabha, he must be at least 30 years of age, and in case of Lok Sabha he must at least be 25 years;
  - (c) He must not be holding any office of profit under the Government India, excepting the office of Ministers of the Union and the states, and the Speaker of Lok Sabha;
  - (d) Must not have been declared by a competent court as a person of unsound mind;
  - (e) Must not be an undercharged bankrupt;
  - (f) Must not owe allegiance or adherence to any foreign State;
  - (g) In case of Rajya Sabha, he must be an elector in the State or the Union Territory from where he is seeking the election. This condition has, however, been waived by the Union Government in March 2003.
5. Article 110 clearly defines what constitutes a 'money bill'. The Speaker of the Lok Sabha certifies whether a bill is a 'money bill' or a non-money bill.
6. The Constitution classifies Fundamental Rights into six categories:
  1. Right to equality (Articles 14–18)
  2. Right to freedom (Articles 19–22)
  3. Right against exploitation (Articles 23–24)
  4. Right to freedom of religion (Articles 25–28)
  5. Cultural and educational rights (Articles 29–30)
  6. Right to constitutional remedies (Article 32)
7. Article 26 guarantees to every religious denomination the following rights:
  - i. To establish and maintain institutions for religious and charitable purpose
  - ii. To manage its own affairs in matters of religion
  - iii. To own and acquire movable and immovable property; and
  - iv. To administer such property in accordance with law

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## 8.6 SUMMARY

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- The Indian Parliament is the supreme representative authority of the people. It is the highest legislative organ and the national forum for the articulation of public opinion. The Parliament of India is the centre and focus of our political system. It is the federal legislature of the Indian Union with limited and specified powers.
- The power of our Parliament is not unlimited and, hence, it cannot claim the same attributes of unlimited sovereignty, which the British Parliament has claimed and exercised in the last seven-and-a-half centuries.
- The allocation of seats to the States and Union Territories is in proportion to their population as ascertained in the last census. In elections to the Lok Sabha, seats are reserved in various states and Union Territories for Scheduled Castes and Scheduled Tribes. Elections to the Lok Sabha are direct and are held on the basis of universal adult franchise.
- Members of the Rajya Sabha are elected for a period of 6 years, one-third of them retiring every second year. This makes the Rajya Sabha a continuous and permanent chamber, never subject to dissolution. On the other hand, members of the Lok Sabha are elected for a period of 5 years. Normally, the term of each member's office as well as the life of the Lok Sabha is 5 years. If the Lok Sabha is dissolved earlier, the membership of its members automatically terminates.
- The Speaker is to be elected by the members of Lok Sabha from amongst themselves. The election of the Speaker is to take place after each general election of the Lok Sabha and as and when there is a vacancy in his office. The Constitution provides for his election by the members of the Lok Sabha while the rules of the House provide for the procedure through which he or she is to be elected.
- The Constitution of India contained seven fundamental rights originally. But the Right to Property was repealed in 1978 by the Forty-fourth Constitutional Amendment bill during the rule of the Janata Party. These Fundamental Rights constitute the soul of the Constitution and thereby, provide it a dimension of permanence. These rights enjoy an esteemed position as all legislations have to conform to the provisions of Part III of the Constitution.
- Article 14 declares that the state shall not deny any person the equality before the law or the equal protection of laws within the territory of India. As interpreted by the courts, it means that though the State shall not deny to any person equality before law or the equal protection of law, it shall have the right to classify citizens, provided that such a classification is rational and is related to the object sought to be achieved by the law.

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- Article 19 of the Constitution guarantees civil freedoms to the citizens as a matter of their right. Included in Clause 1 of Article 19, these freedoms are as follows:
  - i. Right to Freedom of speech and expression
  - ii. Right to assemble peacefully and without arms
  - iii. Right to form associations or unions
  - iv. Right to move freely throughout the territory of India
  - v. Right to reside and settle in any part of the territory of India
  - vi. Right to practice any profession, or to carry on any occupation, trade or business
- The safeguarding of the freedom of speech and expression is essential to allow men to speak as they think on matters vital to them, and also to expose falsehood. Freedom of speech and expression lie at the foundation of all democratic organizations, for without political discussion, no political education is possible.
- Under Eighty-sixth Amendment Act 2002, right to education was provided. For the purpose, a new Article in Part III was inserted and two Articles in Part IV were amended. The newly inserted Article 21(a) declared that ‘The state shall provide free compulsory education to all children of the age of 6–14 years in such manner as the state may, by law, determine.’
- In pursuance of the goal of liberty of belief, faith and worship enshrined in the Preamble to the Constitution, Articles 25–28 underline the secular aspects of the Indian state.
- The object of Article 29 is to give protection to the religious and linguistic minorities. Clause 1 of Article 29 declares that any section of the Indian citizens, having a distinct language, script or culture of its own, shall have the right to conserve the same. The right to conserve or protect a language includes the right to agitate for the protection of that language. It also means that every minority group shall have the right to impart instructions to the children of their own community in their own languages.

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## 8.7 KEY WORDS

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- **Private Member’s Bill:** In a parliamentary system of government, this is a bill introduced into a legislature by a legislator who is not acting on behalf of the executive branch.
- **Preventive Detention Act, 1950:** The first Preventive Detention Act was passed in 1950. The validity of this act was challenged in the Supreme Court in the Gopalan v/s State of Madras Court. The Supreme Court held this act constitutionally valid except some provisions.

- **The Untouchability (Offences) Act (1955):** It provides penalties for preventing anyone from enjoying a wide variety of religious, occupational, and social rights on the grounds that he or she is from a Scheduled Caste or Scheduled Tribe.

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### 8.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Write a brief note on the making of the Indian Parliament.
2. Discuss the formation of Lok Sabha in the Parliament.
3. Enumerate the sanctioned strength of the Lok Sabha.
4. Discuss the powers of the Speaker in the Parliament.
5. Write a brief note on the terms of Houses in the Parliament.
6. Write a brief note on the Joint Sitting of the Parliament.
7. Write a brief note on Article 19 of the Indian Constitution.

#### Long-Answer Questions

1. Discuss parliamentary democracy in India.
2. Analyze the eligibility criteria to be a member of each of the House in Parliament.
3. Discuss the functions of the Speaker in the Parliament.
4. Analyze the procedure to administer the UTs.
5. Fundamental Rights are indispensable part of Indian Constitution. Discuss this statement with relevant analysis.
6. Analyze the significance of Article 26 of the Constitution.

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### 8.9 FURTHER READINGS

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**BLOCK - III**  
**CENTRAL ADMINISTRATION**

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*Directive Principles and  
Indian Administration*

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**UNIT 9 DIRECTIVE PRINCIPLES  
AND INDIAN  
ADMINISTRATION**

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**NOTES**

**Structure**

- 9.0 Introduction
- 9.1 Objectives
- 9.2 Directive Principles of State Policy
  - 9.2.1 Classification of these Principles in Various Categories
  - 9.2.2 Reaffirmation of Ideology of Egalitarianism
  - 9.2.3 Relationship between Fundamental Rights and Directive Principles
- 9.3 Indian Administration and National Emergency
- 9.4 Answers to Check Your Progress Questions
- 9.5 Summary
- 9.6 Key Words
- 9.7 Self Assessment Questions and Exercises
- 9.8 Further Readings

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**9.0 INTRODUCTION**

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The unit will discuss the Directive Principles of State Policy and Emergency Provisions. The Directive Principles of State Policy contain sixteen Articles, from 36 to 51, which are classified in separate categories as, social and economic charter, social security charter, protection to minorities and weaker sections of society, promotion of international peace etc.

Both Directive Principles and Fundamental Rights are complimentary to each other and are equally fundamental in the governance of the country. This unit aims at analyzing the significance and scope of Directive Principles of State Policy and also highlights how these principles are fundamental in ameliorating the existing disparity among the people.

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**9.1 OBJECTIVES**

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After going through this unit, you will be able to:

- Examine the Directive Principles of State Policy as incorporated in the Constitution

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- Analyze various Articles related to Directive Principles of State Policy
- Understand the relationship between Fundamental Rights and Directive Principles
- Discuss various emergency provisions as envisaged in the Constitution

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## 9.2 DIRECTIVE PRINCIPLES OF STATE POLICY

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The Directive Principles of State Policy, Part IV of the Constitution of India, constitute directions given to the central and state governments for the establishment of a just society. They commit the state to promote the welfare of the people by affirming social, economic and political justice, as well as to fight economic inequality.

Article 31C, added by the Twenty-fifth Amendment Act of 1971, further upgraded the Directive Principles so that if the government made laws to give effect to the Directive Principles over Fundamental Rights, they would remain valid. In case of a conflict between Fundamental Rights and Directive Principles, if the latter aimed at promoting larger interest of the society, the courts would have to uphold the case in favour of Directive Principles. It is clearly stated in Article 37 that the provisions contained in the Directive Principles is not enforceable in any court of law, but the principles therein laid down are nevertheless fundamental in the governance of the country and it would be the duty of the State to apply these principles in making laws.

### 9.2.1 Classification of these Principles in Various Categories

#### (I) Economic and Social Principles

Directive Principles relating to the economic and social sphere are as follows:

1. **Article 39 states that:** The state shall, in particular, direct its policy towards securing that:
  - (a) The citizens, men and women equally, have the right to an adequate means of livelihood.
  - (b) The ownership and control of the material resources of the community are so distributed as best to subserve the common good.
  - (c) The operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
  - (d) There is equal pay for equal work for both men and women.
  - (e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.

(f) Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

2. **Article 39A states that:** The state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
3. **Article 41 states that:** The state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases as such that might be considered necessary.
4. **Article 42 states that:** The state shall make provision for securing just and humane conditions of work and for maternity relief.
5. **Article 43 states that:** The state shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the state shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas.
6. **Article 43A states that:** The state shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.
7. **Article 44 states that:** The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.
8. **Article 45 states that:** The state shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.  
  
This stand was substituted by the Constitution—Eighty-sixth Amendment Act, 2002, which stated that the state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
9. **Article 46 states that:** The state shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the scheduled castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

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## (II) Gandhian Principles

Directive Principles relating Gandhian principles include the following:

1. **Article 40 states that:** The state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.
2. **Article 47 states that:** The state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the state shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
3. **Article 48 states that:** The state shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.
4. **Article 48A states that:** The state shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

## (III) Cultural Principles

**Directive Principles relating to the cultural sphere are as follows:**

**Article 49 states that:** It shall be the obligation of the state to protect every monument or place or object of artistic or historic interest, declared by or under law made by the Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

## (IV) Directive Principles Related to Foreign Affairs

Article 51 states that: **The state shall endeavour to:**

- (a) Promote international peace and security
- (b) Maintain just and honourable relations among nations
- (c) Foster respect for international law and treaty obligations in the dealings of organized peoples with one another
- (d) Encourage settlement of international disputes by arbitration

Defending the adoption of the Directive Principles of State Policy in the Indian Constitution, Dr Ambedkar stated:

In the Draft Constitution the Fundamental Rights are followed by what are called 'Directive Principles'. It is a novel feature in a Constitution framed for Parliamentary Democracy. The only other constitution framed for Parliamentary Democracy which embodies such principles is that of the Irish Free State. These Directive Principles have also come up for criticism. It is said that they are only pious declarations. They have no binding force. This criticism is of course

superfluous. The Constitution itself says so in so many words. If it is said that the Directive Principle have no legal force behind them, I am prepared to admit it. But I am not prepared to admit that they have no sort of binding force at all. Nor am I prepared to concede that they are useless because they have no binding force in law.

### 9.2.2 Reaffirmation of Ideology of Egalitarianism

Put together, the Preamble to the Constitution and the Directive Principles of State Policy comprised the ideology of egalitarianism, that is, the rulers of independent India committed themselves to bring about political, economic and social equality and bring to an end the age-old sufferings of the people. The State (that is the governments at the Centre and in the states) was required to follow these principles in the determination of its policies and executive actions. It was, however, worth noting that the Directive Principles could not be enforced in the way the Fundamental Rights could be enforced by the Supreme Court and the High Courts. The reason for this was that even though the framers of the Constitution were sincere and enthusiastic about egalitarianism they were fully conscious of the limitations of the future rulers of the country, particularly the limitations of scant financial resources, widespread illiteracy and fast-increasing population. Had they made the Directive Principles enforceable by the courts, the State would have become involved in endless litigation. Devotion to the egalitarian credo was, nevertheless, affirmed time and again in the successive Five Year Plans that spelt out goals for development. The egalitarian ideology had been a prominent place in India. At its 1955 session at Avadi (January 21–23) the Congress Party adopted a resolution on economic policy, and realised what became known as ‘socialist pattern of society.’ At the Government’s initiative the Lok Sabha adopted, in 1956, a resolution recommending that ‘appropriate measures be taken in order to reduce the disparity in income within society.’ The Avadi resolution on economic policy was reiterated at the Bhubaneshwar session in January 1964.

After the assumption of Prime Ministerial office by Mrs Indira Gandhi on 24 January 1966, the concept of socio-economic justice and equality was stressed every now and then. On the eve of the mid-term poll for the Lok Sabha, held in March 1971, Mrs Gandhi coined a new slogan *garibi hatao*, and on the occasion of fifth General Election to state Assemblies, in March 1972, she came out with another, ‘*annyya hatao*’ (remove injustice). All political parties and their leaders reiterated time and again their commitment to the gospel of egalitarianism, and the implementation of the equalization ideal became an instrument of both policy and faith for them.

With specific measures to implement directive principles almost from the very inauguration of the Indian Republic (on 26 January 1950), the Government authorities at the Centre and in the states took steps to implement the Directive Principles. On 28 February, the then Union Finance Minister, Dr John Matthai, announced that the Government had decided to set up a Planning Commission so

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that the development of the country could be taken up in a planned manner. The central objective of planning was declared to be the raising of the standard of living and opening to the people new opportunities for a richer and more varied life. The aim of the first-Five Year Plan was to use more effectively the available human and material, resources, so as to obtain from them a larger output of goods and services and to reduce inequalities of wealth, income and opportunity. The Plan envisaged a substantial increase in the volume of employment through the expansion of irrigation, power, basic industries, transport and other resources. The objectives of the successive Plans were laid down almost on the same lines, that is, in the direction of socio-economic justice and equality.

In order to implement Article 39, a series of Acts were passed from time to time. Some of these were: Employees State Insurance Act, Minimum Wages Act, Workmen's Compensation Act, Wealth Tax Act, Gift Tax Act, and Estate Duty Act. In order to reduce disparities in income the Fundamental Right to property was amended several times. A number of industrial products and specialized services, that were considered vital to economic development, were brought under public sector. In 1969, fourteen top commercial banks of the country were nationalized. In 1956, the life insurance, and in 1971 the general insurance companies were nationalized. The same year Privy Purses and Special Privileges of the Princes were abolished. These and a few other measures were taken so that the financial resources could be utilized for promoting common good.

The responsibility for land reforms and their implementation was, under the Constitution, primarily the responsibility of the states, and in the discharge of this responsibility, the legislatures of almost all the states and Union Territories passed Acts for the abolition of intermediaries like *zamindars*, *jagirs* and *inams*. Laws were also passed to fix ceiling on land holdings, and the surplus land acquired from land-owners was distributed among the landless. More than three crores of farmers became the owners of land. Huge areas of cultivable wastelands were distributed among landless labourers and were brought under cultivation. In many states, tenants were made secure over the lands they cultivated and they could not be ejected before a fixed period. Consolidation of land holdings was taken up and completed in several states such as Uttar Pradesh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan, Delhi, Mysore and Himachal Pradesh. The National Cooperative Farming Advisory Board prepared several plans and promoted the programme of cooperative farming. In order to bring about the integrated development of rural India, covering social, cultural and economic aspects, Community Development Programmes were launched on 2 October 1952 in 55 selected projects each project covering an area of about 1,300 sq kms, about 300 villages and a population of about 2 lakhs. By 1969, the entire country was covered by 5,265 Community Development blocks. A Consultative Council on Community Development was constituted under the chairmanship of the Union Minister of Food and Agriculture to establish coordination between the Union Government and state Ministers, in charge of Community Development.

In January 1985, the National Development Council recommended that in order to bring about the development of rural areas there should be devolution of power and decentralization of machinery for the exercise of such power, and that such a machinery should be controlled and directed by popular representatives of the local area. In pursuance of this recommendation panchayat raj was established with a three-tier structure of local self-governing bodies at the village, block and district, levels. Specific powers and functions were assigned to these institutions in the field of development and local administration. Almost the entire country was covered by the panchayati raj.

In order to organize agriculture on modern and scientific lines, as enjoined in Article 48 of the Constitution, a number of projects were launched with the purpose of better utilization of river waters for irrigation, for generating electricity and power and for flood control. Some of these were Nagarjunasagar Project (Andhra Pradesh), Tungabhadra Project (Andhra Pradesh and Mysore), Gandak Project (Bihar and Uttar Pradesh), Kosi Project (Bihar), Chafnbal Project (Madhya Pradesh and Rajasthan), Hirakud Dam Project (Orissa), Bhakra Nangal Project (Punjab, Haryana and Rajasthan), Farakka Project (West Bengal) and Damodar Valley Corporation (West Bengal and Bihar). Several factories were set up for the manufacture of chemical fertilizers. In 1969, the Seeds Act was passed, and the National Seeds Corporation supplied seeds of high yielding variety of different crops, including vegetables, to the farmers throughout the country. Plant protection and locust control programmes were undertaken. The Indian Council of Agricultural Research and several agricultural universities were set up in the country for promoting research and training in new methods of farming and animal husbandry. The Market Research and Survey Wing of the Directorate of Marketing and Inspection carried out surveys for important agricultural, horticultural and livestock commodities. Intensive cattle development projects and poultry farming were developed on a commercial scale. Programmes of sheep and fisheries development were undertaken.

Although health programmes were primarily the responsibility of the states, the Union Government, in order to implement the principles laid down in Article 47, sponsored and supported major schemes for improving the standard of health of the nation. During the period of the four Five Year Plans, Rs. 1,050 crores were spent, on promoting medical education and research, establishing primary health centres, controlling communicable diseases, promoting indigenous systems of medicine and on setting up hospitals and dispensaries. Special programmes were launched for eradicating malaria, filaria, tuberculosis, leprosy, venereal diseases, small pox and cancer.

In 1960, Parliament passed the Children's Act, and juvenile courts, child welfare boards, remand observation homes and special schools were set up to look after the neglected and delinquent children.

Under the Child Marriage Restraint Act of 1929, no marriage to which a male under 18 years of age or a female under 12 years of age was a party could

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be solemnized. The Special Marriage Act of 1954 permitted marriage of people from different religious faiths without changing their religions and laid down the minimum age of marriage as 18 years for girls and 21 years for boys.

In order to implement the Directive Principles, the States took steps to protect the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation. Parliament passed, the Untouchability (Offences) Act in May 1955. This Act provided penalties for preventing a person, on grounds of untouchability, from entering a place of public worship or taking water from a sacred tank, well or spring. Penalties were provided for enforcing all kinds of social disabilities, such as denying access to any shop, restaurant, public hospital or educational institution, hotel, the use of any road, river, water tap, bathing *ghat*, cremation ground or *dharamshala* or utensils kept in such institutions and hotels and restaurants. The Act also prescribed penalties for enforcing occupational, professional or trade disabilities or disabilities in the construction or occupation of any residential premises in any locality or the observance of any social or religious usage or ceremony. The Act laid down penalties for refusing to sell goods or render services to a Harijan. In 1976, Parliament passed the Protection of Civil Right Act, and it provided for more severe punishment.

In order to promote international peace, as enjoined in Article 51 of the Constitution, the Union Government followed a policy of non-alignment and *Panchsheel*.

### 9.2.3 Relationship between Fundamental Rights and Directive Principles

In order to uphold the constitutional validity of legislations, Directive Principles have been added to the Indian Constitution to deal with circumstances of conflict with the Fundamental Rights. The 25th Amendment added Article 31C in 1971, which provided that any law made to give effect to the Directive Principles in Article 39 (B) and (C), will not be deemed invalid on the basis that they depreciate Fundamental Rights conferred under Article 14, 19 and 31. In 1976, the 42nd Amendment was to extend all Directive Principles. However, the Supreme Court struck down the extension to be null and void as it violated the basic structure of the Indian Constitution. Fundamental Rights and Directive Principles have been combined in forming the basis of legislation for social welfare. After the *Kesavananda Bharati vs. State of Kerala* of 1973, the Supreme Court of India views the Fundamental Rights and Directive Principles to complement each other where one supplements the role of other in the goal of establishing a welfare state by the means of a social revolution. In a similar manner, the Supreme Court has used the Fundamental Duties to uphold the constitutional validity of statutes which seeks to promote the objectives laid out in the Fundamental Duties. These duties are obligatory to all citizens, subject to the state enforcing the same by means of a

valid law. Supreme Court has also issued relevant directions to the state in this regard, in order to make the provisions effective and enabling citizens to perform their duties appropriately.

### **Main features of the relationship between Fundamental Rights and Directive Policy**

- In various cases the Supreme Court has evolved the Doctrine of Harmonization which aims to make a consistent whole of law.
- Fundamental Rights and Directive Principles supplement each other and together form an integrated scheme
- If the Fundamental Rights and Directive principles cannot work together than Fundamental Rights will prevail over the Directive Principles
- Currently, Article 39 (B) and 39 (C) can be given precedence over Article 14, 19 and 31.

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## **9.3 INDIAN ADMINISTRATION AND NATIONAL EMERGENCY**

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Part XVIII of the Constitution is entitled ‘Emergency Provisions’. It deals with the circumstances in which a state of emergency can be proclaimed by the President and the steps he or she may take to cope with it. The purpose is to restore the normal functions of the government at the earliest opportunity. The framers of the Constitution have provided for three types of emergencies, namely:

- (a) Emergency caused by war, external aggression or internal revolt;
- (b) Emergency caused by the breakdown of the Constitutional machinery in the states; and
- (c) Emergency caused by the threat to financial stability or credit of India, or of any part of the territory thereof.

#### **Check Your Progress**

1. What do you mean by the Directive Principles of State Policy?
2. What does Article 39 state?
3. List Directive Principles relating to Gandhian principles.
4. What was the central objective of Planning Commission?
5. List the main features of the relationship between Fundamental Rights and Directive Policy.
6. List the types of emergency provisions in Indian Constitution.

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## 9.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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### NOTES

1. The Directive Principles of State Policy, Part IV of the Constitution of India, constitute directions given to the central and state governments for the establishment of a just society. They commit the state to promote the welfare of the people by affirming social, economic and political justice, as well as to fight economic inequality.
2. Article 39 states that: The state shall, in particular, direct its policy towards securing that:
  - (a) The citizens, men and women equally, have the right to an adequate means of livelihood.
  - (b) The ownership and control of the material resources of the community are so distributed as best to subserve the common good.
  - (c) The operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
  - (d) There is equal pay for equal work for both men and women.
  - (e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.
  - (f) Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment
3. Directive Principles relating Gandhian principles include the following:
  - i. Article 40 states that: The state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.
  - ii. Article 47 states that: The state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the state shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
  - iii. Article 48 states that: The state shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

- iv. Article 48A states that: The state shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.
4. The central objective of planning was declared to be the raising of the standard of living and opening to the people new opportunities for a richer and more varied life. The aim of the first-Five Year Plan was to use more effectively the available human and material, resources, so as to obtain from them a larger output of goods and services and to reduce inequalities of wealth, income and opportunity. The Plan envisaged a substantial increase in the volume of employment through the expansion of irrigation, power, basic industries, transport and other resources.
5. Main features of the relationship between Fundamental Rights and Directive Policy are:
  - In various cases the Supreme Court has evolved the Doctrine of Harmonization which aims to make a consistent whole of law.
  - Fundamental Rights and Directive Principles supplement each other and together form an integrated scheme
  - If the Fundamental Rights and Directive principles cannot work together than Fundamental Rights will prevail over the Directive Principles
  - Currently, Article 39 (B) and 39 (C) can be given precedence over Article 14, 19 and 31.
6. The framers of the Constitution have provided for three types of emergencies, namely:
  - (a) Emergency caused by war, external aggression or internal revolt;
  - (b) Emergency caused by the breakdown of the Constitutional machinery in the states; and
  - (c) Emergency caused by the threat to financial stability or credit of India, or of any part of the territory thereof.

## **NOTES**

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### **9.5 SUMMARY**

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- Article 31C, added by the Twenty-fifth Amendment Act of 1971, further upgraded the Directive Principles so that if the government made laws to give effect to the Directive Principles over Fundamental Rights, they would remain valid.
- Article 41 states that the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases as such that might be considered necessary.

## NOTES

- Article 40 states that the state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.
- Put together, the Preamble to the Constitution and the Directive Principles of State Policy comprised the ideology of egalitarianism, that is, the rulers of independent India committed themselves to bring about political, economic and social equality and bring to an end the age-old sufferings of the people.
- After the assumption of Prime Ministerial office by Mrs Indira Gandhi on 24 January 1966, the concept of socio-economic justice and equality was stressed every now and then. On the eve of the mid-term poll for the Lok Sabha, held in March 1971, Mrs Gandhi coined a new slogan *garibi hatao*, and on the occasion of fifth General Election to state Assemblies, in March 1972, she came out with another, '*annaya hatao*' (remove injustice).
- The central objective of planning was declared to be the raising of the standard of living and opening to the people new opportunities for a richer and more varied life. The aim of the first-Five Year Plan was to use more effectively the available human and material, resources, so as to obtain from them a larger output of goods and services and to reduce inequalities of wealth, income and opportunity.
- In order to uphold the constitutional validity of legislations, Directive Principles have been added to the Indian Constitution to deal with circumstances of conflict with the Fundamental Rights. The 25th Amendment added Article 31C in 1971, which provided that any law made to give effect to the Directive Principles in Article 39 (B) and (C), will not be deemed invalid on the basis that they depreciate Fundamental Rights conferred under Article 14, 19 and 31.

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## 9.6 KEY WORDS

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- **Panchsheel:** The Five Principles of Peaceful Coexistence, known as the Panchsheel Treaty refers to non-interference in others internal affairs and respect for each other's territorial unity integrity and sovereignty, are a set of principles to govern relations between states.
- **The 42nd Amendment:** Officially known as The Constitution Act, 1976, it was enacted during the Emergency by the Indian National Congress government headed by Indira Gandhi.

- **The 25th Amendment:** Officially known as The Constitution Act, 1971, it curtailed the right to property, and permitted the acquisition of private property by the government for public use, on the payment of compensation which would be determined by the Parliament and not the courts.

## NOTES

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### 9.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Discuss the significance of the Directive Principles of State Policy.
2. List the various Act related to the Directive Principles of State Policy.
3. What is the main purpose of directive principles related to foreign affairs?
4. Write a brief note on the ideology of egalitarianism.
5. Discuss of states in land reforms and their implementation.

#### Long-Answer Questions

1. Discuss the main objectives of the provisions for Directive Principles of State Policy in the Indian Constitution.
2. Critically analyze the classification of directive principles in various categories.
3. Discuss Dr Ambedkar's view on the adoption of the Directive Principles of State Policy in the Indian Constitution.
4. Write a comprehensive note the relationship between Fundamental Rights and Directive Policy.
5. Examine the 'Emergency Provisions' in the Constitution.

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### 9.8 FURTHER READINGS

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# UNIT 10 STRUCTURE OF CENTRAL ADMINISTRATION

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## NOTES

### Structure

- 10.0 Introduction
- 10.1 Objectives
- 10.2 President of India
  - 10.2.1 Powers of the President
- 10.3 Prime Minister of India
  - 10.3.1 Powers and Functions of the Prime Minister
- 10.4 Council of Ministers
  - 10.4.1 Salient Features of the Cabinet System
  - 10.4.2 Council of Ministers and Cabinet
  - 10.4.3 The Cabinet
  - 10.4.4 Powers and Functions of the Council of Ministers
- 10.5 Cabinet Committees
- 10.6 Answers to Check Your Progress Questions
- 10.7 Summary
- 10.8 Key Words
- 10.9 Self Assessment Questions and Exercises
- 10.10 Further Readings

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## 10.0 INTRODUCTION

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This unit discuss the President, Prime Minister and the Council of Ministers. In keeping with the spirit of the parliamentary executive, the Constitution of India has envisaged the position of the ceremonial head of state like the British monarch — the office of the President. All executive action is also taken in President's name. The President appoints the Governors of the States, the Judges of the Supreme Court and High Courts of the States.

Lord Morely described the Prime Minister as *primus inter pares* (first among equals). Despite the constitutional provisions of the Westminster model of cabinet government in India, the Prime Minister has emerged as the undisputed chief of the executive. The Prime Minister performs many significant functions in the Indian political system and exercises vast powers. This unit discusses in details the functions and powers of President, Prime Minister and the role of Cabinet in the central administration as envisaged in the Indian Constitution.

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## **10.1 OBJECTIVES**

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After going through this unit, you will be able to:

- Examine the various powers of the President as the chief executive of the Indian union
- Discuss the office of Prime Minister as the head of government of India
- Explain the powers and functions of the Prime Minister
- Analyze the role of the Council of Ministers
- Explain the foundation of the Cabinet system in India
- Understand the salient features of the Cabinet System
- List the functions and powers of the cabinet committees

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## **10.2 PRESIDENT OF INDIA**

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Under the Constitution of India, the office of the President of India is virtually analogous to that of the British monarch in keeping with the spirit of the parliamentary executive. Being the ceremonial head of state, the office of the President is an exalted one, with enormous prestige, authority, grace, dignity, respect and adoration, but very less activism. The executive power of the Union is based on the assumption of the President being a rubber stamp of the government in order to authenticate the decisions taken by the Council of Ministers, barring a few cases ordained by circumstances. The President and the Vice-President are the formal executive heads of the Union, while the actual executive is the Union Council of Ministers, with Prime Minister as its Chairman.

The Constitution of India provides for various conditions of the President's office. Though any Indian with thirty-five years of age, and who is eligible to be elected to the Lok Sabha, is entitled to contest for the office of the President; in reality, only persons with either exceptional qualities and stature or having the blessings of the leader of majority party in the Parliament have been elected to the President's office. The elections to the office of the President are indirect through an electoral college consisting of the elected members of both the houses of Parliament and the elected members of the state legislature assemblies. The President is elected for a term of 5 years with an entitlement for re-election. However, with the exception of Dr Rajendra Prasad, no President has been re-elected to office. The President may be removed from the office by the process of impeachment, which is a cumbersome process, on the charges of violation of the Constitution. Though the various aspects of the office of the President have contributed to his or her figurehead and ceremonial position, the Constitution has also ensured him or her a stable tenure so that he or she can function without fear or favour in the exceptional cases when he or she may be required to take a position that is unpleasant to the party in power.

### 10.2.1 Powers of the President

Being the chief executive of the Indian union, the executive powers of the central government have been vested in the President, to be exercised by him or her either directly or through officers subordinate to him or her, in accordance with the Constitution (Article 53). His or her position is such that every significant institution and functionary is either directly or indirectly attached to him.

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#### A. Executive powers

- (i) The President has the power of making and unmaking executive appointments. In the first place, he or she appoints the Prime Minister and on the latter's advice, the other members of the Union Council of Ministers, to aid and advise him or her in the exercise of his or her functions. The President is not only authorized to receive and accept their resignations but also to dismiss them individually or collectively as they all hold office during his or her pleasure.
- (ii) The President also appoints the Attorney-General of India. He or she can appoint any person as the Attorney-General who is qualified to be appointed as a judge of the Supreme Court.
- (iii) The President also appoints the Comptroller and Auditor-General of India, provided the person to be appointed is qualified to be a judge of the Supreme Court.
- (iv) The President appoints the Governors of states. These appointments are done in consultation with the Prime Minister.
- (v) The President alone can receive the Governor's resignation or dismiss him, as the Governor holds his or her office during the pleasure of the President.
- (vi) The President also appoints the administrators of Union Territories and determines the designations to be held by them. They are variously known as Lt. Governors, chief-commissioners or administrators.
- (vii) The President is also competent to appoint an inter-state council to exercise the following functions: (a) advising upon the disputes between the states; (b) investigate and discuss matters of common interest between the Union and the state or amongst the states themselves.
- (viii) The President appoints chairmen and members of the Union Public Service Commission and the Joint Public Service Commissions.
- (ix) The President appoints the Chief Election Commissioner and the Deputy Chief Election Commissioners.
- (x) The President appoints commissioner to report to him or her on the administration of the 'scheduled areas' and the welfare of scheduled tribes. He or she also appoints another commissioner to investigate the conditions of the backward classes in the states.

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- (xi) The President appoints an Official Language Commission to recommend to him or her the ways through which Hindi can be progressively used in place of English for the official purposes of the Union. He or she also appoints a special officer for all matters relating to the safeguards provided for linguistic minorities under the Constitution.
- (xii) The President has also been empowered to entrust to the states, or to its officer with the exercise of executive power of the Union, provided that the state or the officers concerned, consent to do so.
- (xiii) The President also has the power to administer Union Territories either directly or through officers or administrators of his or her choice. The executive power of the Union with respect to the Union Territories extends to all subjects.
- (xiv) The President has the power to receive reports of the Comptroller and Auditor-General of India, the Union Public Service Commission, the Election Commissioners, the Official Language Commission, the commissioners for scheduled areas and backward classes and the special officers for scheduled castes and tribes, and for the linguistic minorities.

### **B. Legislative powers**

- The President is an integral part of the Parliament inasmuch as the Union Parliament, which consists of the President and two Houses known respectively as the Rajya Sabha and the Lok Sabha. Since he or she is an integral part of the Parliament, a bill, before becoming an Act, must not only be approved by the two houses of Parliament, but must also be assented to by the President.
- The President has the power to nominate not more than 12 members to the Rajya Sabha on the ground that they possess special knowledge or practical experience in the fields of art, science, literature and social service. Article 331 empowers him or her to nominate not more than 2 persons belonging to the Anglo-Indian community to the Lok Sabha, if he or she thinks that this community is not adequately represented in the House. The President appoints the acting Speaker of the Lok Sabha in case both the Speaker and Deputy Speaker are not available. Similarly, he or she appoints the acting-Chairman of the Rajya Sabha in case both the Chairman and Deputy Chairman are not available.
- The President administers the oath of office to the members of both the houses of Parliament.
- The President decides with final authority, after consultations with the Election Commission, as to whether any Member of Parliament (MP) has become ineligible to hold his or her office as an MP.

- The President has the power to specify the period within which a person who has been elected a member both to the Parliament and to a state legislature must resign either one of his or her seats.
- The President has the power to summon, from time to time, each house of the Parliament in such a manner that 6 months do not intervene in between the sessions. He or she has the power to prorogue either or both the houses. He or she is also empowered to summon the joint sitting of the two houses of Parliament in case of deadlocks over non-money bills passed by one house and either rejected or delayed for more than 6 months by the other house.
- The President inaugurates the first session of the Parliament after each general election to the Lok Sabha, and delivers his or her inaugural address to the two houses sitting together in a joint session.
- Article 123 authorizes the President to promulgate ordinances during the recess of the Parliament.
- All bills passed by the Parliament are sent to him or her for his or her consideration. He or she may assent to the bill. And only upon his or her assent, a bill becomes the law. If, however, he or she wants the Parliament to modify or amend the bill, he or she is free to return it for their reconsideration, with or without his or her recommendations.
- He or she also has the power to recommend to the Parliament to make law to form new states or to alter areas, boundaries, or names of the existing states.
- The President has been authorized by Article 370 to extend the various provisions of the Constitution to the states of Jammu and Kashmir, with the concurrence of its government.
- The President has also been authorized to consider and approve state laws and ordinances, which under various provisions of this Constitution are reserved by state Governors for his or her assent. Finally, he or she has the power to make regulations for the peace, progress and good government of all the Union Territories, except Chandigarh and Delhi.

## **NOTES**

### **C. Judicial powers**

- The President appoints the Chief Justice and other judges of the Supreme Court of India in consultation with such other judges of the Supreme Court and state high courts as he or she may deem necessary.
- He appoints the Chief Justice and other judges of the state high courts, in consultation with the Chief Justice of India, Governor of the concerned state and the Chief Justice and such other judges of the state high court whom the President may deem necessary to consult.

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- The President can transfer judges from one high court to another in consultation with the Chief Justice of India.
- Article 143 empowers the President to consult the Supreme Court.
- The President also exercises the power of pardon. He or she may grant pardon, suspend or commute the sentence of any person.
- The President has the right to be represented and appear at the investigation of charges against him or her by either house of Parliament on a resolution of impeachment. The President is, however, not answerable to any court for the exercise or performance of powers and duties of office or for any act done by him or her in the exercise of his official duties. Neither any criminal proceedings can be instituted against President in any court, nor can any court order his or her arrest or imprisonment during his or her term of office. Civil suits can be instituted against him or her by giving him or her a written notice of at least 2 months.

### D. Financial powers

- The President has control over the purse of the nation. It is President who causes the national budget to be laid before each house of Parliament.
- The President has been authorized by Article 280 to appoint a Finance Commission consisting of a chairman and other members every fifth year, or earlier if necessary.
- The President has also been given control over the Contingency Fund of India. He or she can advance money from this fund to the Government of India for meeting unexpected expenditures.
- Certain money bills (Article 110) and bills affecting the taxation in which states are interested (Article 274) are to be reserved by the state Governors for the approval by the President.

### E. Military powers

- Article 53 makes the President the Supreme Commander of the defence forces of the Union. The exercise of the military power by him or her is not discretionary. It is regulated according to the law passed by the Parliament. In the exercise of his or her military powers, the President nominates and appoints the Chiefs of the Staff of Army, Navy and Air Force. He or she is the Chairman of the Defence Council, which consists, besides him or her, of the Prime Minister, the Defence Minister and the three Chiefs of Staff.
- With the concurrence of the Parliament, the President can declare war and conclude treaties of peace with foreign states.

### F. Diplomatic powers

- The President represents India in international affairs. He or she appoints and recalls India's Ambassadors, High Commissioners and other diplomatic

envoys to the foreign states, the United Nations and its specialist agencies. He or she receives the credentials of the Ambassadors, High Commissioners and other diplomatic envoys accredited to India by the United Nations and the foreign States.

- All international treaties and agreements to which India is a party are concluded on his or her behalf and are finally signed by him or her.

## NOTES

### Check Your Progress

1. Who is the head of the state under the Constitution of India?
2. How is the president elected?
3. List two executive powers of the President.

## 10.3 PRIME MINISTER OF INDIA

The office of the Prime Minister first originated in England. The Indian Constitution borrowed this system, which has been designed after the Westminster System. Article 74(1) of our Constitution expressly states that the Prime Minister shall be 'at the head' of the Council of Ministers. Hence, the other ministers cannot function without the Prime Minister. Lord Morely described the Prime Minister as *primus inter pares* (first among equals) and Sir William Vernon called him or her *inter stellas luna minors* (moon among the stars). Harold Laski, on the other hand, called him or her 'The pivot of the whole system of government'.

The concept of 'first among equals' is obsolete today. How can there be 'first' among equals? If he or she is equal, he or she will not be first. If he or she is first, it means that he or she is not equal. The very fact that he or she is Prime Minister means that he or she is superior to others. The Prime Minister represents not only the Cabinet arch but other arches of the constitutional structure as well. Peter G. Richards observes that to say that the Prime Minister was *primus inter pares* was 'serious underestimate of the Prime Minister's position'. Similarly, J.S. Dugdale observes that to say that all ministers, including the Prime Minister were equal, was obviously wrong, but to say that all ministers except the Prime Minister were equal was 'nearer the truth'. Amery stressed that the Prime Minister was 'in fact both captain and man at the helm'. Ramsay Muir in his book, *How Britain is Governed*, called the Cabinet as 'steering wheel of the ship of the state' and described the Prime Minister as 'the steer's man' as Ivor Jeanings described him or her, 'the sun round which the planets revolve'. Beloft called him or her 'dictator' and Hinton said the Prime Minister was an 'elected monarch'.

Despite the constitutional provisions of the Westminster model of cabinet government in India, the Prime Minister has emerged as the undisputed chief of the executive. The personality of the Prime Minister determines the nature of the authority that he or she is likely to exercise. Such Prime Ministers as Lal Bahadur

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Shastri, Morarji Desai, V.P. Singh, Chandra Shekhar, H.D. Deve Gowda and I.K. Gujral served as first among equals, but this was not the case with Nehru, Indira Gandhi and Rajiv Gandhi. Long time domination of the government by charismatic and powerful personalities such as Nehru and Indira Gandhi, and particularly the centralization of political power by Indira Gandhi in her office, has rendered the Indian executive a Prime Ministerial government rather than a cabinet government.

### 10.3.1 Powers and Functions of the Prime Minister

The Prime Minister (PM) performs many significant functions in the Indian political system and exercises vast powers to his or her advantage. He or she is the chief executive of the nation and works as head of the Union Government. In the words of Jawaharlal Nehru, 'The Prime Minister is the lynchpin of the Government' and, thus, his or her powers and functions are as follows:

- (i) **Head of Government:** The President of India is the Head of the State while PM is the Head of the Government. Although the President of India is vested with many executive powers, in actual practice he or she acts only at the advice of the PM and the Cabinet. All major appointments of the Union Government are virtually made by the PM and all the major decision-making bodies such as the Union Cabinet, Planning Commission and Cabinet Committees function under his or her supervision and direction.
- (ii) **Leader of the Cabinet:** The PM is the leader of the Cabinet. According to Article 74(i), 'There shall be a Council of Ministers with the Prime Minister as the head'. Like the British Prime Minister, the Indian Prime Minister is not only *primus inter pares* but to use Ivor Jeaning's phrase, 'a sun around which other ministers revolve like planets'. It is he or she who selects the other ministers. It is the PM who distributes portfolios among ministers. It is the PM who presides over meetings of the Cabinet and determines what business shall be transacted at these meetings. He or she can change the personnel of the Cabinet at any time by demanding a minister's resignation or having him dismissed by the President. S.P Mukherjee, M.O Mathai, Neogy, B.R. Ambedkar and C.D. Deshmukh resigned mainly because of personal differences with Nehru. The PM, as chairman of the Cabinet, can influence cabinet decisions, which are made by consensus more often than by voting. It is for the PM to assess the sense of the meeting and declare the consensus. His or her resignation involves the resignation of all ministers. Laski's dictum 'the PM is central to the formation of the Council of Ministers, central to its life and central to its death' is as true of the PM of India as of his or her British counterpart.
- (iii) **Link between President and the Cabinet:** Article 78 of the Constitution defines the duties of the PM, and in the discharge of those duties, he or she acts as a link between the President and the Cabinet. The duties defined in this Article are:

- (a) To communicate to the President all decisions of the Council of Ministers
  - (b) To furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
  - (c) If the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.
- (iv) **The leader of the Parliament:** The PM is the leader of the Parliament. He or she determines the dates of its meetings, as also its programmes for the session. He or she decides when the House is to be prorogued or dissolved. PM is the chief spokesman of the government in the House and it is he or she who usually keeps it informed about the government's intentions. As leader of the House, the PM is in a position of special advantage. He or she makes the announcement of principal government policies and answers questions on super-departmental lines. He or she can correct the errors made by his or her ministers on the floor of the House and can even rebuke and reprimand them. The PM represents the Cabinet as a whole unlike any other member of the government.
- (v) **Chief spokesman in foreign relations:** In international relations, the PM is regarded as chief spokesman of the country. His or her statements are, for the outside world, statements of policies of the nation. In international conferences, it is the PM who speaks for the nation. In dealings with non-aligned countries and conferences, he or she takes the lead. Our PMs have had a special interest in foreign affairs and this has helped them to strengthen their position at home also.
- (vi) **Leader of the Party:** The PMs in India have tried to woo and cajole the party, but they have also tried to dominate the party by conscious manipulation and manoeuvring. For example, Nehru forced Tandon to resign as the Congress president and took over the command of the party. After the death of Sardar Patel, Nehru became the head in the party and in the government. He combined the two posts of party president and PM. Thereafter, the Congress president was for all practical purposes a 'political cipher'. After the Congress split (1969), the Party office worked on behalf of the PM (Mrs. Gandhi) and there was a centralization of power. Almost all the party presidents were said to be virtually her nominee. After the formation of the Congress (I), the PM virtually became the High Command of the Party. P.V. Narsimha Rao, the Prime Minister, was also the president of the Congress (I) Party.
- (vii) **Chairman of the Planning Commission:** The Planning Commission is an extra-constitutional advisory body under the chairmanship of the PM. It has covered all the spheres of activities of both the Centre and the States. It

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has become a super cabinet under the leadership of the PM. All important decisions, defining the main line of the economic policy (even in the field demarcated for the States) are taken by the Planning Commission under the chairmanship of the PM.

An analysis of the powers of the Prime Minister proves that he or she is the pivot of the whole system of government. The PM occupies a position of exceptional authority. According to a critic, the Constitution concentrates so much power and influence in the hands of the PM that there is every danger to apprehend that the Prime Minister may become a dictator, if he or she chooses to do so.

### Check Your Progress

4. Who is at the head of the cabinet of the Indian union?
5. List two powers and functions of the Prime Minister.

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## 10.4 COUNCIL OF MINISTERS

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The makers of the Indian Constitution intended that though formally all executive powers were vested in the President, he or she should act as the Constitutional head of the Union Executive like the British Crown, acting on the advice of ministers responsible to the Lok Sabha.

The British Constitution leaves the entire system of Cabinet Government to convention. The Crown is legally vested with absolute powers and the Ministers are in theory nothing more than the servants of the Crown. The framers of our Constitution enshrined the foundation of the Cabinet system in the body of the written Constitution itself, though, of course, the details of its working had necessarily to be left to be filled up by convention and usage. As Ramesh Thakur observes, ‘the Council of Ministers has constitutional status, the cabinet does not get a mention in the Constitution. Accordingly, its powers are defined by convention and usage’.

### 10.4.1 Salient Features of the Cabinet System

India has adopted the Parliamentary form of government. The Parliamentary form of government, had its best form in the English political system—Party having a majority works under the leadership of the Prime Minister with the help and cooperation of his or her trusted colleagues. The PM discharges various departments and important portfolios to its various ministers. These people have their sense of responsibility towards the Parliament and ultimately towards the people who are their real constituents.

Though the essential principles of Parliamentary government continue to remain in observance, a great change has occurred in the sphere of relationship between the Cabinet and the Parliament. There have been so many changes that the very name ‘Parliamentary government’ has been replaced by a more popular

one 'Cabinet government'. The Cabinet has become, as W.B. Munro said, 'the single most important piece of mechanism in the Constitutional structure' or as Ramsay Muir says, 'the steering wheel of the ship of the State'. A great degree of difference has come to exist in theory and practice. 'In theory, it (Cabinet) is dependent upon the Parliament.' This type of executive has the following essential features:

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- (i) ***A Nominal head:*** The first prerequisite of this type of government is the presence of a Head of State endowed with nominal authority. The entire administration is run in his or her name. All powers are formally vested in him or her that are exercised by ministers accountable to the Parliament. Its best example can be found in the British monarch or in the Indian President who is said to rule, but not to govern.
- (ii) ***Leadership of the Prime Minister:*** The Prime Minister holds the real executive authority and, as such, he or she may be described as 'the real working head of the State. He or she is the chief spokesman of the government, keystone of the Cabinet arch and leader of the House'.
- (iii) ***Political homogeneity:*** The Prime Minister is the leader of the Party enjoying clear majority in the country's elections. It may be possible that two or more parties join to form a coalition government when no party is in a position to have absolute majority in the Parliament.
- (iv) ***Collective responsibility:*** The most important feature of this government is the principle of responsibility of the ministers to the Parliament. It means that they can live in office only so long as they enjoy the confidence or pleasure of the Parliament. They are collectively responsible; they sink and swim together.
- (v) ***Sound and effective opposition:*** The last requirement of Cabinet system of government is the existence of a sound and effective opposition that may exercise check on the government so as to prevent it from taking to a path basically opposed to the existence of a democratic political system. The Cabinet system in India is working exactly on the same lines as it is practiced in England. The President of India does not attend and preside over the meetings of the Cabinet. The Cabinet has political responsibility towards the Lok Sabha and the Rajya Sabha. Leadership of the Prime Minister is recognized constitutionally; all the ministers generally belong to the same political party, hold identical views and subscribe to the same principles.
- (vi) ***Appointment of ministers:*** While the Prime Minister is selected by the President, the other ministers are appointed by the President on the advice of the Prime Minister [Article 75(i)] and the allocation of portfolios amongst them is also made by the Prime Minister. Further, the President's power of dismissing an individual minister is virtual power at the hands of the Prime Minister. In selecting the Prime Minister,

the President must obviously be restricted to the leader of the party in majority in the Lok Sabha, or, a person who is in a position to win the confidence of the majority in that House.

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### 10.4.2 Council of Ministers and Cabinet

The Constitution does not classify the members of the Council of Ministers into different ranks. All this has been done informally, following the English practice. It has now got legislative sanction. Salaries and Allowances of Ministers Act, 1952, defines Minister as a 'Member of the Council of Ministers, by whatever name called, and includes a Deputy Minister'.

All the Ministers, however, do not belong to the same rank. They are classified under three ranks: (a) Cabinet Minister or 'Members of the Cabinet'; (b) Minister of State; and (c) Deputy Ministers. Theoretically, the complete body of executives comprises the Council of Ministers, with the Cabinet being but one of its three components. In reality, the Cabinet is more important, influential and powerful than the members of the cabinet.

The Cabinet rank ministers are the heads of their departments. The Ministers of State are formally of Cabinet status and are paid the same salary as the Cabinet Ministers and they may hold independent charge of their department. The Deputy Ministers are paid lesser salary than the Cabinet rank ministers and have no separate charge of a department.

However, the 91st Constitutional Amendment (2003) inserts provision 1A in the Article 75, which provides 'the total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent of the total number of members of the House of the People'.

### 10.4.3 The Cabinet

The cabinet is the minor body of the Council of Ministers, which comprises the principal ministers who, while holding important portfolios, are responsible generally for government administration and policy.

The Cabinet must be of small size, which ranges between 12 and 18 people. It has more often been the result of political considerations than of efficient decision-making. The composition of the Cabinet reflects a concern for a degree of regional balance and for the representation of important communities – Muslims, Sikhs SCs, STs and OBCs.

The Cabinet has four major functions—to approve all proposals for the legislative enactment of government policy; to recommend all major appointments; to settle interdepartmental disputes; and to coordinate the various activities of the government and oversee the execution of its policies.

Only members are entitled to attend the weekly meetings of the Cabinet, but Ministers of State, Chief Ministers and technical experts may be invited to attend discussions of subjects with which they have special concern. Votes are

rarely taken into consideration in the Cabinet. Important decisions usually are reached after discussion. Only major issues are referred to the Cabinet, and frequently even these, such as the preparation of the budget, are decided by the appropriate minister in consultation with the Prime Minister.

The work of the Cabinet is handled largely by Committees. The Cabinet Committees, organized by Nehru to coordinate the functions of the various ministries, have been largely dominated by the few ministers. As Prime Minister Nehru, himself was Chairman of 9 of the 10 Committees and the Home Minister was a member of all Committees and was Chairman of the tenth. The Emergency Committee of the Cabinet, set up in 1962 and composed of six senior ministers including the Prime Minister, came in Nehru's last years to assume the role of an inner Cabinet and took over many of the decision-making responsibilities of the whole Cabinet. Under Shastri, the Emergency Committee declined in relative importance. The Cabinet's primacy was restored in domestic affairs, as each minister was given a greater role of initiative and discretion. In consolidating her power (after 1971), Mrs. Gandhi created the Political Affairs Committee, composed of a small group of senior Cabinet ministers under her Chairmanship. Responsible for the coordination of major Cabinet concerns in domestic and international affairs and in defence, the committee became the most important decision-making body in India after the Prime Minister herself.

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### 10.4.4 Powers and Functions of the Council of Ministers

The Council of Ministers form the Government of the Union. It is headed by the Prime Minister, who is the head of the Union Government. Functions of the Council of Ministers are to aid and assist the President in exercising his or her role as the head of nation. Its powers and functions may be discussed as follows:

- (i) **Legislative functions:** The Council of Ministers controls the legislature of the Union Government, i.e., the Parliament. Council of Ministers formulates its policy, submits and explains it to the Parliament for approval. Since it holds majority in the Parliament, it is always sure of the acceptance of its policy. The entire legislation of importance passed by the Parliament is initiated by the Ministers. Maximum legislative bills are prepared and submitted in the Parliament by the Council of Ministers.
- (ii) **Financial powers:** The Cabinet controls the financial policy of the Union executive. It is the Finance Minister who submits the budget to the Parliament. The Parliament approves the budget-expenditure and revenue items in its original form with the support of a subservient majority.
- (iii) **Executive powers:** The Council of Ministers is the executive branch of the Union. The ministers preside over various departments of the government and give directions to the administration. The Cabinet brings about the coordination of policy among various departments and settles their conflicts. The Cabinet formulates foreign and defence policies of the country and executes the five year plans.

- (iv) **Council of ministers in foreign and military affairs:** The Council of Ministers may declare war with a country and concludes peace. All the treaties and international agreements are negotiated and concluded by the Council of Ministers.

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### 10.5 CABINET COMMITTEES

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The Constitution prescribes ministerial responsibility for administrative actions. Naturally the administrators should be heard and controlled to explain their actions or lapses to the representatives of the people. A cabinet decision and a parliamentary enactment including the budget has to pass through several committee screenings to reach to adequacy or acceptability.

The cabinet committees wield real power of decision on less important general policy matters. Other matters, which must be dealt with in the cabinet, are also whittled in committees. Only the delicate and complex points, or those on which ministers differ, remain for discussion by the cabinet. What has saved the cabinet, as the central decision-making body, is the elaborate network of cabinet committees, which have acted as a clearing house.

This device enables ministers to bargain and compromise with each other and this reduces pressure of work upon the cabinet. Consequently, the cabinet is left free to devote itself to more important matters. The committee system safeguards the principle of collective responsibility, which is an essential feature of the cabinet system.

Thus, ministers of state and deputy ministers who are not members of the cabinet are members of one or more committees. This is a way in which they can and are brought into a closer association with the work of the cabinet. Thus, all ministers continue to be partly responsible for the government's action. Cabinet committees increase the effectiveness of political control over public services.

#### Check Your Progress

6. What does the Cabinet comprise of in India?
7. List the functions of the Council of Ministers.
8. What is the role of the Cabinet Committee?

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### 10.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. Under the Constitution of India, the office of the President of India is virtually analogous to that of the British monarch in keeping with the spirit of the parliamentary executive. Being the ceremonial head of state, the office of

the President is an exalted one, with enormous prestige, authority, grace, dignity, respect and adoration, but very less activism.

2. The elections to the office of the President are indirect through an electoral college consisting of the elected members of both the houses of Parliament and the elected members of the state legislature assemblies. The President is elected for a term of 5 years with an entitlement for re-election. However, with the exception of Dr. Rajendra Prasad, no President has been re-elected to office.
3. Two executive powers of the President are:
  - (i) The President has the power of making and unmaking executive appointments. In the first place, the President appoints the Prime Minister and on the latter's advice, the other members of the Union Council of Ministers.
  - (ii) The President also appoints the Attorney-General of India.
4. The office of the Prime Minister first originated in England. The Indian Constitution borrowed this system, which has been designed after the Westminster System. Article 74(1) of our Constitution expressly states that the Prime Minister shall be 'at the head' of the Council of Ministers. Hence, the other ministers cannot function without the Prime Minister. Despite the constitutional provisions of the Westminster model of cabinet government in India, the Prime Minister has emerged as the undisputed chief of the executive.
5. Prime Minister's powers and functions are as follows:
  - (i) Head of Government: The President of India is the Head of the State while PM is the Head of the Government. Although the President of India is vested with many executive powers, in actual practice he or she acts only at the advice of the PM and the Cabinet.
  - (ii) Leader of the Cabinet: The PM is the leader of the Cabinet. According to Article 74(i), 'There shall be a Council of Ministers with the Prime Minister as the head'. It is the PM who distributes portfolios among ministers. It is the PM who presides over meetings of the Cabinet and determines what business shall be transacted at these meetings. His or her resignation involves the resignation of all ministers. Laski's dictum 'the PM is central to the formation of the Council of Ministers, central to its life and central to its death' is as true of the PM of India as of his or her British counterpart.
6. The cabinet is the minor body of the Council of Ministers, which comprises the principal ministers who, while holding important portfolios, are responsible generally for government administration and policy.
7. The powers and functions of the Council of Ministers may be discussed as follows:
  - (i) Legislative functions: The Council of Ministers controls the legislature of the Union Government, i.e., the Parliament. It formulates its policy,

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submits and explains it to the Parliament for approval. Maximum legislative bills are prepared and submitted in the Parliament by the Council of Ministers.

(ii) Financial powers: The Cabinet controls the financial policy of the Union executive. It is the Finance Minister who submits the budget to the Parliament.

(iii) Executive powers: The Council of Ministers is the executive branch of the Union. The ministers preside over various departments of the government and give directions to the administration.

(iv) Council of Ministers in foreign and military affairs: The Council of Ministers may declare war with a country and concludes peace. All the treaties and international agreements are negotiated and concluded by the Council of Ministers.

8. The committee system safeguards the principle of collective responsibility, which is an essential feature of the cabinet system. The cabinet committees wield real power of decision on less important general policy matters.

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## 10.7 SUMMARY

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- Under the Constitution of India, the office of the President of India is virtually analogous to that of the British monarch in keeping with the spirit of the parliamentary executive. Being the ceremonial head of state, the office of the President is an exalted one, with enormous prestige, authority, grace, dignity, respect and adoration.
- Being the chief executive of the Indian union, the executive powers of the central government have been vested in the President, to be exercised by him or her either directly or through officers subordinate to him or her, in accordance with the Constitution (Article 53).
- The President appoints the Governors of states. These appointments are done in consultation with the Prime Minister. The President alone can receive the Governor's resignation or dismiss him, as the Governor holds his or her office during the pleasure of the President.
- The President inaugurates the first session of the Parliament after each general election to the Lok Sabha, and delivers his or her inaugural address to the two houses sitting together in a joint session.
- The President has control over the purse of the nation. It is President who causes the national budget to be laid before each house of Parliament.
- Article 53 makes the President the Supreme Commander of the defence forces of the Union. The exercise of the military power by him or her is not discretionary. It is regulated according to the law passed by the Parliament.

In the exercise of his or her military powers, the President nominates and appoints the Chiefs of the Staff of Army, Navy and Air Force.

- The office of the Prime Minister first originated in England. The Indian Constitution borrowed this system, which has been designed after the Westminster System. Article 74(1) of our Constitution expressly states that the Prime Minister shall be ‘at the head’ of the Council of Ministers.
- Article 78 of the Constitution defines the duties of the PM, and in the discharge of those duties, he or she acts as a link between the President and the Cabinet.
- An analysis of the powers of the Prime Minister proves that he or she is the pivot of the whole system of government. The PM occupies a position of exceptional authority. According to a critic, the Constitution concentrates so much power and influence in the hands of the PM that there is every danger to apprehend that the Prime Minister may become a dictator, if he or she chooses to do so.
- The framers of our Constitution enshrined the foundation of the Cabinet system in the body of the written Constitution itself, though, of course, the details of its working had necessarily to be left to be filled up by convention and usage.
- While the Prime Minister is selected by the President, the other ministers are appointed by the President on the advice of the Prime Minister [Article 75(i)] and the allocation of portfolios amongst them is also made by the Prime Minister.
- The Cabinet rank ministers are the heads of their departments. The Ministers of State are formally of Cabinet status and are paid the same salary as the Cabinet Ministers and they may hold independent charge of their department. The Deputy Ministers are paid lesser salary than the Cabinet rank ministers and have no separate charge of a department.
- The Cabinet Committees, organized by Nehru to coordinate the functions of the various ministries, have been largely dominated by the few ministers. As Prime Minister Nehru, himself was Chairman of 9 of the 10 Committees and the Home Minister was a member of all Committees and was Chairman of the tenth.
- The Council of Ministers form the Government of the Union. It is headed by the Prime Minister, who is the head of the Union Government. Functions of the Council of Ministers are to aid and assist the President in exercising his or her role as the head of nation.

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### 10.8 KEY WORDS

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- **Article 53:** It states that the executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

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- **Primus Inter Pares:** This is a Latin phrase meaning first among equals. It is typically used as an honorary title for those who are formally equal to other members of their group but are accorded unofficial respect, traditionally owing to their seniority in office. It is often referred to in the context of British PM and Indian PM.
- **The 91st Amendment to the Constitution:** It limits the size of the Council of Ministers at the Centre and the States to no more than 15 per cent of the numbers in the Lok Sabha or the State Legislature, came into effect. There are 543 MPs in the Lok Sabha, which means there can be 81 ministers.

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## 10.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

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### Short-Answer Questions

1. List the constitutional provision for the position of the President.
2. Write a brief note on the Cabinet system in the Indian union.
3. List the functions of the Council of Minister in the Union Cabinet.
4. Write a brief note on the role of the Cabinet Committee.

### Long-Answer Questions

1. “President of India is just a ceremonial head of state.” Analyze this statement.
2. Discuss the executive powers of the President of India.
3. Analyze the powers and functions of the Prime Minister of India.
4. Write a comprehensive note on the functioning of the Council of Ministers in the Indian union.

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## 10.10 FURTHER READINGS

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## UNIT 11 CENTRAL SECRETARIAT

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#### Structure

- 11.0 Introduction
- 11.1 Objectives
- 11.2 Cabinet Secretary
- 11.3 Public Services
- 11.4 All India Services: An Overview
  - 11.4.1 Union Public Service Commission
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### 11.0 INTRODUCTION

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The Cabinet Secretariat is the apex bureaucratic institution in the country. It plays a coordinating role between the Prime Minister and the various Ministries. It also acts as a pivotal link between the Cabinet and various ministries and departments in central administration of the Indian Union. It is, therefore, apt that Cabinet secretary, who heads the Cabinet Secretariat, is the head of the civil service of India. As such, Cabinet secretary plays a critical role in inter-ministerial business.

The Indian civil service system is one of the oldest administrative systems in the world. Post-Independence, the Indian Civil Service was reorganized as a two-tier system. The central government controlled the All-India Services (AIS), namely, the Indian Administrative Service (IAS), the Indian Foreign Service (IFS) and the Indian Police Service (IPS) and the central services are classified in various groups. The selections to the All India Services and Group A and B services are conducted by the Union Public Service Commission (UPSC). The post of Cabinet Secretary to the Government of India, the highest in the Indian civil service, has remained the privilege only of the officers of the IAS.

This unit aims at analyzing the role of Cabinet secretary and civil service especially the All India Services in administrative work of the Indian union.

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## 11.1 OBJECTIVES

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After going through this unit, you will be able to:

- Discuss the functioning of the Cabinet Secretariat
- Explain the function and power of the Cabinet Secretary
- Explain the role of the Union Public Service Commission (UPSC)
- Understand the functioning of civil servants in central government
- Enumerate the recruitment procedure of the All India Service

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## 11.2 CABINET SECRETARY

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The Cabinet Secretariat is under the direct charge of the Prime Minister. It is housed in the central secretariat building. The administrative head of the Secretariat is the Cabinet Secretary who is also the ex-officio Chairman of the Civil Services Board. In the Government of India (Allocation of Business) Rules, 1961 “Cabinet Secretariat” finds a place in the First Schedule to the Rules. The subjects allotted to this Secretariat are:

- Secretarial assistance to Cabinet and Cabinet Committees
- Rules of Business

The Cabinet Secretariat is responsible for the administration of the Government of India (Transaction of Business) Rules, 1961 and the Government of India (Allocation of Business) Rules 1961, facilitating smooth transaction of business in Ministries/Departments of the Government by ensuring adherence to these rules. The Secretariat assists in decision-making in Government by ensuring Inter-Ministerial coordination, ironing out differences amongst Ministries/Departments and evolving consensus through the instrumentality of the standing/ad hoc Committees of Secretaries. Through this mechanism new policy initiatives are also promoted.

The Cabinet Secretariat ensures that the President, the Vice President and Ministers are kept informed of the major activities of all Ministries/Departments by means of monthly summary of their activities. Management of major crisis situations in the country and coordinating activities of various Ministries in such a situation is also one of the functions of the Cabinet Secretariat.

While each Ministry is responsible for acting on its own for expeditious implementation of Government policies, plans and programmes, where inter-Ministerial cooperation is involved, they often seek the assistance of the Cabinet Secretariat. The inter-Ministerial problems are dealt with in the meetings of the Committees of Secretaries (COS). Committees are constituted for discussing specific matters and proposals emanating from various Secretaries to the Government and meetings are held under the chairmanship of the Cabinet Secretary.

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These committees have been able to break bottlenecks or secure mutually supporting inter-Ministerial action.

The discussions of the COS takes place on the basis of a paper formulated by the principal Department concerned and the Department with a different point of view, if any, providing a supplementary note. The decisions or recommendations of the COS are unanimous. These proceedings are also circulated to and are followed up by the departments. There are other important functions which it discharges. These are:

- Monitoring
- Coordination
- Promoting new policy initiatives

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 felt it necessary to keep the Cabinet Secretary informed of developments from time to time. The Transaction of Business Rules also requires them to keep the Cabinet Secretary informed of developments from time to time, especially if there are any departures from these rules.

### Check Your Progress

1. List the subjects allotted to the Cabinet Secretariat
2. What are the main functions of the Cabinet Secretariat?

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## 11.3 PUBLIC SERVICES

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The term public service is not a very old one and has recent origins. It also has a rather limited application. The previous term ‘civil service’ has a much wider scope and application. It is also most commonly used in our country.

The term civil services refer to non-technical services and were structured in correspondence to the military and police services. The military as well as the police are basically concerned with the safety and protection of our country, both from internal destructive elements as well as external dangers. The civil services, however, are basically concerned only with the civil affairs of state.

Civil services, therefore, are concerned with non-combatant branch of administrative services of all the states in our country.

### Definition of Civil Service

In the words of the author of several Public Administration books, E. N. Gladden, ‘A civil servant may be defined as a servant of the Crown (not being the holder of a political or judicial office), who is employed in a civil capacity and whose

remuneration is wholly paid out of monies provided by Parliament.’ According to British political scientist Herman Finer, ‘the civil service is a professional body of officials, permanent, paid and skilled.’

### Role of Civil Services

Civil servants in our country have a great and vital role to play in the fields of social, political and economic development. Together they help the government and ensure its efficient running. We will study these roles under following five heads.

1. **Civil service and development of administration:** In India where the political system gets pretty unstable from time to time, the bureaucracy serves as its backbone especially during those times. The role of bureaucracy is to achieve targets with minimum failures while still maintaining a brisk pace. It also has the job of making the general public more assured, through removing feelings of distrust and also through political socialization. The development administrator should be action motivated, having an ideology based on development rather than status and hierarchy.

Citizens of India should also participate in the policies of the government. When a state is not meeting these ideologies and there are various forms of indiscipline present in the governance, the state is termed as a ‘Soft State’.

2. **Civil service as an instrument of political development:** The fundamentals of political development lie in the core of citizen participation, for any country, more so for a country like India, which is so diverse in every aspect. The civil services have the responsibility in determining the policy needs for the country. Development of alternatives along with evaluation and policy suggestions are also its major responsibilities.
3. **Civil service and economic development:** Civil Services also have a major role to play in the economic development of the country. This role is particularly significant in low-income economies. There are two contexts into which economic planning is divided in India. These are as follows:
  - The ideology of nationalism
  - Procedures of planning
4. **Civil service, modernization and social changes:** A perfect and effective administration is always desirable, and to realize this vision, one needs flexibility along with the presence of administrative culture, freedom and a will to change and adapt to prevailing circumstances. Bureaucracy needs to become a dominant force that has the dual role of following the will of the general public along with guiding it in the right direction.

In the words of American political scientist Waldo, ‘it is a part of the cultural complex, and it is not only acted upon, but also acts. The burden of bringing about planned social change is on the bureaucracy and if it fails, the dreadful alternative is violent revolution.’

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**5. Internal functioning—roles in energizing, supervising and execution:**

These roles can be divided into the following tasks:

- (i) **Role of Policy-Making:** The politicians do have the right to supervise the civil servants, but the politicians and political heads do lack in knowledge and cannot function without the guidance and supervision of the civil servants. British historian and liberal party member Ramsay Muir has remarked, ‘Bureaucracy thrives under the cloak of ministerial responsibility.’
- (ii) **Role regarding financial matters:** Civil servants have the responsibility of formulating budget proposals. They formulate details regarding revenues and expenditures. The civil servants also put these proposals into effect practically. Even the finance minister cannot form policies regarding financial matters of the country without the help of civil servants.
- (iii) **Role regarding judicial matters:** Civil servants have also been given responsibility of specific quasi-judicial functions, especially in the recent years. In certain matters, the departments have absolute powers regarding responsibilities of final decisions regarding judicial matters.

**Check Your Progress**

3. What do you understand by the term ‘civil service’?
4. List the role of the civil services.

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## 11.4 ALL INDIA SERVICES: AN OVERVIEW

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These services are composed of officers, who at any time, may be at the disposal of either the Centre or the State. The officers of these services are recruited on an all-India basis with common qualifications and uniform scales of pay, and notwithstanding their division among the states, each of them forms a single service with a common status and a common standard of rights and remuneration.

The three All India Civil Services of India are: the Indian Administrative Service (IAS), the Indian Forest Service (IFS) and the Indian Police Service (IPS). The recruitment to these services is made through the Union Public Service Commission on the basis of the annual competitive Civil Services Examination.

The Constitution also provides for the All India Cadre of Civil Services. It adopts specifically the IAS and the IPS cadres which had already been created earlier (Article 312-2). It empowers the Union Parliament to create more of such all India services whenever it is deemed necessary or expedient in the national interest, provided the Council of States (the Upper House/Rajya Sabha) passes a resolution to the effect supported by not less than two-third of the members present and voting (Article 312-1). Since the Council of States is composed of the Central

Administration representatives of different States, its support will ensure the consent of the States to the creation of new Services. The Constitution also authorizes Parliament to regulate by law the recruitment and the conditions of services of persons appointed to these Services. Accordingly, the All India Service Act was passed by Parliament in October 1951. After the introduction of the Constitution, the Indian Forest Service has been set up on 1 July 1966. The All India Services Act, 1951, empowers the Government of India to make, after consultation with state governments, rules for the regulation of recruitment and conditions of service of the persons appointed to the All India Services.

In 1951, All India Services Act was passed. By virtue of powers conferred by sub-section (1) of Section (3) of this Act, the Central Government framed new sets of rules and regulations pertaining to the All India Services. It became necessary because the old rules at certain places had become redundant. The rules that were in force before commencement of the Act were also allowed to continue. Thus, there came into existence two sets of rules regulating the conditions of All India Services. The old rules made by the Secretary of State, or the Governor General in Council, which regulated the conditions of service of ICS and IP officers, and the new rules made under the 1951 Act were applicable to the officers of the Indian Administrative and Police Services.

All India Services are controlled by the Central Government. Selected candidates are appointed to different state cadres, and as and when required they also move to Central Government jobs on deputation. As an All India Service, it is under the ultimate control of the Union Government, but is divided into State cadres, each under the immediate control of a State Government. The salary and the pension of these officers are met by the States. But the disciplinary control and imposition of penalties rest with the Central Government which is guided, in this respect, by the advice of the Union Public Service Commission.

#### **11.4.1 Union Public Service Commission**

Indianization of the superior Civil Services became one of the major demands of the political movement which compelled the British Indian Government to consider setting up of a Public Service Commission for recruitment. The first Public Service Commission was set up on 1 October, 1926. However, its limited advisory functions failed to satisfy the people's aspirations and the continued stress on this aspect by the leaders of our freedom movement resulted in the setting up of the Federal Public Service Commission under the Government of India Act, 1935. The Constituent Assembly, after Independence, saw the need for giving a secure and autonomous status to Public Service Commissions both at Federal and Provincial levels for ensuring unbiased recruitment to Civil Services. In the new Constitution of India, the Union Public Service Commission got Constitutional status as an autonomous entity.

The Union Public Service Commission has been established under Article 315 of the Constitution of India. The Commission consists of a Chairman and 10

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Members. The terms and conditions of service of Chairman and Members of the Commission are governed by the Union Public Service Commission (Members) Regulations, 1969. The Commission works through a Secretariat headed by a Secretary with two Additional Secretaries, a number of Joint Secretaries, Deputy Secretaries and other supporting staff.

The following are duties and role of the Union Public Service Commission under the Constitution:

- (i) Recruitment to services and posts under the Union through conduct of competitive examinations.
- (ii) Recruitment to services and posts under the Central Government by selection through interviews.
- (iii) Advising on the suitability of officers for appointment on promotion as well as transfer-on-deputation.
- (iv) Advising the Government on all matters relating to methods of recruitment to various services and posts.
- (v) Disciplinary cases relating to different civil services.
- (vi) Miscellaneous matters relating to grant of extraordinary pensions, reimbursement of legal expenses, etc.

### 11.4.2 Indian Administrative Service (IAS)

The Indian Administrative Service (IAS) is the direct descendant of the old Indian Civil Service. On appointment, the officers are posted to different State cadres. The strength of each State cadre, however, is so fixed as to include a reserve of officers who can be deputed for service under the Union Government for one or more 'tenures' of three, four or five years before they return to the State cadre. This ensures that the Union Government has at its disposal the services of officers with first-hand knowledge and experience of conditions in the States, while the State governments have the advantage of their officers being familiar with the policies and programmes of the Union Government. Such an arrangement works for the mutual benefit of both governments. The majority of individual officers have an opportunity of serving at least once under the Union Government; many have more than one such spell. The practice of rotating senior officers in and out of the Secretariat position is known in official parlance as the tenure system.

IAS Officers are trained to handle government affairs well. This being the main responsibility, every civil servant is assigned to a particular office which deals with policy matters related to that area. The policy matters are framed, modified, interpreted in this office under the direct supervision of the Administrative Officer in consultation with the Minister. The implementation of policies is also done on the advice of the Officer. Cabinet Secretary stands at the top of the government machinery involved in policy-making followed by Secretary, Additional Secretary, Joint Secretary, Director, Under Secretary and Junior Scale Officers in that order. These appointments are filled by civil servants according to seniority in the Civil

Services. In the process of decision-making, a number of officers give their views and suggestions to the Minister who weighs the matter and makes a decision considering the issue involved.

The implementation process involves supervision and touring of the officials to the pertaining areas and matters. The allocation of enormous funds to and by the field officers calls for supervision, and the officials concerned have to reply to queries made in Parliament for which they must remain well informed.

The civil servant has also to represent the Government in another country or in International forums. At the level of Deputy Secretary, he is even authorized to sign agreements on behalf of the Government.

Another distinctive feature of this Service is its multipurpose character. It is composed of 'generalist administrators' who are expected, from time to time, to hold posts involving a wide variety of duties and functions; for example, maintenance of law and order, collection of revenue, regulation of trade, commerce and industry, welfare activities development and extension work, etc. Thus, this Service is a kind of generalist service, and its officers are liable for posting in almost any branch of the administration.

A civil servant begins his career in the state with 2 years in probation. This period includes spending time at training schools, Secretariat, field offices or in a District Magistrate's office. He is given the position of Sub-Magistrate and has to look after the law and order and general administration including developmental work in the area under his charge. After the probation is over and 2 years of services as a junior scale officer, the officer is put in the senior scale. Then he may function as District Magistrate, Managing Director of a Public Enterprise or Director of a Department. Senior Time Scale comprises the senior grade, Junior Administrative Grade and the Selection Grade. Selection Grade is given on promotion after 13 years of regular service and officers are then appointed as Secretaries/Special Secretaries to the State Government. The next promotion within the State is that of a Commissioner and Secretary. This promotion also entitles them to the Super Time Scale. Then after 25 years of regular service, an IAS officer may be promoted to above Super Time Scale; designated as Principal Secretaries/Financial Commissioners in states.

Each State has many Secretaries/Principal Secretaries and only one Chief Secretary. Some appointments of Secretaries are considered more prestigious than others, e.g., the Finance Secretary, Development Commissioners, Home Secretary, and hence they enjoy the salary of a Principal Secretary. Chief Secretary in the State is the top ranking civil servant and may be assisted by Additional Chief Secretaries. In some cadres/states, e.g., New Delhi, Financial Commissioner and other high ranking secretaries enjoy the pay of the Chief Secretary.

In the District, the senior most person is the Collector or Deputy Commissioner or District Magistrate. The DM/Collector/DC handle the affairs of the District including development functions. He tours all rural sectors inspecting

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specific projects, disputed sites, and looks into the problems of people even on the spot.

At the divisional level, the Divisional Commissioner is in charge of his division. His role is to oversee law and order, and general administration and developmental work. Appeals against the Divisional Commissioner are heard by the Chairman of the Board of Revenue.

**11.4.3 Indian Forest Service (IFS)**

The modern Indian Forest Service was established in the year 1966 under the All India Services Act, 1951. The first Inspector General of Forests, Hari Singh, was instrumental in the development of the IFS. India's Forest Policy was created in 1894, and revised in 1952 and again in 1988.

Recruitment to the Forest Service is made through the Indian Forest Service Examination conducted by Union Public Service Commission annually. Entry is open to candidates who hold a Bachelor's degree with at least one of the subjects namely, Animal Husbandry and Veterinary Science, Botany, Chemistry, Geology, Mathematics, Physics, Statistics and Zoology, or a Bachelor's degree in Agriculture or Forestry or Agricultural Engineering from a recognized University or equivalent, and who are between the ages of 21 and 30 as on July 1 of the year of the examination.

Its pay scale and status is lower than that of the two original all India Services—the IAS and the IPS. The recruitment is done through an exclusive examination conducted by the Union Public Service Commission which consists of a written test and interview. Though it is an All India Service, its nature is not that of a generalized civil service; but is specialized and functional. It is managed by the Department of Personnel and Administrative Reforms which is in charge of making rules of recruitment, discipline and conditions of service regarding All India Services. After selection, the appointees undergo a foundational course lasting three months along with successful candidates of the other All India and Central Services. After the foundation course, the probationers move to Academy, the Indian Forest Institute at Dehradun, for a rigorous two-year training course. In the end of the training, they have to pass an examination before final posting. The Indian Forest Service is cadre-based as in the case of other All India Services. A member of this Service can come to the Centre on deputation but has to go back to his cadre when deputation is over. Immediately, after being posted in any office within the cadre, the probationers are still kept on probation for one year; then they get regular posting at different offices in the same cadre. The outer parameter of the operational area is a state or union territory.

**11.4.4 Indian Police Service (IPS)**

The Indian Police Service simply known as Indian Police or IPS is responsible for internal security, public safety and law and order. In 1948, the British Imperial Police (IP) was replaced by the Indian Police Service. The IPS is not a law

enforcement agency in its own right; rather it is the body to which all senior police officers belong regardless of the agency for whom they work.

The Indian Police Service is an original All India Service, which differs from IAS in two ways: (i) most of the officers in this service work only in the state since there are only a few police posts at the Centre, and (ii) its pay scale and status are lower than those of the IAS. The officers of the IPS are recruited by UPSC examination which recruits all members of the IAS, IFS and other Central Civil Services.

Recruits to the IPS are first given a five months foundational training and later special training at the Sardar Patel National Police Academy, Hyderabad. The subjects of study and the training is drill, handling of weapons, etc., which have a direct bearing on the normal work of a police officer. The syllabus of training includes studies of crime psychology, scientific aids in detection of crime, methods of combating corruption, and emergency relief. After completing one-year training, the probationer passes an examination conducted by the UPSC.

The IPS officer takes charge as a Deputy Superintendent of Police (DSP) of a Sub-division after probation of 2 years. The tenure of this post is normally 2 years. The next appointment is as Additional Superintendent of Police, then as Superintendent of Police or Deputy Commissioner of Police, and then as Deputy Inspector General of Police or Additional Commissioner of Police.

IPS officers also work in the national government agencies such as Intelligence Bureau, Research and Analysis Wing, Central Bureau of Investigation, etc. IPS officers also get highly placed in the Central Secretariat or the other protective forces such as Director General of Border Security Force, the Central Reserve Police Force and the Central Industrial Security Force, etc.

The Director General of Police or Commissioner of Police is the head of the entire police force of the State and below him is the Additional DGP/Special Police Commissioner. The Inspector General or Joint Commissioner of Police is at the head of certain specialized police force like Criminal Investigation Department, Home Guards, etc.

As an All India Service, it is under the ultimate control of the Union Government; but is divided into state cadres, each under the immediate control of a state government. The Indian Police Service is managed by the Ministry of Home Affairs, though the general policies relating to its personnel are determined by the Department of Personnel and Administrative Reforms.

#### **11.4.5 Significance of All India Services**

The Indian arrangement creating a common pool of officers, who are in the exclusive employ of neither the centre nor the states and fill the top posts in both Union and State administrations, comes nearest to the ideal of joint action, cooperation and coordination, between the two levels of government as envisaged in a federal polity.

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These services have a national vision and perspective, and so are important bulwarks against parochial and regional thinking. It is realized that the members of these services act as instrument of national integration.

Their national perspective and occasional interaction with international institutions facilitate the resolving of state and regional problems from a wide perspective and improves the quality of policy and decisional systems.

The calibre of the officials is substantially high as they are selected on the basis of all India competitive examinations. They come from varied educational backgrounds with having good academic records, and they are able to bring rationality and innovation into the conduct of official business.

Experience at the central and state levels enables the officers of these services to build bridges between these two integral levels of the federal system.

As most of the direct recruited officials to the All India Services work away from their home-state, they bring to their work objectivity and impartiality.

### Check Your Progress

5. Which are the three All India Civil Services of India?
6. Under which Article the Union Public Service Commission has been established?
7. After how many years of service is an IAS officer promoted to super time scale?

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## 11.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. The subjects allotted to Cabinet Secretariat are:
  - Secretarial assistance to Cabinet and Cabinet Committees
  - Rules of Business
2. Main functions of the Cabinet Secretariat are:
  - Monitoring
  - Coordination
  - Promoting new policy initiatives
3. The term civil services refer to non-technical services and were structured in correspondence to the military and police services. The civil services, however, are basically concerned only with the civil affairs of state. According to British political scientist Herman Finer, 'the civil service is a professional body of officials, permanent, paid and skilled.'

4. The roles of the civil services are:
  - (i) Development of administration
  - (ii) An instrument of political development
  - (iii) Economic development
  - (iv) Modernization and social changes
  - (v) Roles in energizing, supervising and execution of law of the land.
5. The three All India Civil Services of India are: the Indian Administrative Service (IAS), the Indian Forest Service (IFS) and the Indian Police Service (IPS). The recruitment to these services is made through the Union Public Service Commission on the basis of the annual competitive Civil Services Examination.
6. The Union Public Service Commission has been established under Article 315 of the Constitution of India. The Commission consists of a Chairman and 10 Members. The terms and conditions of service of Chairman and Members of the Commission are governed by the Union Public Service Commission (Members) Regulations, 1969.
7. After 25 years of regular service, an IAS officer may be promoted to above Super Time Scale; designated as Principal Secretaries/Financial Commissioners in states.

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### 11.6 SUMMARY

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- The administrative head of the Secretariat is the Cabinet Secretary who is also the ex-officio Chairman of the Civil Services Board. In the Government of India (Allocation of Business) Rules, 1961 “Cabinet Secretariat” finds a place in the First Schedule to the Rules.
- The 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 term civil services refer to non-technical services and were structured in correspondence to the military and police services. The military as well as the police are basically concerned with the safety and protection of our country, both from internal destructive elements as well as external dangers. The civil services, however, are basically concerned only with the civil affairs of state.
- Civil servants in our country have a great and vital role to play in the fields of social, political and economic development. Together they help the government and ensure its efficient running.
- Bureaucracy needs to become a dominant force that has the dual role of following the will of the general public along with guiding it in the right direction.

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- Civil servants have also been given responsibility of specific quasi-judicial functions, especially in the recent years. In certain matters, the departments have absolute powers regarding responsibilities of final decisions regarding judicial matters.
- The three All India Civil Services of India are: the Indian Administrative Service (IAS), the Indian Forest Service (IFS) and the Indian Police Service (IPS). The recruitment to these services is made through the Union Public Service Commission on the basis of the annual competitive Civil Services Examination.
- All India Services are controlled by the Central Government. Selected candidates are appointed to different state cadres, and as and when required they also move to Central Government jobs on deputation.
- The Union Public Service Commission has been established under Article 315 of the Constitution of India. The Commission consists of a Chairman and 10 Members. The terms and conditions of service of Chairman and Members of the Commission are governed by the Union Public Service Commission (Members) Regulations, 1969.
- The Indian Administrative Service (IAS) is the direct descendant of the old Indian Civil Service. On appointment, the officers are posted to different State cadres. The strength of each State cadre, however, is so fixed as to include a reserve of officers who can be deputed for service under the Union Government for one or more 'tenures' of three, four or five years before they return to the State cadre.
- The civil servant has also to represent the Government in another country or in International forums. At the level of Deputy Secretary, he is even authorized to sign agreements on behalf of the Government.
- Each State has many Secretaries/Principal Secretaries and only one Chief Secretary. Some appointments of Secretaries are considered more prestigious than others, e.g., the Finance Secretary, Development Commissioners, Home Secretary, and hence they enjoy the salary of a Principal Secretary.
- Recruitment to the Forest Service is made through the Indian Forest Service Examination conducted by Union Public Service Commission annually.
- The Indian Forest Service is cadre-based as in the case of other All India Services. A member of this Service can come to the Centre on deputation but has to go back to his cadre when deputation is over.
- The Indian Police Service is an original All India Service, which differs from IAS in two ways: (i) most of the officers in this service work only in the state since there are only a few police posts at the Centre, and (ii) its pay scale and status are lower than those of the IAS.

- As an All India Service, it is under the ultimate control of the Union Government; but is divided into state cadres, each under the immediate control of a state government. The Indian Police Service is managed by the Ministry of Home Affairs, though the general policies relating to its personnel are determined by the Department of Personnel and Administrative Reforms.
- The UPSC set up another Committee in 1988 under the Chairmanship of the former UGC Chairman Satish Chandra to review and evaluate the system of selection to the higher Civil Services and to make suggestions for further improvement.

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### 11.7 KEY WORDS

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- **The Constituent Assembly:** A body or assembly of popularly elected representatives composed for the purpose of drafting or adopting a document called the Constitution.
- **The All India Services Act, 1951:** This legislation established two All India Services. It empowers the Government of India to make, after consultation with state governments, rules for the regulation of recruitment and conditions of service of the persons appointed to the All India Services.
- **Articles 315:** This Article provides for a Public Service Commission for the Union and for each state.

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### 11.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. Discuss the constitutional provisions for the position of the Cabinet Secretary.
2. List the various powers and function of Cabinet Secretariat.
3. Write a brief note on the All India Civil Services.
4. Discuss the functions of Union Public Service Commission.
5. Write a brief note on various ranks of the Indian Forest Service.

#### Long-Answer Questions

1. Discuss the function of the Committees of Secretaries (COS).
2. Analyze the significance of the Transaction of Business Rules.
3. Enumerate the role of civil servants in the functioning of the government.
4. Analyze the duties and role of the Union Public Service Commission under the Constitution.

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## 11.9 FURTHER READINGS

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### NOTES

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## UNIT 12 CIVIL SERVICES

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### Structure

- 12.0 Introduction
- 12.1 Objectives
- 12.2 Union Public Service Commission (UPSC): An Overview
- 12.3 Recruitment and Training
  - 12.3.1 Training
- 12.4 Answers to Check Your Progress Questions
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- 12.7 Self Assessment Questions and Exercises
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## 12.0 INTRODUCTION

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Under the special provision in the Constitution of India, the Union Public Service Commission (UPSC) was set up. The UPSC is not part of government and recruits officers on the basis of open competition. It is independent body having a chairman and members with fixed terms appointed and removable only by the president. The Constitution of India provides that chairman and members of the UPSC shall be appointed by the president consistent with responsibility and the power vested in the UPSC under the constitution. Public services recruitment may be define as that process through which suitable candidates are introduced to complete for appointments to the public service. Recruitment is the first step in the employment programme and the success of that entire programme depends upon the efficiency of recruitment policies and upon the procedures they are executed.

This unit aims at analyzing in detail the development, constitutional provision, functioning, training and recruitment of the Union Public Service Commission.

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## 12.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the development of public service commissions in India
- Explain the constitutional provision for the Union Public Service Commission (UPSC)
- Analyze the functions and responsibilities of the Union Public Service Commission
- Examine the training and recruitment of civil servants

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## 12.2 UNION PUBLIC SERVICE COMMISSION (UPSC): AN OVERVIEW

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The Constitution of India envisages three categories of Public Service Commissions: The Union Public Service Commission (UPSC) is to serve the needs of the services of the Union, a Joint Public Service Commission for the services of two or more States and a State Public Service Commission (SPSC) for the services of a State. While UPSC and SPSCs are constitutional bodies, a Joint Public Service Commission is to be created by an Act of Parliament. It is a central agency that is authorized to conduct various public service examinations in the country.

### **Composition, Appointment and Terms of Members**

The UPSC is composed of a Chairman and other members of the Public Service Commission. The Chairman and other members of the Public Service Commission (Union or Joint) shall be appointed by the President, and in the case of a State Commission by the Governor of the State. The Constitution does not fix the number of members of the Commission, which is left, for the President to determine. One half of the members of the Commission should be persons who have held office under the Government of India or of a State at least for 10 years. The Chairman and members of the UPSC hold Office for a term of six years or until they attain the age of 65 years, whichever is earlier. But a member's office may be terminated earlier if (i) he resigns his Office in writing to the President, or (ii) he is removed from office by the President.

The conditions of service of members cannot be changed to their disadvantage after appointment. Their salaries, allowances, etc., are not submitted to the vote of Parliament as they are charged on the Consolidated Fund of India. It is also provided that the chairman or a member of the Commission can be removed from office by the President on the ground of misbehaviour. It is only done after an inquiry by Supreme Court, on a reference being made to it by the President. Pending the inquiry by the Court, the President may suspend the member concerned.

A member including the chairman would be deemed guilty of misbehaviour if he becomes interested in any monetary benefit in the discharge of duties as a member. It is also provided that the President may remove the chairman or any other member from office, on the ground of insolvency, infirmity of mind or body, or if he is engaged during the term of office in any paid employment outside the duties of his office. He cannot be removed from office on any other ground except if the Supreme Court finds him guilty of proven misbehaviour on a reference made to it by the President. The word 'misbehaviour' has been explained in the Constitution. A member shall be deemed to be guilty of misbehaviour if: (i) he is interested or concerned in any contract or agreement made on behalf of the Government of India or of a State, or (ii) if he participates in any way in the profit

of such contract or agreement in common with the other members of an incorporated company.

The Constitution endows it with purely advisory functions, although a convention has been developed according to which its advice is normally accepted by the government. There is a high degree of sanctity attached to its advice, for it is required to submit an annual report of its functioning in which it draws particular attention to the non-acceptance, if any, of its advice by the government. This is discussed in Parliament. It is consulted by the Central Government:

- (i) On all matters relating to methods of recruitment to the civil services and for civil posts.
- (ii) On the principles to be followed in making appointments to civil services and posts, and in making promotions and transfers from one service to another, and on the suitability of candidates for such appointments, promotions or transfer.
- (iii) On all disciplinary matters affecting a person serving under the Government of India or the government of a state in a civil capacity including memorials or petitions relating to such matters.
- (iv) On any claim by or in respect of a person who is serving or has served under the Government of India or the government of a state or under the crown in India or under the government of an Indian state, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the consolidated fund of the State.
- (v) On any claim for the award of a pension in respect of injuries sustained by person while serving under the Government of India or the government of a state or under the crown of in India or the government of an Indian state, in a civil capacity and any question as to the amount of any such award.
- (vi) On any other matter specifically referred by the President.

There is also a provision for extending the functions of the Commission by Parliament not only in respect of government services but also in respect of services under local authorities, corporations or other public institutions.

The jurisdiction of the Commission can be reduced by taking away some posts from its purview. For example, the Commission is not consulted in regard to selections for the following appointments:

- (i) Membership or chairmanship of tribunals or commissions.
- (ii) Posts of high diplomatic nature.
- (iii) Group C and Group D employees who constitute nearly 90 per cent of the total number of the Central Government employees.

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The Commission is consulted in matters of censure, compulsory, retirement, removal or dismissal from service, seduction to lower same grade or post or scale, with holding of increments or promotion, recovery of the whole or part of any loss caused to the government by negligence or branch of order. Moreover, the Commission is also consulted in relation to an order of the President on an appeal against any of the above penalties made by a subordinate authority after consideration of any petition or memorandum, or otherwise. The Commission also tenders advice to government on methods of recruitment, and the principle to be followed in making appointments, promotions and transfers from one service to another, and the suitability of candidates for such appointments, promotions or transfers.

It is the duty of the Commission to present annually to the President a report as to the work done by the Commission. The report along with the memorandum explaining the action taken by the government on the recommendations of the Commission is placed before Parliament. Government, thus, becomes responsible to explain the reasons in case it has not accepted the recommendations of the Commission.

It is an independent constitutional body for impartial consideration of service matters of government employees. It has important constitutional functions and duties but has only an advisory role, while the ultimate authority rests with the government. In a democratic system, the selection commission has to strive towards an efficient and economical management and creation of public service maintaining the ideals of a democratic government. In a welfare state, the objective of service to the people further complicates the task of personnel administration. The success or failure of a system is gauged by the ability of the organization in personnel management to meet the above objectives.

### Functions of the UPSC

The functions of the UPSC as specified under Article 320 of the Constitution bear resemblance to those of the Federal Public Service Commission as specified in Government of India Act, 1935. These functions may be broadly classified into three categories, viz., regulatory; executive and quasi-judicial.

- (i) **Regulatory functions:** Among the regulatory functions, the UPSC advises the government in matters relating to: (a) methods of recruitment and (b) the principles to be followed in making appointments, promotion and transfer from one service to another. However, unlike the regulatory jurisdiction vested in the United States Civil Service Commission (USCSC), the UPSC in India has hardly any such powers. The UPSC's jurisdiction is purely advisory. Article 320 (3) of the Indian Constitution merely states that it is the duty of the Commission to advise the government on all matters relating to the methods of recruitment to civil services, promotions and transfers. Thus, unlike the USCSC, the UPSC cannot make regulations on personnel matters which will be binding on all government departments. Although

certain functions of the UPSC are often described as being regulatory ones, in reality these are purely advisory functions.

- (ii) **Executive functions:** The Commission has a specific constitutional duty of conducting examinations for appointments to the services of the Union. Under this provision, the UPSC conducts many written examinations for different categories of post annually, besides the holding of interviews for selection of candidates for specialized and other categories of positions. Here too it may be noted that the Commission's jurisdiction is narrowly restricted to gazetted officers who constitute an insignificant proportion of the total number of government employees. This means that the executive jurisdiction of the Commission extends to only 1.9 per cent of the total employees of the Central Government. Another executive function of the UPSC is to present annually to the President a report of the work done by the Commission during the preceding year. The President is obliged to place the report before both Houses of Parliament with a memorandum explaining the cases, if any, where the advice of the Commission was not accepted and reasons for such non-acceptance.
- (iii) **Quasi-judicial functions:** The quasi-judicial jurisdiction of the UPSC is limited both in scope and extent. In fact, it has no true appellate jurisdiction. It can only advise on disciplinary actions taken against employees. According to the Constitution, the government should consult the Commission on the following matters:
- (a) All disciplinary actions affecting a government employee like censure, withholding of increments or promotion, reduction to a lower grade, compulsory retirement, removal or dismissal from service, etc.
  - (b) Claims for reimbursement for costs incurred by an employee in legal proceedings instituted against him in respect of acts done in the execution of his duty.
  - (c) Claims for the award of pension in respect of injuries sustained by an employee and any question as to the amount of any such reward [Constitution of India, Article 320(3) (C)].

The UPSC derives its functions, apart from the Constitution of India as discussed above, from other sources too like (a) the laws made by Parliament, (b) rules, regulations and orders of the executive, (c) conventions. Under Article 321 of the Constitution, Parliament through legislation can confer additional functions on the UPSC pertaining to the services of the Union or the States. If necessary, Parliament can place the personnel system of any local authority, corporate body or public institution within the jurisdiction of the Commission.

According to Article 318 and Article 320 of the Constitution, the Central Government through certain regulations and orders entrust certain functions to the Commission. Also the President may define from time to time through regulations, the matters in which the Commission need not be consulted. The Commission also

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discharges certain functions, which through conventions have been entrusted to it, though these are not stipulated in the Constitution. Under the Constitution, recruitment to the defence forces is beyond the purview of the Commission, as the defence service is not a part of the Civil Service. But since 1948, the Commission has been conducting written tests for the selection of scientists and technicians for the pool of highly qualified scientists and technologists, who are deputed to Central Government, scientific institutions, national laboratories, universities etc. These functions are being discharged by the UPSC only on the basis of conventions.

### **Constraints on the Functions of the UPSC**

There are certain matters which have been kept outside the scope of the functions of the UPSC. These include:

- (a) The Constitution of India, under Article 335, requires the government to take into consideration the claims of the members of the Scheduled Castes and Tribes in the matters of appointment to various posts. As per Article 320(4), the UPSC need not be consulted as regards the extent to which the reservations are to be made for the candidates belonging to the Scheduled Castes and Tribes. But once these conditions are determined, the Commission as a recruiting agency proceeds with the process of selection.
- (b) The President has been empowered to make regulations excluding matters from the purview of consultation with the UPSC. All such regulations must be laid before each House of Parliament for approval for a period of not less than 14 days. Parliament if necessary can modify or annul them. The posts, the recruitment of which does not require the advice of the UPSC include membership or chairmanship of tribunals, commissions, high powered committees, posts of a highly technical and administrative nature and filling up of temporary positions where appointments are made for less than a year.

In India, a limited role has been assigned to the Union Public Service Commission in personnel administration. It is the recruitment agency par excellence: it shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the service of the Union and the services of the state respectively. The Union Public Service Commission only partially shoulders the staffing responsibility in the Central Government. It is the recruiting agency to the All India Services and the Central Services — class-I and Class-II, the responsibility for the staffing for the lower services and the posts resting with the department concerned. And even in the higher services, there are two notable exceptions. Under the Union Public Service Commission Regulation, 1985, the Atomic Energy Department and the Council for Scientific and Industrial Research have been authorized to directly recruit their Class-I and Class-II staff.

**Check Your Progress**

1. List the various categories of Public Service Commissions.
2. What are the main functions of UPSC?
3. List a few of constraints on the function of UPSC.

**NOTES****12.3 RECRUITMENT AND TRAINING**

The procedure of recruitment is a vital task for the modern governments. This is the core issue of personnel administration. The selection of the right people for the right tasks is important and crucial since manpower is the most crucial component of any administrative system.

In the words of J.D. Kingsley, ‘Public recruitment may be defined as that process through which suitable candidates are included to compete for appointments to the public service. It is thus an integral part of a more inclusive process — selection — which also includes the process of examination and certification.’

In the words of Presthus, ‘Public recruitment for the second half of the twentieth century will have to be geared to a nuclear physical world in which the solutions of human problems will demand the utmost in human competence. The emphasis will be not only on finding, but on building men who are capable of performing the complex tasks of coordinating institutions growing even more complex.’

One of the first countries which developed an effective recruitment system was China. China did this through the process of competitive examination. The procedure which is followed in India is called ‘merit principle’. This system has been working since the British times of 1853.

**Constituents of a Positive Recruitment Policy**

The fundamental constituents of a positive recruitment policy are:

- (i) Discovery, innovation and promotion of employment markets for public services posts
- (ii) Selecting the ideal candidates within the services
- (iii) Placement programs for assigning the right man for the right job
- (iv) A probationary program which is vital for the recruitment procedure
- (v) Use of literature and publicity for the process of recruitment
- (vi) Inception of scientific methods for gauging the abilities of candidates.

## Forms of Recruitment System

There are basically three forms of recruitment systems which are used all over the world in selection of civil servants. They are:

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- 1. Cadet system:** This system is used for the recruitments in the area of defense services in most countries of the world. Recruitment in this system is done at a very early age, usually between 16 to 20 years.
- 2. Expertise:** Under this system, candidates with technical expertise and special qualifications are recruited directly by the government. Age of candidates may vary between 18–45 years. This kind of system is prevalent in the United States.
- 3. General mental ability:** Under this system, the candidates, who fall between the age group of 21 to 28, are recruited through examination in the fields of liberal arts or basic sciences. Mental ability is the basic criteria for selection under this system. This system is followed in our country, and also in some European countries.

### Recruitment Methods

The methods which are used for selection of candidates are:

- Examination
- Personal judgment
- Previous records
- Character certificate
- Educational qualifications and abilities

### Written Examinations

The recruitment of civil servants cannot be thought of without passing the written examinations. Written examinations can be grouped into the following categories:

1. Ability tests
2. Aptitude tests
3. Achievement tests
4. Personality tests
5. Oral interview

The competitive exams held in India follow the British pattern; the entrance being based on merit, irrespective of sex, religion or caste. Direct recruitment for administrative as well as executive services is done through this procedure. General knowledge of a variety of subjects is assessed. The recruitment process is divided into three stages. These are:

## Classification

In general terms, classification is grouping, managing and separating things so that the tasks become easier to handle. It can also be said to be a coming together of things or people who share common traits.

As far as personal administration goes, classification refers to grouping together or coming together of posts in broader classes. The groupings are done on the basis of responsibilities and duties.

In the words of Marshall E. Dimock, ‘classification is a systematic sorting and ranking of positions in a hierarchical sequence according to comparative difficulty and responsibility.’

In the words of L. D. White, ‘In its final form, a classification plan consists of a number of classes adequate to enable a place to be found for each existing position, arranged in orderly fashion with respect to each other, and supplemented by a set of rules and regulations for its administration, interpretation and amendment.’

### A. Position classification

The method of position classification is prevalent in many countries, including Canada and Taiwan. USA was one of the first nations to use this method. Its objective is based on the principle of ‘Equal pay for equal work’.

In the words of Stahl, ‘Position classification is the organizing of jobs in an enterprise into groups or classes on the basis of their duties, responsibilities, and qualification requirements.’

There are three grades within the category of classifications. These are:

- i. Service
- ii. Class
- iii. Grade

Service refers to the broader category for classification, whereas class implies the sub-division of service. Similarly grade is a sub-division of class. Examples of service within India are:

- i. Indian Administrative Service
- ii. Secretariat Service
- iii. Indian Foreign Service

Within the service there can be classes such as I, II and III or of senior and junior. Under them, there can be different grades with different pay scales.

### B. Steps

The development of position classification plan can be divided into four steps:

1. Analysis and recording of duties and other diverse traits of position to be classified under ‘job description and analysis’

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2. Grouping of positions in classes on the basis of similarities
3. Writings of standards and specifications for each and every class. This will:
  - (a) Indicate the character of the class
  - (b) Describe its boundaries
  - (c) Help in allocations of positions in recruitment as well as examinations
4. Installation through the allocation of the individual position.

### C. Advantages of position classification

Various advantages of position classification are as follows:

1. Organizational clarity which could be achieved through:
  - (a) Implementation of job-specific plans which structure a uniform and appropriate job terminology
  - (b) Providing of a definite description and definition for all jobs, responsibilities and duties
2. Position classification brings competitiveness since the emphasis is on merit
3. Provides definite target for the recruitment positions
4. Provides platform for objective evaluation
5. Works on the basis of 'equal pay for equal work' and thus ensures everyone is paid according to their merits
6. Permits a lateral entry in the civil services
7. Placement practices get shaped according to job requirements
8. Provision of an occupational terminology

### D. Limitations

Some of the limitations of this system include the following:

1. Since the duties as well as responsibilities are clearly identified and measured, it could be questioned and debated, more so in developing countries of the world
2. Needs continuous revision because of rapid changes throughout the world
3. For its installation, this system needs people of technical skill in wide variety and order
4. It can be time-consuming and expensive

#### 12.3.1 Training

Training is a vital part of any modern administrative system. The growing numbers of training institutes and diverse training programs are indicative of this very fact.

In the words of William G. Torpey, 'training is the process of developing skills, habits, knowledge, and aptitudes in employee for the purpose of increasing

the effectiveness of employees in their present Government positions as well as preparing employees for future Government positions.’

A.D. Gorwala feels that the concept of theory has a blend of various elements. According to him,

In one sense, training means the imparting knowledge of facts and their inter-relations — knowledge essentially of specialized or professional nature....In another sense training involves the teaching of techniques which require the coordinated handling of tools and appliances and physical faculties rather than of ideas....In still another sense, training entails the formation of mental and physical habit patterns to ensure that the same stimuli would always produce the same automatic responses; finally, training implies what the good gardener does to the growing sapling.

### A. Objectives of training

Fundamentally, training has one basic objective which is ‘efficiency’, and efficiency also has two significant aspects, namely:

- Technical efficiency
- Improvement of morale

### B. Methods of training

There are various training methods which have evolved over the years. Some of them are as follows:

- **Training through experience:** This involves recruiting a fresh candidate and letting him learn from his work through gaining experience.
- **Lecture method:** This involves rigorous classroom teaching through lectures, debates seminars and discussions. This is the oldest of all training methods.
- **Syndicate method:** this contemporary method is widely used among many countries. Under this method topics are assigned to the candidates. This method is usually of two types, namely:
  1. Problem solving
  2. Knowledge gathering

### C. Planning Commissions’ views

According to Indian Planning Commission, ‘Next to recruitment, the training of personnel has considerable bearing on administrative efficiency. Each type of work in the Government requires a program of training suited to it. In general in all branches of administration it is necessary to provide for the training of personnel at the commencement of service as well as at appropriate intervals in later years. In this connection, we would emphasize the importance of careful grounding in revenue and development administration for recruits to the Indian Administrative Service and the State Administrative Services’.

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**Check Your Progress**

4. What do you mean by public recruitment?
5. List some of the fundamental constituents of a positive recruitment policy.
6. What are the categories in which written examinations are grouped?
7. What is the objective of position classification?
8. List the various training methods which have evolved over the years.

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**12.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS**

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1. The Constitution of India envisages three categories of Public Service Commissions: The Union Public Service Commission (UPSC) is to serve the needs of the services of the Union, a Joint Public Service Commission for the services of two or more States and a State Public Service Commission (SPSC) for the services of a State.
2. The functions of the UPSC as specified under Article 320 of the Constitution bear resemblance to those of the Federal Public Service Commission as specified in Government of India Act, 1935. These functions may be broadly classified into three categories, viz., regulatory; executive and quasi-judicial.
3. There are certain matters which have been kept outside the scope of the functions of the UPSC. These include:
  - (a) The Constitution of India, under Article 335, requires the government to take into consideration the claims of the members of the Scheduled Castes and Tribes in the matters of appointment to various posts. As per Article 320(4), the UPSC need not be consulted as regards the extent to which the reservations are to be made for the candidates belonging to the Scheduled Castes and Tribes. But once these conditions are determined, the Commission as a recruiting agency proceeds with the process of selection.
  - (b) The President has been empowered to make regulations excluding matters from the purview of consultation with the UPSC. The posts, the recruitment of which does not require the advice of the UPSC include membership or chairmanship of tribunals, commissions, high powered committees, posts of a highly technical and administrative nature and filling up of temporary positions where appointments are made for less than a year.
4. In the words of J.D. Kingsley, 'Public recruitment may be defined as that process through which suitable candidates are included to compete for

appointments to the public service. It is thus an integral part of a more inclusive process — selection — which also includes the process of examination and certification.’

5. The fundamental constituents of a positive recruitment policy are:
  - i. Discovery, innovation and promotion of employment markets for public services posts
  - ii. Selecting the ideal candidates within the services
  - iii. Placement programs for assigning the right man for the right job
  - iv. A probationary program which is vital for the recruitment procedure
  - v. Use of literature and publicity for the process of recruitment
  - vi. Inception of scientific methods for gauging the abilities of candidates
6. Written examinations can be grouped into the following categories:
  1. Ability tests
  2. Aptitude tests
  3. Achievement tests
  4. Personality tests
  5. Oral interview
7. The method of position classification is prevalent in many countries, including Canada and Taiwan. USA was one of the first nations to use this method. Its objective is based on the principle of ‘Equal pay for equal work’.
8. There are various training methods which have evolved over the years. Some of them are as follows:
  - Training through experience: This involves recruiting a fresh candidate and letting him learn from his work through gaining experience.
  - Lecture method: This involves rigorous classroom teaching through lectures, debates seminars and discussions. This is the oldest of all training methods.
  - Syndicate method: this contemporary method is widely used among many countries. Under this method topics are assigned to the candidates. This method is usually of two types, namely:
    - (i) Problem solving
    - (ii) Knowledge gathering

## NOTES

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### 12.5 SUMMARY

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- The UPSC is composed of a Chairman and other members of the Public Service Commission. The Chairman and other members of the Public Service Commission (Union or Joint) shall be appointed by the President, and in the case of a State Commission by the Governor of the State

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- The Constitution endows it with purely advisory functions, although a convention has been developed according to which its advice is normally accepted by the government.
- It is the duty of the Commission to present annually to the President a report as to the work done by the Commission. The report along with the memorandum explaining the action taken by the government on the recommendations of the Commission is placed before Parliament.
- The functions of the UPSC as specified under Article 320 of the Constitution bear resemblance to those of the Federal Public Service Commission as specified in Government of India Act, 1935. These functions may be broadly classified into three categories, viz., regulatory; executive and quasi-judicial.
- According to Article 318 and Article 320 of the Constitution, the Central Government through certain regulations and orders entrust certain functions to the Commission.
- In India, a limited role has been assigned to the Union Public Service Commission in personnel administration. It is the recruitment agency par excellence: it shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the service of the Union and the services of the state respectively.
- The procedure of recruitment is a vital task for the modern governments. This is the core issue of personnel administration. The selection of the right people for the right tasks is important and crucial since manpower is the most crucial component of any administrative system.
- In general terms, classification is grouping, managing and separating things so that the tasks become easier to handle. It can also be said to be a coming together of things or people who share common traits.
- The method of position classification is prevalent in many countries, including Canada and Taiwan. USA was one of the first nations to use this method. Its objective is based on the principle of 'Equal pay for equal work'.
- Training is a vital part of any modern administrative system. The growing numbers of training institutes and diverse training programs are indicative of this very fact.

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## 12.6 KEY WORDS

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- **State Public Service Commission:** Articles 315 to 323 in Part XIV of the Constitution of India provides for the establishment of State Public Service Commission in every state to conduct examinations for recruitment to state services.

- **Article 335:** It relates to the provisions of the claims of the members of the Scheduled Castes and Tribes in the matters of appointment to various posts.
- **Cadet:** A cadet is a trainee. The term is frequently used to refer to those training to become an officer.

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## 12.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

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**Short-Answer Questions**

1. Discuss the various functions of the UPSC.
2. What is the process through which the chairman or member of UPSC can be removed?
3. Write a brief note on the procedure of recruitment and training.
4. Discuss the different forms of recruitment system.
5. Enumerate the various advantages of position classification.

**Long-Answer Questions**

1. Discuss the composition, appointment and terms of the member of the UPSC.
2. Write a comprehensive note on the jurisdiction of the UPSC.
3. Although the UPSC is an autonomous body, it faces many constraints. Discuss this statement with relevant references.
4. Discuss the various methods of recruitment.
5. Analyze the significance of competitive examination for All India Civil Service as conducted by the UPSC.

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## 12.8 FURTHER READINGS

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**BLOCK - IV**  
**STATE ADMINISTRATION**

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*Structure of State  
Administration*

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**UNIT 13 STRUCTURE OF STATE  
ADMINISTRATION**

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**NOTES**

**Structure**

- 13.0 Introduction
- 13.1 Objectives
- 13.2 Governor
  - 13.2.1 Office of the Governor
  - 13.2.2 Powers and Functions of the Governor
- 13.3 Chief Minister and the Council of Ministers
  - 13.3.1 Appointment of the Chief Minister
  - 13.3.2 Powers and Functions of the Chief Ministers
  - 13.3.3 Position of the Chief Minister
  - 13.3.4 The Council of Ministers
- 13.4 State Public Service Commission
  - 13.4.1 Appointment and Term of Office
  - 13.4.2 Functions of the State Public Service Commissions
- 13.5 State Secretariat
  - 13.5.1 State Directorates
- 13.6 Answers to Check Your Progress Questions
- 13.7 Summary
- 13.8 Key Words
- 13.9 Self Assessment Questions and Exercises
- 13.10 Further Readings

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**13.0 INTRODUCTION**

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After Independence, the Constitution of India envisaged a federal structure to the Indian government. It declares the country to be a “Union of States”. Part XI of the Indian Constitution specifies the distribution of legislative, administrative and executive powers between the Union/Central government and the States of India. Thus there are two sets of governing authority — in the Union and the in the states. Like the Union Government, the State Governments also have two forms of Executive—the constitutional head and the real executive. The Governor is the constitutional head of the state and the Chief Minister is the real executive of the state.

The Indian Constitution provides for the office of the Chief Minister to be the real executive of the state. He symbolizes ruling power structure and wields more authority than anybody else in the state. The Chief Minister is appointed by

## NOTES

the Governor, the executive head of the state, who invites the leader of the majority party in the Legislative Assembly to form the government. For all practical purposes, the agenda of the House is decided by chief minister. But in respect of legislature, his or her most important power is that of the dissolution of the House. At any time, the Chief Minister can advise the Governor that the Assembly be dissolved. This unit aims at analyzing administrative structure of state, discusses the role of Governor, chief minister, state public service commission and functioning of bureaucracy through the state secretariat.

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### 13.1 OBJECTIVES

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After going through this unit, you will be able to:

- List the constitutional provision for the post of Governor in the state
- Explain the power and functions of the Governor
- Understand the constitutional provision for the chief minister in a state
- Enumerate the power and functions of the chief minister
- Discuss the establishment of the State Public Service Commission
- Understand the function of the State Secretariat
- Explain the role of state directorates

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### 13.2 GOVERNOR

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In accordance with the federal characteristics, the Constitution of India envisages two tiers of government, one at the level of the Union, and the other at the level of the states. Part IV of the Constitution of India lays down the structure of the state governments and stipulates a parliamentary form of government like that for the Centre.

In accordance with the parliamentary framework, like the Union Government, the State Governments also have two forms of Executive—the constitutional head and the real executive. The Governor is the constitutional head of the state and the Chief Minister is the real executive of the state.

The ambiguity about the dual role of the Governor, his or her powers and functions has provoked sharp debates and controversies both in terms of nature of the federation and Union-State relations.

#### 13.2.1 Office of the Governor

Let us discuss the various aspects of the office of the Governor:

- A. Appointment:** According to Article 153 of the Constitution, each state in India has a Governor and the executive power of the state is vested in him. He is appointed by the President of India for a term of 5 years and holds

office during the pleasure of the President (Article 156). This means that a Governor can be removed by the President at any time even before the expiry of the term.

Regarding the appointment of the Governor, there have been the following two conventions in India:

- (i) The Governor is appointed from outside the state concerned. This convention is there to ensure the impartiality of the Governor in state politics. However, there have been instances when this convention was not followed.
- (ii) The states are consulted by the Centre in the appointment of the Governor. However, this practice is also not always followed in every appointment.

A study of the persons appointed as Governors clearly reveals that a considerable number of retired politicians have been appointed as the Governors. Besides, retired bureaucrats, judges and retired army officials have also been made the Governors. Thus, frequently, the Governors have been accused of playing in favour of the party-in-power at the Centre.

**B. Qualification:** The Constitution prescribes the following qualifications for a person to become a Governor:

- (a) He must be a citizen of India
- (b) He must have completed the age of 35
- (c) He should not be a Member of Parliament or State Legislature
- (d) He shall not hold any office of profit

### 13.2.2 Powers and Functions of the Governor

The powers and functions of the Governor can be categorized as follows:

- (a) Executive Powers:** The Governor appoints the Chief Minister and his or her Council of Ministers. However, following the Parliamentary form of government norms, they are responsible to the State Assembly and remain in power until they enjoy the confidence of the State Assembly. The Governor also appoints the Advocate General, and the members of the State Police Service Commission.

All the executive actions of the state are done in the name of the Governor. It is the duty of the Chief Minister to communicate the Governor all the decisions of the Council of Ministers relating to the administration of the state and proposals for legislation.

- (b) Legislative Powers:** The State Legislature consists of the Governor and the State Legislative Assembly. Thus, he or she is an integral part of the legislature and enjoys a variety of powers. Governor may summon, address, prorogue and dissolve the legislature. When a bill is passed by the legislature,

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it has to be presented to the Governor and the Governor shall declare either that he or she assents to the bill or that he or she withholds assent or that he or she reserves the bill for the consideration of the President. Article 213 empowers the Governor to promulgate ordinances during the recess of the legislature. He or she also has the power of causing to be laid before the state legislature the annual financial statement and recommending money bills.

**(c) Judicial Powers:** The Governor of a state has the power to grant pardon, reprieve, respite or remission of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends.

**(d) Discretionary Powers:** Apart from the normal functions which the Governor exercises as a constitutional head, he or she exercises certain discretionary powers. Some of them have been expressly conferred on him or her, some other flow by necessary implication.

Article 163 (1) states the Governor should act according to the advice of the Cabinet except when he or she is required by the Constitution to act in his or her discretion. Article 163 (2) confers the Governors the blanket discretion to decide when they are required to act in their discretion. The Governor's satisfaction, as well as certain responsibilities, therefore, becomes vulnerable to the discretionary power.

With regard to the discretionary power by implication, they are significant in two matters. One is with regard to the appointment of Chief Minister when neither a single party nor a combination of parties emerges from the election with a clear majority. Related to this is also the question of dismissal on the loss of majority support. The second matter is with regard to making a report to President under Article 356 about his or her satisfaction that a situation has arisen in which the Government of state cannot be carried on in accordance with the provisions of the Constitution, thereby recommending the imposition of the President's rule.

The above-mentioned powers were meant by the Constitution-makers to be used for extraordinary and emergency situations. But in practice, not only these, but also some normal powers, like that of reservation of bills for the consideration of the President, have been used in quite controversial manners, which suggests partisan motives thereby creating tensions between Union-State relations.

### A. Position and Role of Governor

From the above description, there emerge some very significant characteristics about the office of Governor, which have important bearings on state politics. To begin with, the Constitution intended that the Governor should be the instrument to maintain the fundamental equilibrium between the government and the people of the state and to ensure that the mandates of the Constitution are respected in the State. That is, with regard to the office of the Governor, Article 159 says that

the Governor shall, to the best of his or her ability, 'preserve, protect and defend the Constitution and the law' and will devote himself or herself 'to the service and well-being of the people' of the state.

Thus, the Constitution of India envisages a dual role for the Governor of a state:

- (i) As the Constitutional head of the state
- (ii) As the agent of the Centre

### **B. Governor as the head of the state**

The Governor as the head of the state works under the parameters of parliamentary democracy. Thus, he or she acts as a nominal head and exercises his or her functions strictly according to the 'aid and advice' of the Council of Ministers. Though the administration is carried out in the name of the Governor, the real authority is exercised by the Chief Minister and his Council of Ministers, who are collectively responsible to the Legislative Assembly. After the fourth General Elections in 1967, the monopoly of political power by the Congress party was broken and the non-Congress governments were formed in seven states. This phenomenon continues even today where no one party is capable of forming governments in both the Union and in many of the States. This changed scenario redrafted and redefined the position and role of the Governor in state politics. The Governors became actively involved in state politics and invariably acted in the interests of the party-in-power at the Centre. They also used their discretionary powers for their party purposes and thus made the office of the Governor highly controversial, with the result that there was a demand to abolish the office of the Governor.

### **C. Governor as an agent of the Centre**

According to K.M. Munshi, 'Governor is the watch-dog of constitutional propriety and the link which binds the State to the Centre, thus securing the constitutional unity of India.' The Governor performs the following functions as the agent of the Centre in the states:

- (a) The Union Government is responsible for good governance in all the states. In case of the constitutional breakdown of state machinery, the Governor may recommend President's rule or emergency in the state under Article 356.
- (b) The Governor sends his or her report regarding the affairs of the state to the President, periodically.
- (c) The Centre has the power to issue directives to the states and it is the duty of the Governor to see that such directives are followed by the state government.
- (d) The Governor of a state can reserve a bill passed by the State Legislature for the consideration of the President. Moreover, certain types of bills must be reserved by the Governor for the President's consideration.

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**Check Your Progress**

1. What role does the Governor play in the state?
2. How does the Governor secure the constitutional unity of India?

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### **13.3 CHIEF MINISTER AND THE COUNCIL OF MINISTERS**

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Taking the analogy of the parliamentary system of governance at the state level, the Constitution provides for the office of the Chief Minister to be the real executive of the state. He symbolizes ruling power structure and wields more authority than anybody else in the state.

However, the philosophy underlying the creation of a democratic set-up in the state under the Indian Constitution appears to be guided by the compulsions of the unity and consistency in the governance of the country as a whole rather than ensuring to each state a fair degree of functional autonomy in the true spirit of the federal structure of the Indian polity. Consequently, the position of the Chief Minister, rather than being that of a democratic ruler with wide-ranging powers and functions, appears to be that of a local ruler with many fetters put on his functional autonomy in the form of the vast discretionary powers afforded to the centrally nominated Governor, who can impair the effectiveness of the Chief Minister as the real ruler of the state elected by the people.

#### **13.3.1 Appointment of the Chief Minister**

The Chief Minister is appointed by the Governor, the executive head of the state, who invites the leader of the majority party in the Legislative Assembly to form the government. However, in practice, the appointment of the Chief Ministers in the states has become more of a game to be played by the Central government through the office of the Governor and other political manoeuvring (more so in the states where none of the parties are able to secure a majority support in the Legislative Assembly), than the simple constitutional proposition that the Chief Minister shall be appointed by state governments. Such situations are exploited by the Centre in order to either keep the functioning of the state government in accordance with its needs and aspirations, or to destabilize the government to install a new puppet government in the state.

The Constitution says nothing about the qualification of the Chief Minister. Under the Constitution, all that is required is that such a person is a citizen of India and possesses such qualifications, as are required for becoming a member of the Legislative Assembly. Such a person could be a member of either house of the legislature or even an outsider. Although constitutionally a non-legislator does not

stand barred from becoming a minister or a Chief Minister, he or she must, however, become a member of the legislature within 6 months, failing which he or she is liable to forfeit his or her office.

What holds good in the appointment of the Chief Minister also holds true in regard to his or her removal from the office. The Constitution provides that the Chief Minister holds office during the pleasure of the Governor. In practice, the pleasure of the Governor becomes the majority support in the Legislative Assembly under Article 164(2) of the Constitution. However, what happens in practice is that the removal of the Chief Minister is rarely the decision of the Governor. Acting as an agent of the Centre, the Governor 'removes' the Chief Minister at the behest of the Central Government.

Consequently, Article 356 of the Constitution (President's rule in the states), the instrumentality through which the duly elected governments in the states are generally ousted, has become one of the most abhorred articles of the Constitution by the protagonists of the state autonomy in the country.

### 13.3.2 Powers and Functions of the Chief Ministers

The Chief Minister, being the real executive head of the state, enjoys vast powers and functions. They are as follows:

1. He or she is the working head of the state government and as such, he or she advises the Governor in matters relating to the selection of his or her ministers, change in their portfolios and their removal from his or her government.
2. He or she presides over the meetings of his or her Council of Ministers and sees to it that the principle of collective responsibility is maintained. He or she may, thus, advise a minister to resign from his or her post or may advise the Governor to dismiss a minister in case he or she differs from the policy of the Cabinet.
3. He or she communicates to the Governor such information relating to the administration of the state of affairs and proposals of legislation as he or she may call for.
4. He or she furnishes to the Governor information relating to the administration of the state.
5. He or she places a matter for the consideration of the Council of Ministers where the Governor requires him or her to have the decision of the government. He or she thus, acts as the sole channel of communication between his or her ministers and the Governor.
6. Likewise, the Chief Minister is the sole channel of communication between his or her ministers and the legislature. All bills, resolutions, etc. that are moved in the legislature must have his or her prior approval. Criticism of his or her government is answered by him or her.

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7. He or she may resign any time and then advise the Governor to summon such and such person for the installation of another ministry or to dissolve the House and thereby place the state under the President's Rule.
8. Though, in theory, all appointments are made by the Governor, in practice, the power of patronage vests with the Chief Minister. He or she is consulted about the appointment of judges of the state High Court. No posting and transfer can take place in the state without his or her approval. He or she is consulted in the appointment of State Advocate General and the members of State Public Service Commission.

### 13.3.3 Position of the Chief Minister

The position of a Chief Minister in the state is akin to that of the Prime Minister at the central level, at least, in terms of the broad scheme of the parliamentary system of governance, if not in terms of the substantive holding of the power in ultimate analysis.

To begin with, the Chief Minister has a relatively free hand in deciding the shape and size of his or her government. However, if the Chief Minister belongs to a national party or heads a coalition, his or her hands become tied even in using his or her prerogative of selecting his or her own ministers and allocating portfolios to them as he or she has to either consult the party high command or take the prior approval of the coalition partners before announcing the names and ministries of various ministers. Chief Ministers having a regional base and comfortable majority in the State Legislatures are in a better and a safer position. Still all Chief Ministers have to ensure that all social segments of the society are represented in the ministries; also, there has to be regionally-balanced distribution of the ministries, in addition to having capable people manning the vital departments like Home, Finance, and so on.

The position of the Chief Minister is pivotal as he or she has unhindered power to reshuffle his or her Council of Ministers.

The relationship of the Chief Minister with the MLAs of the Legislative Assembly depends on two factors: the standing of the Chief Minister in front of the MLAs and the attitude of the former towards the latter. If the Chief Minister does not command a comfortable majority in the Assembly, his or her position becomes quite precarious in front of the MLAs and he or she is in a vulnerable position. In substance, a democratic rather than an authoritarian attitude of the Chief Minister towards the MLAs and the legislature itself needs to be the norm of the effective and all-embracing functioning of the Chief Minister.

Since the Prime Minister is the real custodian of the executive power of the Central government, a regular and harmonious contact between him or her and the Chief Minister goes a long way in ensuring the trouble-free conduct of relations between the state and the Central governments.

The fundamental source of the Chief Minister's prime position in the planning process emanates from his or her association with the Planning Commission and the National Development Council (NDC), the apex bodies of the planning system in the country. Strictly, though the Chief Ministers are not a part of the Planning Commission, their participation in the formulation of the Five Year Plans is ensured through the mechanism of the NDC. The NDC consists of the Prime Minister, some key Union Ministers and Chief Ministers of all states and executive heads of the Union Territories. The Chief Ministers also remain in touch with the Planning Commission in order to ensure the smooth flow of funds for the implementation of several centrally sponsored developmental schemes in the state.

From the above discussion, it is clear that the Chief Minister of a state is vested with many powers, but his or her real position depends on his or her personality, political experience, administrative capability, position in the party organization at the state level, backing and equation with the Central leadership, and when he or she enjoys support of a single majority party or of a coalition government.

#### **13.3.4 The Council of Ministers**

Following the model of the parliamentary government, the real government of the state consists of the Council of Ministers headed by the Chief Minister. In theory, the Council of Ministers and the Chief Minister exist to aid and advise the Governor. However, in practice, the Governor has to act on the advice of the Council of Ministers.

The Council of Ministers is the chief executive body. The quality of the state administration is largely conditioned by the leadership and the direction is provided by the ministers. In short, extraordinary political power is vested in this small group of persons.

#### **Organization**

The Governor appoints the Chief Minister and on the advice of the Chief Minister, he or she appoints the other ministers. However, as mentioned previously, the Chief Minister is not as free to select his or her team as the convention would have us believe. The size of the State Council of Ministers was not previously specified in the Constitution. Thus, the Chief Ministers were prone to have an unwieldy Council of Ministers in order to satisfy all the factions contending for power in the state government. But with the passage of the Ninety-First Constitution Amendment Act, 2003, the size of the ministries is limited to only 15 per cent of the total membership of the State Legislative Assembly. In this way, a remarkable improvement has been brought about in regard to the frivolous elements finding a place in the Council of Ministers.

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### Working of the Council of Ministers

The Council of Ministers is collectively responsible to the Legislative Assembly. This means that every member of the Council of Ministers accepts responsibility for every decision of the cabinet. If a minister is unable to accept responsibility, the only alternative left for him or her is to resign, as there is collective responsibility.

The minister is the political head of the department, whose administrative head is a secretary, who is a career civil servant. Ordinarily, matters pertaining to a department are dealt with by the minister-in-charge. But all important cases are required to be brought before the cabinet for direct discussion.

#### Check Your Progress

3. How is the chief minister of a state appointed?
4. List two powers and functions of chief minister.
5. How does the Council of Minister work in the state?

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### 13.4 STATE PUBLIC SERVICE COMMISSION

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Although the Government of India Act, 1919, provided for the establishment of a Public Service Commission in India for the Union, it was silent on the setting up of such commissions in the provinces. Yet, the Act provided that provincial legislatures could create, by legislation, such commissions. The Madras Legislative council accordingly passed an Act for this purpose in 1929 and a commission was set up in the same year.

The Government of India Act, 1935, accordingly provided in Section 264 that there shall be Public Service Commission for each province. Punjab, North-West Frontier Province and Sind constituted among them one Public Service Commission. Similarly, Bihar, Orissa and the Central Provinces joined hand to form one commission.

The recruitment to provincial civil services before the setting up of the Public Service Commissions was being done by Staff Selection board of different provinces and presidencies. There was recruitment examinations conducted in the advanced provinces. But these were only experimental in nature and not based on the scientific pattern as envisaged by Macaulay.

Today in independent India, each state has its own public service commission; while the UPSC helps the Union Territories for making recruitment to their services. Their composition, salaries, etc., may vary from one state to another, but the basic structure, functions and condition of service which are expressly provided in the Constitution are similar. Articles 315 to 320, which relate to the UPSC, stipulate similar provisions for the State Public Service Commissions, barring a few

exceptions. The Constitutional Provisions in relation to setting up and the detailed working of the State Public Service Commissions are already mentioned earlier in this Unit.

### 13.4.1 Appointment and Term of Office

As per Article 316, the Chairman and member of a Public Service Commission are appointed by the Governor of the State, but the members of a Joint Commission are appointed by the President. As nearly as may be, one-half of the members of every State Public Service Commission should be persons who on the dates of their respective appointments have held office for at least 10 years either under the Government of India or under the government of a state.

If the office of the Chairman becomes vacant or the incumbent is unable to perform his duty, the governor may appoint one of the members to act as Chairman till a new one is appointed or the incumbent resumes office. The Administrative Reforms Commission (ARC), in its report on personnel administration, had recommended that while making appointments of members of State Public Service Commissions, the governor of a state should consult the Chairman of the UPSC and the Chairman of the concerned State Public Service Commission. The latter may be consulted with regard to the appointment of his own successor. A member selected from among government officers should have held office under a state government or the Central Government for at least 10 years and should have occupied the position of secretary to government or head of a department of a state or a post of equivalent rank under the Central Government or a comparable position in an institution of higher education. Further, members selected from among non-officials should have practised at least for 10 years in a recognized profession like teaching, law, medicine, engineering, science, technology, accountancy or administration.

The minimum academic qualification for membership of a commission should be a university degree. The ARC also suggested that at least one of the members of a State Public Service Commission should belong to a different state. Though the recommendations are sound, these have not been given serious attention by the Constitutional authorities. It is obvious that political considerations in making appointments to Public Service Commissions are too strong to be ignored by the men in power.

The Constitution stipulates that the Governor determines the number of members of the Commission. At least half of the members of Commission are persons with a minimum of 10 years of experience under the Central Government or a state government. Members are appointed by the Governor for a term of six years or until the age of 62 years.

The State Public Service Commission performs the same functions in regard to its respective states public services as are performed by the Union Public Service Commission in regard to the Union Government. Two or more states may agree

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that there should be one public service commission for them. If a resolution to that effect is passed by the House or by each house of legislature (where there are two houses) of the respective states, Parliament may by law provide for the appointment of a Joint State Public Service Commission to serve the needs of those states. The chairman and other members of this Joint Commission are also appointed by the President.

### 13.4.2 Functions of the State Public Service Commissions

The functions of the State Public Service Commissions are mentioned in Article 320 of the Indian Constitution. Further, Article 321 says that the legislature of a state may provide for the exercise of additional functions by a state Public Service Commission. The functions of these commissions are as under:

- (i) It is the duty of the State Public Service Commissions to conduct examinations for the appointment to the services of the state.
- (ii) The State Public Service Commissions will be consulted by the state government on the following issues:
  - (a) On all matters relating to methods of recruitment to civil services and for civil posts.
  - (b) On the principles to be followed while making appointment, promotions and transfers to the civil services and posts.
  - (c) On all disciplinary matters of a person serving the government of a state in a civil capacity including memorials or petitions relating to such matters.
  - (d) On any claim by a person who is serving or has served the government in a civil capacity that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to have been done in the execution of his duty shall be paid out of the Consolidated Fund of the state.
  - (e) On any claim for the award of a pension in respect of injuries sustained by a person while serving under the government in a civil capacity and any question as to the amount of any such award.
- (iii) It is the duty of the State Public Service Commission to advise on any matter so referred to it by the governor of the State. The governor can by rules and regulations specify the matters in which the State Public Service Commission shall not be consulted. All such regulations made by the governor of the state shall be laid for not less than 14 days before the House, or both the Houses, of the state legislature as soon as possible after they are made and shall be subject to modifications by way of repeal or amendments as the legislature of the state may make during the session in which they are so laid.
- (iv) The State Public Service Commissions like their counterpart at the Union level function purely as advisory bodies. Not only is the advice not binding

upon the government, but the government cannot act mechanically upon such advice without applying its mind to the matter in question. If the government acts blindly, the order would be vitiated by mala fides.

The provisions which have been made regarding the UPSC also apply here. A state government ought to consult the State Public Service Commission, but in case the government fails to do so, the decision of the government cannot be invalidated by a court of law. It is noteworthy that the acts or decisions of a State Public Service Commission can be subject to judicial review and can be challenged in a court of law on the same four grounds that apply to the UPSC.

- (v) In order to maintain a uniform pattern of recruitment in every state, the Chairman of all the State Public Service Commissions meet the Chairman of the UPSC periodically. The Chairman of the UPSC presides over these meetings. The functions of a State Public Service Commission pertaining to recruitment are much the same as those of the UPSC's. As regards to promotions to all India Services, the State Public Service Commissions have no role. Separate selection boards are set up for that purpose.

#### Check Your Progress

6. Which Articles relate to the provisions for the State Public Service Commissions?
7. List a couple of main functions of the State Public Service Commissions.

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### 13.5 STATE SECRETARIAT

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The role of State Secretariat has been ever expanding since the time of its formation. There are a multitude of issues which the state governments have to deal with in their day-to-day administration, and accordingly the role and functions of the Secretariat have also increased accordingly, as it is the Secretariat which aids and advises the Government in the exercise of its duties.

State Secretariats, like their central counterpart, play a major role in the administration of the state. They are the principal advisers to the Minister, head of the department(s) under their charge, responsible for carrying out the policies and decisions made by the political chief, and finally, represent his departments before the committees of the Legislature. In case of administration at the state level, it is the Governor, appointed by the Indian President, who is the head of state. The Governor, appointed for a five-year term by the President, is the head of State. He is advised by the Ministry, called Council of Ministers, headed by the Chief Minister, in the conduction of the State's administration.

In practice, however, he is only the constitutional head; the real repository of power is the Ministry with the Chief Minister at its head. The Ministry is a part

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of, and collectively responsible to, the State Legislature in India. The business of the Government is allocated to the Ministers by assigning one or more departments or a part of a department to the charge of a Minister. It is usual, however, for a Minister to be in charge of a number of departments dealing with more or less allied subjects. He is the political head of the department, whose administrative head is, as at the Centre, a Secretary who is a career civil servant.

The expression 'Secretariat' is used to refer to the complex of departments whose heads, administratively, are Secretaries and politically, Ministers. The Secretary is the Secretary to the Government as a whole, not to the individual Minister. He is normally a generalist civil servant, but in the case of the Public Works Department, the chief engineer is usually the Secretary. The number of Secretariat departments is usually greater than the number of Secretaries. The practice normally, is to entrust more than one department to the charge of one Secretary.

A department consists of officers and the Office. Among officers are included, besides the Secretary, the Deputy Secretary, Under Secretary and/or Assistant Secretary. There may also be Additional and Joint Secretaries in the larger departments. Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries are all (except those belonging to the Secretariat Civil Service) subject to the well-known tenure system, and are appointed to the Secretariat for a fixed term. The only exception to the tenure system is the Chief Secretary. The Office comprises the Superintendent (or Section Officer), Assistants, Upper Division Clerks, Lower Division Clerks, steno-typists, and typists. Unlike officers, the Office constitutes the permanent element in the Secretariat system.

The number of Secretariat departments naturally varies from State to State, ranging between 11 and 34. Most States, however, have the following Secretariat departments: General Administration, Home, Revenue, Food and Agriculture, Planning, Panchayati Raj, Finance, Law, Public Works, Irrigation and Power, Education, Industries, Cooperation, Transport, Local Government, Jails, Labour and Employment and Excise and Taxation.

Among the basic functions which the Secretariat needs to perform, mention may be made of the following.

### **(i) General Functions of State Secretariat**

General functions of the State Secretariat deal with the following matters: all matters of general policy; inter-departmental coordination; matters involving the framing of new legal enactments of rules or amendments in the existing ones. Cases involving interpretation or relaxation of existing rules or government orders; correspondence with the Government of India and other State Governments; all matters relating to the preparation or adoption of new plan schemes, and important modifications in the existing schemes; review of the progress of the plan schemes -- both physical and financial; inspection reports and tour notes recorded by heads of departments; all India conferences and important conferences at the State level; Public Accounts

Committee, Estimates Committee; Assembly/Parliament questions; delegation of powers; litigation notices under section 80 CPC; appeals, revisions, etc., within the powers of the state governments in India.

### **(ii) Financial Functions of State Secretariat**

In matters of finance, the State Secretariat sees to the following aspects: scrutiny and approval of departmental budget estimates, major appropriation of accounts, surrender of funds and supplementary grants; all proposals involving new items of expenditure; financial sanctions not within the competence of the head of department; sanction of expenditure from contingency fund; write-off cases beyond the powers of heads of department and audit objections regarding the offices of the heads of department.

The State Secretariat also sees to certain service matters. In this category of functions are the following: approval of service rules and amendments thereto; papers relating to senior appointments/promotions/transfers of deputy heads of department and above and cases of disciplinary proceedings against these officers; initial appointment of officers belonging to the State service and infliction of major punishments on them; creation of posts, their extension and continuance, re-employment, resignations, special pay and allowances and pensions not within the powers of heads of department.

### **(iii) Chief Secretary: Role and Significance in the State Administration**

The Chief Secretary is the title of a senior civil servant in members of the Commonwealth of Nations, and, historically, in the British Empire. Prior to the dissolution of the colonies, the Chief Secretary was the second most important official in a colony of the British Empire after the Governor.

In India, each state and some Union Territories have Chief Secretaries. As such the Chief Secretary serves as Chief of all government staff in the state and is the Secretary of the State Cabinet of Ministers. The post of Chief Secretary is encadred within the Indian Administrative Service meaning that only an IAS officer may hold this position. The Chief Secretary holds the same rank as a Secretary to the Government of India and the post falls within the “above super time scale-fixed”. Other positions in this pay-scale are Additional or Special Chief Secretary and Special Secretary to the Government of India. By tradition the senior most IAS officer of the state cadre is chosen as the Chief Secretary but in many cases this is not so. The Chief Secretary heads the Department of General Administration as well.

### **(iv) Role and Significance of Chief Secretary**

The powers and functions of the Chief Secretary are mentioned in the ‘Rule of Business’ framed by a State Government. These are as follows:

- He acts as the principal advisor to the Chief Minister on all the matters of the State administration.

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- He acts as a Secretary to the State Cabinet.
- He is the administrative head of the Cabinet Secretariat and attends the meeting of the Cabinet and its sub-committees, if necessary.
- He prepares the agenda for the Cabinet meetings and keeps records of its proceedings.
- He acts as the head of the State Civil Services.
- He deals with all the cases related to appointment, transfers, and promotion of senior State Civil Servants.
- He is the conscience-keeper to all the State Civil Servants.
- He is the chief coordinator of the State administration.
- He ensures inter-departmental co-ordination.
- He is the Chairman of co-ordination committees set up for inter-departmental disputes.
- He presides over the meetings of the departments' Secretaries.
- Presides over the conferences attended by the Divisional Commissioners, the District Collectors and the heads of the departments of district administrations to effect coordination.
- He acts as the administrative head of some secretariat departments.
- In most cases, the General Administration Department, Personnel Department, Planning Department and Administrative Reforms Department are directly under the charge of the Chief Secretary.
- The General Administration Department is the most important department in the State Secretariat and its political head is the Chief Minister.
- He is generally a Chairman or an important member of the committees set up to take high level policy decisions during a crisis situation.
- He acts as the crisis administrator-in-chief and virtually represents the State Government for all the officers concerned with relief operations.
- He acts as the Residual Legatee and looks after all those matters which do not fall into the purview of other Secretaries.
- He acts as the Secretary, by rotation, of the Zonal Council of which the State concerned is a member.
- He acts as the chief public relations officer (PRO) of the State Government.
- He attends the meetings of the National Development Council.
- He acts as a spokesman of the State Government.
- He plays a significant role in the administration of law and order and planning.
- He exercises general supervision and control over the entire State Secretariat.

- He has administrative control over the Secretariat building, the staff attached to the Ministers, the central record branch, the Secretariat Library, the conservancy and watch and ward staff of the Secretariat departments.
- He is the principal channel of communication between the concerned State Government and the Central Government and other State Governments.
- He attends the annually held Chief Secretaries conference presided over by the Cabinet Secretary.
- He acts as the chief advisor to the Governor, if the Central advisors are not appointed and the President's rule is imposed in the State.
- There is no office in the Union Government which can be equated to that of the Chief Secretary in the State.

## NOTES

### 13.5.1 State Directorates

A directorate is an agency usually headed by a director, often a subdivision of a major government department. Some directorates at the central level in India include the Directorate General of Civil Aviation (India), which is the India's civil safety watch and responsible for investigation for aviation incidents; the enforcement directorate, which is a law enforcement agency and economic intelligence agency responsible for enforcing economic laws and fighting economic crime in India, etc. Different states have different types of directorates. For example, the state of Rajasthan has a Directorate of Agriculture and a Directorate of Education among others while Kerala has directorates on Agriculture Development and Farmers' Welfare, Animal Husbandry, Archaeology, Archives, Ayurveda Medical Education, Backward Classes Development, etc.

#### Check Your Progress

8. What role does the State Secretariat play in state's bureaucratic set up?
9. List some of powers and functions of the Chief Secretary in the state.
10. What is a state directorate?

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## 13.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. The Governor is the constitutional head of the state and the Chief Minister is the real executive of the state. Apart from the normal functions which the Governor exercises as a constitutional head, he or she exercises certain discretionary powers.
2. According to K.M. Munshi, 'Governor is the watch-dog of constitutional propriety and the link which binds the State to the Centre, thus securing the constitutional unity of India.'

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3. The Chief Minister is appointed by the Governor, the executive head of the state, who invites the leader of the majority party in the Legislative Assembly to form the government.
4. The Chief Minister, being the real executive head of the state, enjoys vast powers and functions. Two of them are as follows:
  - (i) Chief Minister is the working head of the state government and as such, he or she advises the Governor in matters relating to the selection of his or her ministers, change in their portfolios and their removal from his or her government.
  - (ii) Chief Minister presides over the meetings of his or her Council of Ministers and sees to it that the principle of collective responsibility is maintained.
5. The Council of Ministers is collectively responsible to the Legislative Assembly. This means that every member of the Council of Ministers accepts responsibility for every decision of the cabinet. If a minister is unable to accept responsibility, the only alternative left for him or her is to resign, as there is collective responsibility.

The minister is the political head of the department, whose administrative head is a secretary, who is a career civil servant.
6. Articles 315 to 320, which relate to the UPSC, stipulate similar provisions for the State Public Service Commissions, barring a few exceptions.
7. The functions of the State Public Service Commissions are mentioned in Article 320 of the Indian Constitution. These are:
  - (i) It is the duty of the State Public Service Commissions to conduct examinations for the appointment to the services of the state. (ii) It is the duty of the State Public Service Commission to advise on any matter so referred to it by the governor of the State. (iii) The functions of a State Public Service Commission pertaining to recruitment are much the same as those of the UPSC's.
8. State Secretariats, like their central counterpart, play a major role in the administration of the state. They are the principal advisers to the Minister, head of the department(s) under their charge, responsible for carrying out the policies and decisions made by the political chief, and finally, represent his departments before the committees of the Legislature.
9. The powers and functions of the Chief Secretary are mentioned in the 'Rule of Business' framed by a State Government. Some of them are as follows:
  - He acts as the principal advisor to the Chief Minister on all the matters of the State administration.
  - He acts as a Secretary to the State Cabinet.

- He is the administrative head of the Cabinet Secretariat and attends the meeting of the Cabinet and its sub-committees, if necessary.
  - He prepares the agenda for the Cabinet meetings and keeps records of its proceedings.
  - He acts as the head of the State Civil Services
10. A directorate is an agency usually headed by a director, often a subdivision of a major government department. Different states have different types of directorates. For example, the state of Rajasthan has a Directorate of Agriculture and a Directorate of Education among others while Kerala has directorates on Agriculture Development and Farmers' Welfare, Animal Husbandry, Archaeology, Archives, Ayurveda Medical Education, Backward Classes Development, etc.

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### 13.7 SUMMARY

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- In accordance with the parliamentary framework, like the Union Government, the State Governments also have two forms of Executive—the constitutional head and the real executive. The Governor is the constitutional head of the state and the Chief Minister is the real executive of the state.
- Article 163 (1) states the Governor should act according to the advice of the Cabinet except when he or she is required by the Constitution to act in his or her discretion. Article 163 (2) confers the Governors the blanket discretion to decide when they are required to act in their discretion.
- The Governor as the head of the state works under the parameters of parliamentary democracy. Thus, he or she acts as a nominal head and exercises his or her functions strictly according to the 'aid and advice' of the Council of Ministers.
- The Chief Minister is appointed by the Governor, the executive head of the state, who invites the leader of the majority party in the Legislative Assembly to form the government.
- The position of a Chief Minister in the state is akin to that of the Prime Minister at the central level, at least, in terms of the broad scheme of the parliamentary system of governance, if not in terms of the substantive holding of the power in ultimate analysis.
- The Council of Ministers is collectively responsible to the Legislative Assembly. This means that every member of the Council of Ministers accepts responsibility for every decision of the cabinet. If a minister is unable to accept responsibility, the only alternative left for him or her is to resign, as there is collective responsibility.

## NOTES

- Conditions of service of the members are determined by the Governor, but the Constitution stipulates that these shall not be revised to their disadvantage. Implicit in the foregoing are certain safeguards to ensure the Commission's independence.
- The State Public Service Commission performs the same functions in regard to its respective states public services as are performed by the Union Public Service Commission in regard to the Union Government.
- The functions of the State Public Service Commissions are mentioned in Article 320 of the Indian Constitution. Further, Article 321 says that the legislature of a state may provide for the exercise of additional functions by a state Public Service Commission.
- It is the duty of the State Public Service Commission to advise on any matter so referred to it by the governor of the State. The governor can by rules and regulations specify the matters in which the State Public Service Commission shall not be consulted.
- The role of State Secretariat has been ever expanding since the time of its formation. There are a multitude of issues which the state governments have to deal with in their day-to-day administration, and accordingly the role and functions of the Secretariat have also increased accordingly, as it is the Secretariat which aids and advises the Government in the exercise of its duties.
- The expression 'Secretariat' is used to refer to the complex of departments whose heads, administratively, are Secretaries and politically, Ministers. The Secretary is the Secretary to the Government as a whole, not to the individual Minister.
- General functions of the State Secretariat deal with the following matters: all matters of general policy; inter-departmental coordination; matters involving the framing of new legal enactments of rules or amendments in the existing ones.
- In India, each state and some Union Territories have Chief Secretaries. As such the Chief Secretary serves as Chief of all government staff in the state and is the Secretary of the State Cabinet of Ministers. The post of Chief Secretary is encadred within the Indian Administrative Service meaning that only an IAS officer may hold this position.
- The Secretariat is the topmost echelon of the State administration and its main function is to assist the political executive — the Chief Minister and other Ministers — in maintaining peace and law and order and designing policies for the socio-economic development of the State as well as in carrying out legislative responsibilities of the government.
- A directorate is an agency usually headed by a director, often a subdivision of a major government department. Some directorates at the central level in

India include the Directorate General of Civil Aviation (India), which is the India's civil safety watch and responsible for investigation for aviation incidents.

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### 13.8 KEY WORDS

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- **91st Amendment Act, 2003:** It relates to the anti-defection laws and size of Council of Ministers.
- **Article 320:** The functions of the public service commissions are set out in Article 320 of the constitution of India.
- **Directorate:** It is an agency usually headed by a director in a government department.

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### 13.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

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#### Short-Answer Questions

1. List the constitutional provision for the appointment of Governor in the state.
2. Discuss the various powers and functions of the Governor in the state.
3. What is the process through which chief minister is elected from among legislators from a majority party?
4. Write a brief note on provisions for State Public Service Commissions.
5. Enumerate the importance of the State Secretariat.
6. Write a brief note the ARC's report on State Secretariat.

#### Long-Answer Questions

1. Discuss the powers and functions of Governor in the state.
2. Write a comprehensive note on the 'Governor as the head of the state'.
3. Discuss the required qualifications for becoming a chief minister in the state.
4. Discuss the relations between chief minister and legislature.
5. Analyze the functioning of Council of Ministers in the State.
6. Present a critical analysis on the financial functions of the State Secretariat.

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### 13.10 FURTHER READINGS

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### NOTES

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# UNIT 14 DISTRICT ADMINISTRATION

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## NOTES

### Structure

- 14.0 Introduction
- 14.1 Objectives
- 14.2 District Administration: An Overview
  - 14.2.1 ARC Recommendations on the Office of the District Collector
- 14.3 Rural Administration
- 14.4 Contemporary Challenges: Administrative Reforms in India
  - 14.4.1 Types of Administrative Reforms
  - 14.4.2 Need for Administrative Reforms
  - 14.4.3 Various Committees on Administrative Reforms
  - 14.4.4 Recommendations of the Second ARC
- 14.5 Lokpal and Lokayuktas
  - 14.5.1 Lokayukta
- 14.6 Answers to Check Your Progress Questions
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- 14.8 Key Words
- 14.9 Self Assessment Questions and Exercises
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## 14.0 INTRODUCTION

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In simple terms, the District administration is described as that part of public administration which functions in a district. An important feature of the governmental system in India, District Administration is mechanism whereby the government functions locally through its representative, who is the pivot of the local administration. It involves integration of authority at the local level.

The basic structure of district administration as it had developed so far had really made the Collector the focal point of local administration. This position continued more or less till the end of British rule in India. Even today he occupies a pivotal position in district administration. However, in the changed scenario, his power is more like a public servant.

After the 73rd and 74th amendments to the Constitution and establishment of Panchayati Raj Institutions and Municipal Bodies, The role of the Collector in the development efforts of the government assumed greater importance. This unit aims at analyzing various aspects of district and rural administration and puts in perspective various recommendations by the Administrative Reforms Commission.

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## 14.1 OBJECTIVES

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After going through this unit, you will be able to:

- Understand the concept of district as a unit of administration in India
- Enumerate the role of district administration
- Explain the function, role and power of the head of district administration
- Analyze the institution of District Collector/ District Magistrate/ Deputy Commissioner
- Analyze the various recommendations of Administrative Reforms Commission
- Understand the institution of Lokpal and Lokayukta

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## 14.2 DISTRICT ADMINISTRATION: AN OVERVIEW

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Historically, the district, in some form or the other, has been the most important unit of administration in the Indian sub-continent. The evolution of district administration in the Mughal times and those of the East India Company has to be understood in light of the fact that neither had a legislative wing. Executive commands originated from the Emperor or the Governor General, or from the provincial governors, and were executed by the sub-provincial authorities, howsoever designated.

The British Parliament was the first legislature in respect of India in modern times and enactments created and gave substance to the district head of administration, known variously as the Collector (in respect of revenue administration), the District Magistrate (in respect of administration of criminal justice) or the Deputy Commissioner (in respect of General Administration and special functions / powers under local tenancy laws).

Until the 73rd and 74th amendments to the Constitution, the governance structure of India was two-tiered comprising the Union Government and the State Governments. At the district level, apart from discharging the responsibilities cast by specific enactments, the Collectors performed such administrative tasks as were assigned to them by the State governments. After Independence, the single greatest accretion to the responsibilities of the district administrator came through expansion of rural development programmes. As the number of activities, institutions and departments involved in rural development increased, the coordinating and synthesizing role of the Collector in the development efforts of the government assumed greater importance.

With the constitutionally mandated establishment of Panchayati Raj Institutions and Municipal bodies, it has become necessary to re-examine and re-define the role of the district administration. It is imperative that the devolution of

decision making to local levels should face no impediments. It is equally imperative that the unique administrative experience, expertise and credibility of the office of the District Collector built up over a period of two hundred years is properly utilized.

The linkages and relationship between the State government and the District Collector cannot be examined in isolation from the linkages existing between the district offices and local bodies. There is a high degree of complementarity between them. This sections examines their functioning and tries to suggest an environment for a responsive and citizen friendly district administration in line with the principles of decentralization and subsidiary.

The overall administrative structure presently prevailing at the district and sub-district levels in the country consists of the following three components. These are:

1. Administration of regulatory functions under the leadership of the Collector and District Magistrate, such as law and order, land revenue / reforms, excise, registration, treasury, civil supplies and social welfare. This domain also includes oversight over primary departments of the government e.g. agriculture, animal husbandry, and primary and school education.
2. District / sub-district level offices of the line departments of the State Government and their agencies, such as PWD, irrigation, health, industries etc. which have had stronger accountability relationship with the State headquarters rather than with the District Collector.
3. Local bodies (Panchayati Raj Institutions and Municipal bodies) which, after the 73rd and 74th amendment of the Constitution, have become the third tier of government and are to be empowered to handle subjects pertaining to development of the local areas as illustratively listed in the Eleventh and Twelfth Schedule of the Constitution.

### **Institution of 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 ranging from delivery of essential services, land revenue administration, execution of rural development programmes, disaster management, maintenance of law and order and collection of excise and transport revenue. 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. In this regard, structurally diverse arrangements were built up over time. The relationships and reporting structures range from the Collectors undertaking broad oversight/supervision of the activities undertaken by line departments- to specific day-to-day management of some services. For many State Government bodies, the Collector had an important role in determining how, where and what quantity of their services were to be delivered.

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Till the 1960s, when programmes of rural development were at a nascent stage, the Collector's job seemed to be carefully organized with land reforms, revenue collection, law and order, food and civil supplies, welfare and relief/rehabilitation being the principal areas of his responsibility. The needs of the people were limited, their interaction with the government was infrequent and the bureaucratic set up seemed to be dedicated. Under these circumstances, the office of the Collector was a strong and effective institution.

In the years that followed, a large number of new projects/schemes were initiated by various departments of the Government, with the Collector as the notional head of the District Monitoring Committee. Apart from making a formal review in monthly/quarterly coordination meetings, the Collector had a somewhat limited role in such matters. Towards the beginning of the 1980s, the development of rural areas got a further thrust and the government initiated a large number of Centrally Sponsored/State sector schemes in agriculture, rural development, primary education and healthcare. Though, separate instruments were created for their execution, the Collector, in most of the cases, was given the overall supervisory charge of the programmes in the districts. The Collector and his administration were expected to be omniscient and omnipotent; capable of providing solutions to all the problems.

But after the introduction of the Panchayati Raj system in the country (post 1993), most of the development functions have been taken away from the Collector's domain, although the State Governments feel it convenient to use this institution to exercise control over the PRIs.

### Need for a Collector in the District

The post of District Collector has been the most important feature of field administration in India for the last two hundred years. Before Independence, when the economy was primarily agrarian, the Collector as head of the land revenue administration also enjoying wide powers under criminal laws, was considered the ultimate guardian figure - responsible for the well-being of residents in his jurisdiction - the representative of the British Empire, capable of doing anything and everything. 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. But, even now, in most parts of the country, except in metropolitan/mega cities, the Collector is the most recognized face of the administration; he is considered to be the principal representative of the government at the district level, who could be approached to solve virtually all problems ranging from land disputes, to scarcity of essential commodities, to inadequacy of relief in times of crisis, to community disputes and even to issues of family discords.

## Functions of a Collector

At present the portfolio of the Collector's office generally includes the following functions and activities (though there may be variations across the States):

- Acting as the Head of Land and Revenue Administration, including responsibility for District Finance (expenditure and audit);
- Acting as the District Head of the Executive Magistracy and overall supervision of law and order and security and some say in the police matters;
- Acting as Licensing and Regulatory Authority in respect of the various special laws such as Arms, Explosive and Cinematography Acts etc. in the District;
- Conducting elections — for Parliament, State Legislature and Local Bodies;
- As the Officer-in-charge of Disaster Management;
- As the guardian of public lands with the responsibility to prevent and remove encroachments which are often a source of tension between vested interests and the district administration;
- Public service delivery, either by facilitating or directly delivering services assigned to the district administration from other departments. (In this respect, the Collector often acts as Chairman of the Board for Parastatals, or as Chairman or Member of various standing and inter-departmental committees);
- Facilitating interaction between civil society and the State Government;
- Handling issues of local cadre management such as recruitment, in-service training and public service delivery, either by facilitating or directly delivering services assigned to the district administration from other departments. (In this respect, the Collector often acts as Chairman of the Board for Parastatals, or as Chairman or Member of various standing and inter-departmental committees);
- Working as the Chief Information and Grievance Redressal Officer of the district.

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### 14.2.1 ARC Recommendations on the Office of the District Collector

- There is need to realign the functions of the Deputy Commissioners/ District Collector so that he concentrates on the core functions such as land and revenue Administration, maintenance of law and order, disaster management, public distribution and civil supplies, excise, elections, transport, census, protocol, general administration, treasury management and Coordination with various agencies/departments.
- The Commission reiterates its recommendations regarding the Land Title Management System made in its eleventh Report on e-Governance. It should be one of the primary duties of the District Collector to perform the task envisaged in the aforesaid recommendations.

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- There is need to strengthen the compliance machinery at the district level to enforce provisions of the RTI Act and to reduce the element of delay and subjectivity in the functioning of the lower level formations of the government. This should be done by creating a special RTI Cell in the office of the Collector, whose functions should be reviewed by the Collector at regular periodicity.
- Officers may be posted as District Magistrates early in their career, but in complex and problem-prone districts an IAS officer should be posted as DM only on completion of 10-12 years of service.
- Steps should be taken to ensure that the Collector plays an effective coordination role in activities and programmes of other departments at the district level.

### Check Your Progress

1. What do you mean by the third tier of government?
2. Who is the head of the District Administration?
3. List some of the main functions of a Collector.

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## 14.3 RURAL ADMINISTRATION

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In this section, you will learn about tehsildar, revenue inspector and village administrative officer.

### A. Tehsildar

The Tehsils and Taluks are under an officer designated as Tehsildar. The Tehsildar appointment is a formally announced through the official gazette of the state government. The Tehsils/Taluks are further divided into Villages, under a Village officer. This hierarchy is mainly used for under taking the regular administrative activities, including identification and collection of revenue (from land) etc. A separate hierarchy exists for the law enforcement in a district.

Tehsildar and Additional Tehsildar performs their duties as per the power conferred in various Revenue laws, Acts Rules, Executive Instructions and guidelines of the state government. To assist the Tehsildar and Addl. Tehsildar in their day to day work of Tehsil administration the clerks & Bench clerks are working in different section.

The office of a tehsildar follows Revenue Acts and rules and executive instructions issued by the government and Board of Revenue, Revenue, Revenue Divisional Commissioner, Collector and Sub-Collector issued from time to time.

Meeting of field functionary as well as office staff is held regularly to discuss the problems and communicated the instructions discussed in the district revenue

meeting, sub-divisional revenue meeting. Regular camps are also held by the Tehsildar and Addl. Tehsildar at the village level for speedy disposal of revenue cases.

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## **B. Revenue Inspector (RI)**

The Revenue Inspector is the executive assistant to the Tehsildar. Depending on the area and population of the taluk, each taluk is split in to convenient numbers of hoblis or each hobli or circle is headed by a R.I. circles.

R.I. is appointed for a circle. Depending on the size of the circle, a Revenue Inspector heads 10 to 20 Village Accountants. His main function is to supervise the work of Village Accountants working under him, and furnish information, reports etc., to the Tehsildar as and when called for.

Revenue Inspector is a vital link between the Village Accountant (VA) and the Tehsildar. He is required to be in constant touch with the Village Accountants and the Tehsildar. He is required to perform all the duties prescribed under the Karnataka Land Revenue Act, 1964 and Karnataka Land Reforms Act, 1961 & in or under any other law for the time being in force.

Following are the various functions of the R.I.

- (1) Supervise the work of VA.
  - (a) Insist the VA to keep all the Registers and forms in the prescribed formats.
  - (b) Insist the VAs to bring all the records update.
  - (c) Ensure that the VA resides in a central village fixed by the D.C.
  - (d) Bring to the notice of Tehsildar, the wrong entries, if any made in the Village Records.
  - (e) Ensure that Revenue collections are made by VA and proper receipts issued and the amount collected is remitted to the Taluk Treasury before 25th of each month.
  - (f) Ensure that VA keeps the Record of rights register and Mutation Register open for public inspection.
  - (g) Ensure that VA issues certified copies of records, to the applicants within 10 days.
  - (h) At the time of introduction of Record of Rights, VA is required to prepare the preliminary records as prescribed under Land Revenue Rules. RI should supervise and see that preliminary records are prepared properly.
  - (i) Ensure that, the VA, as soon as intimation slips in Form 10, or information in forms 19 and 20 are received effects entries in the chronological order of receipt, in the Register of Mutations. He should also ensure that a copy of such entries in the Mutation Register is exhibited in the Village Chavadi for 30 days.

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- (j) He should check the Mutation Register and see that transfer of entries from the Mutation Register to Record of Rights Register is made by the VA, after due procedure is followed.
  - (k) In times of drought, VA is required to conduct crop-cutting experiments in villages where neither the Tehsildar nor the RI have done it. RI should see that these experiments are done properly.
  - (l) Insist the VA keeps up-to-date “List of lands available for Disposal” for inspection of the Public.
  - (m) Should check up the various pension registers kept by VA and ensure that right persons receive the pension and that the pensions are discontinued immediately after the pensioner dies or migrates or otherwise becomes disentitled to receive the pension. Pension includes Old Age Pension, Disabled Pension and Destitute Widow’s Pension.
- (2) At the time of introduction of Record of Rights, after the Preliminary Record is prepared by the VA, it should be checked by the Revenue Inspector and should be read over to the villagers assembled in the chavadi, on a pre-specified day, and objections if any should be considered and entered in the Register of Disputed Cases. .
- (3) In times of drought, RI is required to conduct crop-cutting experiments in 20% of the villages in the drought affected tract and report the results to Tahsildar, in order to consider the question of remission of land revenue.
- (4) If a person liable to pay land revenue fails to pay the amount due within 7 days of the service of Demand Notice, the VA should make a report to the Tehsildar should distraint the defaulters’ movable property which may be brought to sale by RI after giving wide publicity for such as sale and after following the procedure prescribed under the government rule.
- (5) When the Tehsildar asks for a report on land grant applications, the RI should verify whether the particulars in the application are correct and should report the facts to the Tehsildar.
- (6) In conversion cases of agricultural land into non-agriculture purpose RI is expected to conduct spot inspection and mahazar and then report to the Tehsildar.
- (7) The Revenue Authorities are required to issue various certificates viz., Solvency Certificate, Survivorship Certificate, Domicile Certificate, Residential Certificate etc. The Revenue Inspector is required to verify and report to the Tehsildar in all these cases. Besides, the Tehsildar is required to issue a large number of Caste Certificates and Income Certificates. When these are required for educational purposes,

verification before issue, by RI is not required. However, when the educational institutions refer the certificates for verification, RI has to verify and report to the Tehsildar. In case the Caste and Income Certificates are required for purposes of appoint etc., RI is required to verify in detail and report to the Tahsildar, who issues the Certificates, based on the RIs Report. Likewise in case of Citizenship Certificate also, the responsibility of verification lies on the RI. In case of Foreign Citizens verification certificate, the RI is required to verify and specify the whereabouts of a Foreign Citizen (who has come to the country for a limited period)

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- (8) RI has to perform the functions under the state Land Reforms Acts.
- (9) In case of natural calamities like floods or fire, RI is responsible for issue of S.O.S (distress signal). Immediately after he comes to know about the danger, he should by “Tom-Tom” etc., inform and warn the people about the calamity and issue instructions to protect themselves by evacuating from the danger area etc.
- (10) In times of scarcity, RI should assist, in the collection and distribution of food and fodder, making available drinking water and in the maintenance of cattle camps. He should inform the people about the relief measures and should see that the benefit of relief works goes to the people in distress.
- (11) RI should assist the Tehsildar in achieving the target fixed for collection of small savings.
- (12) When epidemics break out, RI should inform the concerned authorities and should assist in arranging inoculation centres etc.
- (13) He should assist in arranging Family Planning Camps.
- (14) In case of communal disturbances, when peace committees are formed, RI is made an ex-officio Member of such Committee.
- (15) RI should see that various provisions of orders issued under the Essential Commodities Act 1955, are not contravened. Cases of such contravention should be reported to the Tahsildar.
- (16) Any activity regarding manufacture or collection of intoxicants should be reported by the RI to the Excise / Police / Revenue officer.
- (17) At the time of Elections, RI has additional responsibility. He has to assist the enumeration and in the preparation of voters list. At the voting time, he is responsible for arranging polling booths.
- (18) RI helps in the arrangements of Gramasandarshan and takes active part in it along with his VAs.

(A day is fixed for Gramasandarshan. The rural beneficiaries, the Officers of various departments like Revenue, Development etc, and the Bank Authorities meet at a mutually convenient place. There, in a

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small function, cheques for loans sanctioned / subsidy given, etc. are distributed. In case of Land Grants, Certificates of Grant are handed over. In case of pensions sanctioned, orders are given. Distribution of fertilizers and seeds, etc. is also done. The idea is to bring the benefits to the door of the beneficiary and cut out the various formalities and expedite the delivery of benefits to the needy.)

(19) RI is appointed as Inspecting Officer by District Registrar under section 18 of the Registration of Births and Deaths Act, 1969, He has to inspect the records of births and deaths kept by the VA and send his inspection reports to the District Statistical Officer regularly.

(20) Any other function entrusted to by Superior Officers.

### C. Village Administrative Officer

Introduced during British Indian administration, revenue village is a concept designed as the lowest administrative unit in the settlement hierarchy. The stated objective was to improve revenue collection mechanism and regulate the process and not for village planning and development. Each revenue village is headed by a Village Administrative Officer (VAO).

#### Check Your Progress

4. What is the role of tehsildar in rural administration?
5. Which are the main functions of the revenue inspector.

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## 14.4 CONTEMPORARY CHALLENGES: ADMINISTRATIVE REFORMS IN INDIA

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Administrative reforms have been variously defined. There are many names given to this process, such as administrative transformation, administration restructuring, administrative reengineering, renewal, realignment, etc. The idea is that administration is in need of re-alignment and readjustment, and it must evolve to a new form and format through a planned, systematized and well-directed process. Administrative reforms can, in short, be defined as 'artificial inducement of administrative transformation against resistance'. This definition highlights three distinct elements:

- (i) Administrative reform is artificially stimulated
- (ii) It is a transformatory process
- (iii) There is existence of resistance to the change process

Obviously, reforms are pre-meditated, well studied and planned programmes with definite objectives in view. Reform is an induced and manipulated change, for it involves persuasion, collaboration and generation of conviction for betterment. Reform is more than a series of incremental changes or marginal adjustments,

though it may result from the accumulation of small changes, which periodically creates requirement for comprehensive and systematic efforts. Administrative reform paves the way for new order. It refers to the formal, mechanistic and meditated process of structured change.

#### 14.4.1 Types of Administrative Reforms

Administrative reforms, according to Gerald E. Caiden, can be of four types:

- (i) **Reforms imposed through political changes:** Administration is shaped and influenced by political forces. The change in the political scene also affects administration. Structure and working of administration are affected by political changes.
- (ii) **Reforms introduced to remedy organizational rigidity:** Bureaucratic structures have to change to be flexible. The rigidity in the structure of administration has to be removed. The changes can take place in the form of restructuring, reinvention, realignment, rethinking and reengineering.
- (iii) **Reforms through the legal system:** Laws pertaining to administrative reform can lead to significant changes in administration. Legislation is normally preceded by consultation and deliberation in several forums such as committees, commissions, Press, etc.
- (iv) **Reforms through changes in attitude:** Human beings are an important part of any organization. Change in their attitude will help in bringing reforms. No legal, structural and political change can lead to desired reform unless these are appreciated and accepted by the people working in the organization.

#### 14.4.2 Need for Administrative Reforms

The distinguishing characteristic of modernized social system is its ability to deal with continuous systematic transformation. Society has to change in order to free itself from the shackles of traditionalism, cope with the changes in environment, adopt a fresh innovative culture, adopt new knowledge and technology and crave for a new order through elimination of the old structures and system.

Administrative reform is a part of the universality of this change. Administration must also correspondingly change to be in step with the outer modernization process or else, disparity would set in, resulting in imbalances, dysfunctionalities, maladjustments and goal displacement. According to Fred W. Riggs (1970) administrative reform is a 'problem of dynamic balancing'. Since public administration functions within a political context, its basic character, content and style of functioning is greatly influenced by the political environment, its institutional dynamics and process, in not merely setting national goals, priorities, or deciding between competing values, and allocating resources but also in devising the most effective instrument for translating these policies into successful programme realities. Added to this, the advances in Information and Communication Technology (ICT) and the state's pervasive role in managing national assets and resources,

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controlling the entire economy through regulation and development, ensuring a just and equitable economic order, correcting age old social imbalances through newer forms of institution-making, and ushering in an egalitarian social system, has thrown up new tasks for administration. This requires fundamental and foundational improvement in administrative capabilities. The latter in turn, requires proper planning, educational re-arrangement, skill-generation, attitude-formation and a host of other structural-functional organizational steps. This being the ecology of administrative reform, the success of administrative reform programmes postulates an inter-disciplinary and multidimensional approach.

In 1990 when the market reforms came, there was an emphasis on structural adjustment. Good governance is the stress of the governments of the day, with focus on accountability, efficiency, effectiveness, transparency and decentralization. With focus on good governance today, there has been a great change in the conventional role of the State, the government and the bureaucracy. Today, there is shift from responsiveness to partnership and collaboration. Importance is given to people's participation in governance and the involvement of the multiple actors. With citizen's participation and collaboration taking centre stage, the governments have to act as partners with the citizens. Administration cannot fulfill the newer roles with the traditional organization and methods. It has to be people friendly and work on public trust. Hence, the bureaucracy has to change to adapt to the new role. This need for change in turn necessitates reforms. With this view many committees were formed to initiate and carry out reform measures in the Indian administration.

### **14.4.3 Various Committees on Administrative Reforms**

Administrative Reforms Commission, or ARC as it is popularly known, is a gigantic exercise in Administrative Reforms undertaken by the Government of India, only twice since India became independent. The Administrative Reforms Commission (ARC) is the committee appointed by the Government of India for giving recommendations for reviewing the public administration system of India.

When India became independent, the new government adopted the ideology of welfare of the people through socio-economic development, which led to a greater proliferation of tasks and functions. To take up the welfare programmes and challenges, the administrative machinery, which was inherited from the colonial regime and rendered weak by erosive circumstances and stressful situations accompanying Independence, had to be revamped and reinforced. Administration, as the instrument for designing and implementing all the developmental programmes, had to be restructured, reformed and renewed. Various measures were taken up by the Government of India for personnel shortages, better utilization of the available manpower and improvement of methods of work in the Central Secretariat. Post-Independence, there have been several reform committees and conferences. These are:

### **1. Shri N. Gopaldaswamy Ayyangar Report, 1950**

Shri N. Gopaldaswamy Ayyangar conducted a comprehensive review of the working of the machinery of the Central Government, which was presented in his report on 'Reorganization of the Machinery of Central Government'.

### **2. A.D. Gorwala Committee, 1951**

In July 1951, a Committee headed by Shri A.D. Gorwala in its Report on Public Administration underlined the need for having a clean, efficient and impartial administration.

### **3. Paul. H. Appleby Reports, 1953 and 1956**

In continuation of these efforts, the Government of India invited an American expert, Paul. H. Appleby to suggest reforms in Indian administration. Appleby submitted two reports. His first report namely 'Public Administration in India: Report of a Survey', 1953, dealt with administrative reorganization and practices. His second report namely, 'Re-examination of India's Administrative System with Special Reference to Administration of Government's Industrial and Commercial Enterprises', 1956, dealt with matters pertaining to streamlining organization, work procedures, recruitment, and training in these enterprises. Among the 12 recommendations made, the Government of India accepted two of his recommendations. First, related to the establishment of a professional training institute, namely the Indian Institute of Public Administration for promoting research in public administration. The second related to the setting up of a central office to provide leadership in respect to organization, management and procedures.

As a result, an Organization and Methods (O&M) Division was set up in March 1954, in the Cabinet Secretariat for improving the speed and quality of the government business and streamlining its procedures. The O&M units and work-study units were set up in the Ministries/Departments. The focus was on improving the paper work management and methods. A Manual of Office Procedure was prepared for all Ministries and Departments.

### **4. Committee on Plan Projects, 1956**

In 1956, the Planning Commission set up a 'Committee on Plan Projects' to evolve organization norms, work methods and techniques, with a view to achieve economy and efficiency in the implementation of the plan projects. In 1964, a Management and Development Administration Division was also established as a part of this Committee to promote the use of modern tools of management. It also undertook studies on problems related to development administration at the district level.

### **5. Committee on Prevention of Corruption, 1962**

The Committee was set up under the Chairmanship of K. Santhanam to study the causes of corruption, to review the existing set-up for checking corruption and to suggest measures for improvement. The Committee stressed on the need for

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streamlining the procedures relating to prevention of corruption and recommended the setting up of Central Vigilance Commission (CVC).

## 6. Administrative Reforms Commission (ARC), 1966

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After Independence, the first ARC was constituted by the Ministry of Home Affairs under Government of India by resolution no. 40/3/65-AR (P) dated 5 January 1966. The Administrative Reforms Commission was initially chaired by Morarji Desai, and later on by K. Hanumanthaiah. This was a commission which expanded into a huge machinery consisting of 20 study groups and scores of subcommittees.

The Commission submitted 20 reports containing more than 500 recommendations. It submitted its report within two years of intensive research and analysis. This report contained a wealth of highly valuable recommendations to infuse life into an essentially colonial and outdated system of administration. Many of its recommendations were put into practice by the government. Its terms of reference were the widest as it covered the entire gamut of public administration at the Centre as well in the States. These led to major and minor changes in administration as well as paved the way for further thinking, which led to more reforms.

The Commission submitted 20 reports in all to government, as per the details given below, before winding up in mid-1970.

These 20 reports contained 537 major recommendations. Based on the inputs received from various administrative Ministries, a report indicating the implementation position was placed in Parliament in November 1977. The gist of the recommendations of the First ARC relevant to this report is outlined below:

- (a) **Need for specialization:** The first ARC recognized the need for specialization as the functions of Government had become diversified. A method of selection for senior management posts in functional areas and outside functional areas was laid down.
- (b) **Unified grading structure:** A unified grading structure based on qualifications and nature of duties and responsibilities was suggested.
- (c) **Recruitment:** On this subject, the ARC recommended:
  - (i) A single competitive examination for the Class I services, with the age limit raised to 26 years.
  - (ii) Lateral entry to technical posts at senior levels.
  - (iii) Direct recruitment to Class II services to be discontinued.
  - (iv) A simple objective type test to be conducted for recruitment of clerical staff.
  - (v) Recruitment to Central Government posts in certain sectors to be made from among the State Government employees.

- (d) **Recruitment agencies:**
- (i) A new procedure for appointment of members of the UPSC and the State Public Service Commission was suggested.
  - (ii) Setting up of Recruitment Boards for selection of clerical staff was recommended.
- (e) **Training:** a national policy on Civil Service Training to be devised.
- (f) **Promotions:** Detailed guidelines for promotion were outlined.
- (g) **Conduct and discipline:** Reforms in disciplinary enquiry proceedings and setting up of Civil Service Tribunals was suggested.
- (h) **Service conditions:** The Commission also gave recommendations on matters related to overtime allowances, voluntary retirement, exit mechanism, quantum of pension, government holidays, incentives and awards to be given on timely completion of projects, and establishing work norms for various posts that may be reviewed by the Staff Inspection Unit.

Apart from the First Administrative Reforms Commission, as stated earlier, several other Commissions and Committees were set up over the years to examine various aspects of Civil Services Reforms. The recommendations made by these Committees and Commissions including, of course, of the first ARC are grouped issue-wise and discussed in the following paragraphs.

The major recommendations of the ARC are mentioned below:

- (i) It spelt out the tasks for the Department of Administrative Reforms. The Commission suggested that the Department should concentrate on—undertaking studies on administrative reforms that are of a foundational nature; creating O&M expertise in the ministries and departments and providing training to the staff in their O&M units in modern managerial techniques; and providing guidance to the O&M units in implementing the improvements and reforms.
- (ii) It recommended the reactivating of the O & M units in different ministries and departments.
- (iii) It called for setting up of a special cell in the central reforms agency to give effect to the reports of ARC.
- (iv) It stated that the central reforms agency should be research-based in matters dealing with the methods of work, staffing pattern and organizational structure.

## 7. Kothari Committee, 1976

The Committee on recruitment and selection methods under the Chairmanship of Shri Kothari was set up in 1976 by the UPSC to examine and report on the system of recruitment to All India Services and Central Group A and B Services.

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The Committee in its report recommended for single examination for the AIS and Central Group—the non-technical services.

### **8. National Police Commission, 1977**

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The Commission was set up under the chairmanship of Shri Dharam Vira to examine the role and functions of police with special reference to control of crime and maintenance of public order, the method of magisterial supervision, the system of investigation and prosecution and maintenance of crime records. The Commission made over 500 recommendations extending to a wide area of interest relating to police administration.

### **9. Economic Reforms Commission, 1981**

The Commission was set up with L.K. Jha as the Chairman. The main functions assigned to the Commission related to the study of the important areas of economic administration with a view to suggest reforms. The Commission submitted a number of reports to the Government of India, which advocated the rationalization and modernization of the economic administrative system to pave way for a new economic order.

### **10. Commission on Centre-State Relations, 1983**

R.S. Sarkaria was the chairman of this Commission. Its objective was to examine and review the working of the existing arrangements between the Union and states with regard to powers, functions and responsibilities in all spheres and make recommendations for the changes and measures needed. National Commission to Review the Working of the Indian Constitution, 2000–03, under the Chairmanship of Chief Justice (Retd.) Venkatcheliah, was set up to examine the working of the Indian Constitution.

### **11. Fifth Pay Commission, 1997**

The Commission was established under the chairmanship of Ratnavel Pandian. The Commission, in effect, became more than a conventional Pay Commission, and went into major issues of administrative reforms.

But after the above development in the administration, due to changed socio-economic and political landscape of the country, the need for setting up a Second Administrative Reforms Commission was increasingly felt. This led to formation of Second ARC by the Government of India in the year 2005.

Hence, the Second Administrative Reforms Commission (ARC) was constituted with a resolution no. K-11022/9/2004-RC of the Government of India on 31 August 2005, as a Commission of Inquiry, under the Chairmanship of Veerappa Moily for preparing a detailed blueprint for revamping the public administrative system.

In current scenario of liberalization, privatization and globalization, the administration has to shoulder new responsibilities and shed some older ones.

Erstwhile pre liberalization India has given way to the role as the most important facilitator of economic activity in the country as whole. In view of total opening up of the economy for private investment, the administration has to shift its focus primarily to the welfare activities. But, the role of state as a regulator of economic activities and ensuring fair and smooth functioning of the markets has become even more important. Thus regulatory and welfare responsibilities of the government have increased exponentially in past couple of decades. In addition, government has to continuously upgrade its capability in view of onset of the information society in India where people are demanding equal status with the government in governing the country. The issue of public accountability and citizens' right to information has been ensured by an act of Parliament. The challenges faced by the country are also tremendous: Centre-State relations, issues of corruption and inefficiency in the administration, growing impatience in the citizenry, impact of global culture, spurt in regional and sectarian tendencies, and last but not the least, the menace of the terrorism are some of the Herculean challenges staring in the face of administration.

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### 14.4.4 Recommendations of the Second ARC

The Second Administrative Reforms Commission (ARC) Chairperson, Veerappa Moily, submitted the first report on 9 June 2006 on 'Right to Information: Master Key to Good Governance' to the Prime Minister, Dr. Manmohan Singh. The following are the key recommendations of the Commission on the subject:

- The Official Secrets Act (OSA), 1923, in its current form is incongruous with the regime of transparency in a democratic society. The OSA should be repealed, and suitable safeguards to protect security of the state should be incorporated in the National Security Act.
- At least half the members of the Information Commissions should be drawn from non-Civil Service background, so that members represent the rich variety and varied experience in society.
- Complete reorganization of public records is a precondition for effective implementation of RTI. A public Records Office should be established in each State as a repository of expertise, to monitor, supervise, control and inspect all public records. About 1 per cent of the funds of all flagship programmes of Government of India should be earmarked for five years for updating all records and building necessary infrastructure.
- The Information Commission should be entrusted with the authority and responsibility of monitoring the implementation of the RTI Act in all public authorities.
- Clear and unambiguous guidelines need to be evolved to determine which non-governmental organizations would come under the purview of RTI Act.
- Most requests for information are usually to use it as a tool for grievance redressal. States may be advised to establish independent public grievance

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redressal authorities to deal with complaints of delay, harassment and corruption. These authorities should work in close coordination with the Information Commission.

- Certain safeguards should be introduced to discourage frivolous and vexatious requests so that the system is not overloaded, and discipline and harmony are not jeopardized.
- A roadmap should be charted out for effective implementation of RTI Act in the Legislature and Judiciary at all levels.
- The Commission made specific recommendations, and suggested a roadmap to implement each of them. Detailed recommendations pertain to a variety of issues, including a civil service conduct rules and office procedures, record keeping, capacity building and awareness generation, and the exercise of power to remove difficulties.

The Second ARC has submitted 11 reports till now and a short brief on terrorism. These reports deal primarily with following areas:

- 1st Report of ARC: Right to Information: Master Key to Good Governance, June 2006
- 2nd report of ARC: Unlocking Human Capital: Entitlements and Governance: A case study
- 3rd report ARC: Crisis management
- 4th report ARC: Ethics in governance
- 5th report of ARC: Public order
- 6th report of ARC: Local governance
- 7th report: Capacity Building for Conflict Resolution
- 8th report: Combating Terrorism Protecting by Righteousness
- 9th report: Social Capital: A Shared Destiny
- 10th report: Refurbishing of Personnel Administration: Scaling New Heights
- 11th report: Promoting e-governance: the Smart Way Forward

Based on the recommendations of the ARC, the following functions were to be assigned to the Department of Administrative Reforms:

- Advising Central Government on policy matters concerning administrative reforms.
- Providing management consultancy services to the organizations of the Central Government, State Governments, public sector and local bodies and promoting modern management practices in these organizations.
- Promotion and development of the management services in the Ministries/ Departments, and imparting management education and disseminating

information on administrative practices and modern management techniques.

*District Administration*

The 1970s witnessed far-reaching changes in the structure and working of the Departments of Government of India coming in the wake of the recommendations of ARC. On the recommendation of the ARC, a separate 'Department of Personnel' was created in the Cabinet Secretariat in 1970. In 1973, the Department of Administrative Reforms (created in 1964 in the Home Ministry) was shifted to this new Department under the Cabinet Secretariat and re-designated as the Department of Personnel and Administrative Reforms. In April 1977, the Department was once again shifted to the Home Ministry, under the charge of the Home Minister and this arrangement lasted till the end of 1984.

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On 31 December 1984, the Department of Personnel and Administrative Reforms was placed under the independent charge of a Minister of State but under the overall charge of the Prime Minister. In March 1985, the Department was elevated to the status of a full-fledged Ministry called the Ministry of Personnel and Training, Administrative Reforms, Public Grievances and Pensions. In December 1985, the Ministry was further reorganized as the Ministry of Personnel, Public Grievances and Pension, with three Departments, viz., Department of Personnel and Training (DOPT), Department of Administrative Reforms and Public Grievance (DAR&PG) and Functional Review of Department of Administrative Reforms and Public Grievances, and Department of Pension and Pensioner's Welfare.

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### 14.5 LOKPAL AND LOKAYUKTAS

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The Administrative Reforms Commission (ARC) headed by Morarji Desai submitted a special interim report on 'Problems of Redressal of Citizen's Grievances' in 1966. In this report, the ARC recommended the setting up of two special authorities designated as 'Lokpal' and 'Lokayukta' for the redressal of citizens' grievances.

The ARC recommended the creation of Ombudsman-type institution namely the Lokpal at the Centre and the Lokayukta at the State level. The Scandinavian Institution of Ombudsman is the earliest institution for the redressal of public grievances, first established in Sweden in 1809. The Ombudsman Institution is based on the principle of administrative accountability to Parliament. The Institution refers to an officer appointed by the legislature to handle complaints against administrative and judicial action.

The Lokayukta helps people bring corruption to the fore mainly among the politicians and officers in the government service. It is to be noted that the Lokayukta conducts raids. But surprisingly, it does not have binding powers to punish anyone. Owing to this, many acts of the Lokayukta have not resulted in criminal or other consequences for those charged.

## NOTES

The features of these institutions as given by ARC are:

- They should be demonstrably independent and impartial
- Their investigations and proceedings should be conducted in private and should be uniform in character
- Their appointment should be, as far as possible, non-political
- Their status should compare with the highest judicial functionary in the country
- They should deal with matters in the discretionary field involving acts of injustice, corruption and favouritism
- Their proceedings should not be subjected to judicial interference, and they should have the maximum latitude and powers in obtaining information relevant to their duties
- They should not look forward to any benefit or pecuniary advantage from the executive government

Based on the recommendations of ARC, many attempts were made from 1968 onwards for the establishment of Lokpal at the Central level. The Government of India introduced bills for this purpose in Parliament in 1968, 1977, 1985, 1990, 1998 and 2001. The Lokpal Bill introduced in 1977 brought in the Prime Minister as well as Members of Parliament under its purview. While the 1985 Bill excluded the Prime Minister from the jurisdiction of Lokpal. The Bill on Lokpal introduced in Parliament recently has brought in Prime Minister and other ministers again under Lokpal's jurisdiction. Unfortunately, these bills have not yet been passed in Parliament.

### 14.5.1 Lokayukta

The Ombudsman established at the level of states in India is known as the Lokayukta. Many state governments have established the office of the Lokayukta and Up-Lokayukta. Establishing Lokayukta is not mandatory on the part of states. Thus, the office of the Lokayukta exists in Maharashtra (1971), Bihar (1973), Uttar Pradesh (1975), Madhya Pradesh (1981), Andhra Pradesh (1985), Himachal Pradesh (1985), Karnataka (1985), Assam (1986), Gujarat (1986), Punjab (1995), Delhi (1996) and Haryana (1996). Kerala is also in a process of establishing this office. Orissa was the first state to pass ombudsman legislation in 1970 and also the first to abolish the institution in 1993. The appointment of the Lokayukta and Up-Lokayukta is made by the Governor who is the executive head in the states. The Lokayukta Acts provide that the Governor shall appoint Lokayukta and Up-Lokayukta in consultation with the Chief Justice of the High Court of the state and the leader of the opposition in the legislative assembly.

### Terms and Conditions of Office

The term of the Lokayuktas and Up-Lokayuktas has been fixed for five years. The Assam Act, however, prescribes an upper age limit of 68 years. The status

prescribed for the Lokayukta is equal to that of the Chief Justice of a High Court or a judge of the Supreme Court of India and that of Up-Lokayukta to the judge of a High Court and in any other case to an additional secretary to the Government of India. With a view to ensure independence and impartiality, the Lokayukta and Up-Lokayukta have been debarred from being a member of parliament or a state legislature, and prohibited from keeping any connection with political parties. After relinquishing office, they have been made ineligible to hold another office under their respective state governments. All state Acts expressly prohibit the reappointment of the Lokayuktas. The Lokayukta and Up-Lokayukta can be removed from office by the Governor for misbehaviour or incapacity. The procedure prescribed for the removal of the Lokayukta is almost the same as provided for in the Constitution of India for the removal of judges of the High Court or the Supreme Court.

## **NOTES**

### **Jurisdictional Area**

The Lokayukta and Up-Lokayukta have been granted powers to investigate any action, which is taken by or with the general or specific approval of a minister or a secretary, or any other public servant. Thus, all administrative actions from the level of ministers to the lower levels are subjected to scrutiny by the Lokayukta and Up-Lokayukta. Certain other categories of officials like Chairman of Zila Parishad and other local bodies have also been included within the purview of the Lokayukta.

### **Procedure of Investigation**

After making preliminary investigations, where the Lokayukta or Up-Lokayukta proposes to conduct investigation, he forwards a copy of the complaint to the officer and to the competent authority concerned. Any proceeding before the Lokayukta and Up-Lokayukta has to be conducted in private and the identity of the complainant or the person complained against is not to be disclosed at any stage of investigation. The Seventh All-India Conference of Lokpals, Lokayuktas and Up-Lokayuktas held in Bangalore, in January 2003, stressed on the following provisions:

- There is a need to bring out Lokayukta Act to bring uniformity and to make the institution independent of the political executive.
- If Parliament brought in a law, the appointment of Lok Ayuktas could be based on the recommendations of the Chief Justice of India in consultation with the Chief Justice of respective High Court. This will ensure tenure, protection of salary and emoluments and a sound procedure for their removal.
- The staff deputed to the Lokayukta should be given protection.
- Reports of the Lokayukta should be made binding on the government in so far as it is related to the government servants.

- Lokayukta should bring out an annual report about their functioning and this should be made public.
- Lokayukta should be made easily accessible to the public.

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The first Lokpal Bill was proposed by Mr Pacos in 1968 and passed in the 4th Lok Sabha in 1969 but could not get through the Rajya Sabha. Subsequently, Lokpal Bills were introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and 2008, but were never passed.

The Lokpal Bill provides for filing complaints of corruption against the prime minister, other ministers, and MPs with the Ombudsman. The Administrative Reforms Commission (ARC), while recommending the constitution of Lokpal, was convinced that such an institution was justified not only for removing the sense of injustice from the minds of deeply affected citizens, but also necessary to instill public confidence in the efficiency of the administrative machinery. Following this, the Lokpal Bill was for the first time presented during the fourth Lok Sabha in 1968, and was passed in 1969. However, while it was pending in the Rajya Sabha, the Lok Sabha was dissolved, and so the Bill was not passed at that time. The Bill was revived several times in the subsequent years. Each time, after the Bill was introduced to the House, it was referred to some committee for improvements such as a joint committee of parliament, or a departmental standing committee of the Home Ministry and before the government could take a final stand on the issue, the house was dissolved again.

Several conspicuous flaws have been cited in the recent draft of the Lokpal Bill. The basic idea of the Lokpal is borrowed from the office of Ombudsman, which has Administrative Reforms Committee of a Lokpal at the Centre, and Lokayukta(s) in the states. Since recently, in 2011, there has been a public demand and agitation led by civil society organizations to pass the Lokpal Bill in Parliament. The Jan Lokpal Bill (Citizen's Ombudsman Bill) is being prepared by civil society organizations and activists to replace Lokpal Bill drafted by the government in power. The objective of this draft anti-corruption bill is to seek the appointment of a Jan Lokpal, an independent body that would investigate corruption cases, complete the investigation within a year and ensure that the trial is over in the next one year.

The Bill has been drafted by Justice Santosh Hegde (former Supreme Court Judge and former Lokayukta of Karnataka), Prashant Bhushan (Supreme Court Lawyer) and Arvind Kejriwal (RTI activist). The drafted Bill envisages a system where a corrupt person found guilty would go to jail within two years of the complaint being made and his ill-gotten wealth will be confiscated. It also seeks power for the Jan Lokpal to prosecute politicians and bureaucrats without government permission. Retired IPS officer Kiran Bedi and other known people like Swami Agnivesh, Sri Sri Ravi Shankar, Anna Hazare and Mallika Sarabhai are also part of the movement, called India Against Corruption. The movement was an expression of collective anger of people of India. However, on 27 December 2011, the Lokpal Bill was passed by the Lok Sabha after a day long debate and amendments but could not pass in the Rajya Sabha.

## Role of Lokayukta

Lokayukta investigates cases of corruption, and where substantiated, recommends action. He is a great check on corruption, brings about transparency in the system, and makes administrative machinery citizen friendly. His functions largely depend upon jurisdiction vested in him and facilities provided for taking cognizance of citizens' grievances promptly, dexterously and expeditiously through simple, informal mechanism devoid of technicalities.

He provides for inquiry/investigation into complaints of corruption against public servants. He protects Citizens' Right against mal-administration, corruption, delay, inefficiency, non-transparency, abuse of position, improper conduct etc. The procedure to be followed is informal and inexpensive, and technicalities do not come in the way. Each complaint is supported by an affidavit, making out a case for inquiry. He is a representative of the Legislature, powerful friend of the citizens for acting against officials' actions, inaction or corruption. He is not anti-administration, but, rather helps in humanizing relations between the public and the administration, and acts as a step forward in establishing an 'Open Government' for securing respect for the rule of law. He is an educator aiming at propagating the prevention of corruption, inefficiency and mal-administration in governance.

The role of Lokayukta is necessary in providing a mechanism which can balance the fundamental requirement that governments must be able to govern but with appropriate accountability.

Effectiveness of Lokayukta is related to his primary objective: to ensure that the constitutional state is maintained, that public authorities respect citizens' rights and laws and that administrative problems are corrected such as elimination formalities, reduced delays, revision of discretionary decision-making processes etc. Consequently, this mission is divided into two parts: (a) monitoring and (b) correcting, if necessary, public authorities' behaviour. This is why the Lokayukta's effectiveness, or his success in getting his recommendations implemented by public authorities, relies on his ability to make public authorities accept and understand his recommendations. This is why he ensures that public authorities are aware of his intervention criteria, the general scale according to which he evaluates the government's administrative behaviour. It makes his general intervention policies public; the population, public authorities and media are better able to understand the rationale for any possible recommendations that he could make in a case under his scrutiny, no matter what the nature of the investigations.

### Check Your Progress

6. List the various types of administrative reforms.
7. Why did the ARC recommend the setting up of Lokpal and Lokayukta?

## NOTES

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## 14.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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### NOTES

1. Local bodies (Panchayati Raj Institutions and Municipal bodies) which, after the 73rd and 74th amendment of the Constitution, have become the third tier of government and are to be empowered to handle subjects pertaining to development of the local areas as illustratively listed in the Eleventh and Twelfth Schedule of the Constitution.
2. The Collector is the head of the government at the district level. The District Collector/Magistrate has specific powers entrusted to him under several Union and State enactments. These statutory powers have to be exercised with care and responsibility. The Collector is also the Chairman of a large number of Committees at the district level.
3. Some of the functions of the collector are:
  - Acting as the Head of Land and Revenue Administration, including responsibility for District Finance (expenditure and audit);
  - Acting as the District Head of the Executive Magistracy and overall supervision of law and order and security and some say in the police matters;
  - Acting as Licensing and Regulatory Authority in respect of the various special laws such as Arms, Explosive and Cinematography Acts etc. in the District;
  - Conducting elections — for Parliament, State Legislature and Local Bodies;
  - As the Officer-in-charge of Disaster Management
4. The Tehsils and Taluks are under an officer designated as Tehsildar. The office of a tehsildar follows Revenue Acts and rules and executive instructions issued by the government and Board of Revenue, Revenue, Revenue Divisional Commissioner, Collector and Sub-Collector issued from time to time.
5. Revenue Inspector is a vital link between the Village Accountant (VA) and the Tehsildar. He is required to be in constant touch with the Village Accountants and the Tahsildar. He is required to perform all the duties prescribed under the Karnataka Land Revenue Act, 1964 and Karnataka Land Reforms Act, 1961 & in or under any other law for the time being in force.
6. Administrative reforms, according to Gerald E. Caiden, can be of four types:
  - (i) Reforms imposed through political changes: Administration is shaped and influenced by political forces. The change in the political scene also affects administration. Structure and working of administration are affected by political changes.

- (ii) Reforms introduced to remedy organizational rigidity: Bureaucratic structures have to change to be flexible. The rigidity in the structure of administration has to be removed. The changes can take place in the form of restructuring, reinvention, realignment, rethinking and reengineering.
  - (iii) Reforms through the legal system: Laws pertaining to administrative reform can lead to significant changes in administration. Legislation is normally preceded by consultation and deliberation in several forums such as committees, commissions, Press, etc.
  - (iv) Reforms through changes in attitude: Human beings are an important part of any organization. Change in their attitude will help in bringing reforms. No legal, structural and political change can lead to desired reform unless these are appreciated and accepted by the people working in the organization.
7. The Administrative Reforms Commission (ARC) headed by Morarji Desai submitted a special interim report on 'Problems of Redressal of Citizen's Grievances' in 1966. In this report, the ARC recommended the setting up of two special authorities designated as 'Lokpal' and 'Lokayukta' for the redressal of citizens' grievances. The ARC recommended the creation of Ombudsman-type institution namely the Lokpal at the Centre and the Lokayukta at the State level.

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### 14.7 SUMMARY

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- The British Parliament was the first legislature in respect of India in modern times and enactments created and gave substance to the district head of administration, known variously as the Collector (in respect of revenue administration), the District Magistrate (in respect of administration of criminal justice) or the Deputy Commissioner (in respect of General Administration and special functions / powers under local tenancy laws).
- The linkages and relationship between the State government and the District Collector cannot be examined in isolation from the linkages existing between the district offices and local bodies. There is a high degree of complementarity between them.
- Local bodies (Panchayati Raj Institutions and Municipal bodies) which, after the 73rd and 74th amendment of the Constitution, have become the third tier of government and are to be empowered to handle subjects pertaining to development of the local areas as illustratively listed in the Eleventh and Twelfth Schedule of the Constitution.
- The post of District Collector has been the most important feature of field administration in India for the last two hundred years. Before Independence, when the economy was primarily agrarian, the Collector as head of the land

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revenue administration also enjoying wide powers under criminal laws, was considered the ultimate guardian figure

- The District Collector/Magistrate has specific powers entrusted to him under several Union and State enactments. These statutory powers have to be exercised with care and responsibility.
- The Right to Information Act, 2005 is a landmark legislation which is increasingly being viewed as an important tool for empowerment of the poor and the weak. Availability of information to the general public and clarity about functioning of governmental institutions are essential components of good governance.
- The office of a tehsildar follows Revenue Acts and rules and executive instructions issued by the government and Board of Revenue, Revenue, Revenue Divisional Commissioner, Collector and Sub-Collector issued from time to time.
- Revenue Inspector is a vital link between the Village Accountant (VA) and the Tehsildar. He is required to be in constant touch with the Village Accountants and the Tehsildar. He is required to perform all the duties prescribed under the Karnataka Land Revenue Act, 1964 and Karnataka Land Reforms Act, 1961 & in or under any other law for the time being in force.
- The Administrative Reforms Commission (ARC) is the committee appointed by the Government of India for giving recommendations for reviewing the public administration system of India.
- The Government of India has directed ministries and departments with public interface to formulate a citizen's charter, laying down the standards of service and time limits, avenues of grievance redressal and provision for monitoring.
- The Second Administrative Reforms Commission (ARC) Chairperson, Veerappa Moily, submitted the first report on 9 June 2006 on 'Right to Information: Master Key to Good Governance' to the Prime Minister, Dr. Manmohan Singh.
- Based on the recommendations of ARC, many attempts were made from 1968 onwards for the establishment of Lokpal at the Central level. The Government of India introduced bills for this purpose in Parliament in 1968, 1977, 1985, 1990, 1998 and 2001.
- The Lokpal Bill provides for filing complaints of corruption against the prime minister, other ministers, and MPs with the Ombudsman. The Administrative Reforms Commission (ARC), while recommending the constitution of Lokpal, was convinced that such an institution was justified not only for removing the sense of injustice from the minds of deeply affected citizens, but also necessary to instill public confidence in the efficiency of the administrative machinery.

- The role of Lokayukta is necessary in providing a mechanism which can balance the fundamental requirement that governments must be able to govern but with appropriate accountability.

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## 14.8 KEY WORDS

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- **The 73rd Amendment Act of 1992:** This is related to the “Panchayats”. The act gave constitutional status to the panchayati raj institutions. It has brought them under the justiciable part of the constitution.
- **The 74th Amendment Act of 1992:** This is related to the “Municipalities”.
- **The Official Secret Act 1923:** This is India’s anti espionage (“Spy” and “Secret agent”) act held over from British colonization. It states clearly that actions which involves helping an enemy state against India.
- **The RTI Act:** Right to Information is Act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the erstwhile Freedom of information Act, 2002.
- **Ombudsman:** An official who is charged with representing the interests of the public by investigating and addressing complaints of maladministration or a violation of rights.

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## 14.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

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### Short-Answer Questions

1. Discuss the role of district administration in the system of governance in the State.
2. What is the need for a District Collector in the district?
3. Write a brief note on the specific powers entrusted to Collector as per ARC.
4. Discuss the role of village administrative officer (VAO).
5. Enumerate the challenges that come in the way of administrative reforms.
6. Write a brief note on various committees and conferences for administrative reforms.
7. Discuss the term and condition of office of Lokayukta.

### Long-Answer Questions

1. Discuss the overall administrative structure at the district and sub-district levels in the country.
2. Analyze the evolution and change in the role of Collector.

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3. Discuss the exercising functions and powers of Collector/DM/DC under various Union and state laws.
4. Write a comprehensive note on the functions of tehsildar, revenue inspector and village administrative officer in rural administration
5. Analyze the role of administrative reform commission in improve administrative capability of the office and officers.
6. Present a critical analysis on the efficacy of institutions of Lokpal and Lokayukta.

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### 14.10 FURTHER READINGS

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