

Role of Civil Services in a Democracy

LEARNING OBJECTIVES

In this Chapter, you will learn about:

- Introduction
- The Need for Public Administration (Civil Service)
- Meaning of Public Administration
- Characteristics of Public Administration (Civil Service)
- Significance of Public Administration (Civil Service)
- Theories Relating to Bureaucracy (Civil Service)
- Generalist vs Specialist Debate
- Minister-Civil Servant Relationship
- Concept of Ministerial Accountability to Parliament
- Anonymity of Civil Servants
- Civil Service Neutrality
- Problems of Bureaucratisation
- Administrative Reforms

The term of Public Administration, bureaucracy, civil service all has the common thread connecting them and in various context they reflect and have a similar meaning. The term public administration though has a wider meaning, which includes both the elected and permanent executive, while the term bureaucracy has come to denote the administration and hence the civil service and Civil Service is the body of permanent government officials who are appointed to run the country. In this Chapter we will be using terms Public Administration, Bureaucracy and Civil Service and they all refer to the same- the Public official appointed to the government with the mandate to serve the nation with public interest.

10.1 INTRODUCTION

Civil service refers to the body of government officials who are appointed to the civil occupations that are neither political nor judicial.

The term bureaucracy has a wider meaning, it refers to the body of employees in a large-scale organisation. More specifically it is related to the body of such employees having authority relationship within the organisation. Thus, every large business has its bureaucracy. In the government there are two types, the civil and military bureaucracies.

In the literature of public administration, the term civil bureaucracy has wider meaning than that of civil service. Thus, the employees of an autonomous corporation come under the concept of bureaucracy but they are not considered to be civil servants. It should be noted that the bureaucracy do not refer to the elected politicians, they refer only to the appointed officials.

In common usage, the term bureaucracy refers to the routine and delay in authorised work, while public administration do take these into account, it generally refers bureaucracy only to the appointed officials.

Hence, civil service essentially means the appointed government official, though bureaucracy has a negative connotation to it, it has been used to refer generally to the public servants, the term public administration has a wider meaning, which brings together the civil servants, the so called bureaucracy, and also the elected representatives of the people. The subject of public administration deals with the effective management of the resources-finance, human, intellectual etc. to deliver services to the people. The term 'Public' is important as regards to the public administration, though civil service does not explicitly mention it. It has to adhere to the public service values as elaborated by understanding of public administration.

10.2 THE NEED FOR PUBLIC ADMINISTRATION (CIVIL SERVICE)

The modern life is filled with complexity and hence the importance of public administration in such a scenario is increasing. This is because the need of the state to intervene in day-to-day activities of its citizens. There is no aspect of the life of citizen which is out of purview from the administration. The citizen comes in contact with some of the government agencies in their daily activities.

During the ancient times, the needs of the citizen were limited. They could therefore, live in a village, self-sufficiently, without any intervention by the state. But the scientific and the industrial revolution changed this scenario. The industrial products that are mass produced require specialised operation to manufacture them. Hence, the community started to live together in big cities. The means of production too has become complex and requires a much greater effort to organise them effectively.

Many a number of such activities now cannot be organised by citizens themselves privately, or as a village, or as even a community in cities. Thus the National, State and local governments have come forward to organise, and provide necessary infrastructure facilities, provide for effective production as well as facilitate the community-type living.

For example, railways has been built for the transport of the raw materials and also to distribute the finished goods. This also apart from facilitating manufacturing, helps in movement of people over long distances, that is an important facet of modern day living.

Similarly, communication facilities like telecommunication, microwave transmissions, satellite communication etc. all have to be provided for meeting the need and requirements of the modern communities. And all these require massive men and material investment, which is impossible to be provided by a small village community.

Such huge investments are made by the National governments and is implemented and administered with help of the local governments. Financing such projects alone is not the issue here, organising such large scale projects within the specified timeline is important.

Hence the point of contact between the citizen and the government has increased tremendously. And the importance of Public Administration has been keeping pace with such developments.

In this modern era, the Public Administration is seen as the face of the government. They are the vital link connecting the people with the government. Their role has been completely transformed to suit the modern day needs. In the chapter we will be discussing about modern day impact and the importance and the role played by the Civil Service in the modern day democracy.

10.3 MEANING OF PUBLIC ADMINISTRATION

The concept of Public Administration is part of the wider term of “administration”. To understand the meaning of Public Administration we need to first understand what administration means.

10.3.1 Administration Defined

The term *administer* is derived from the Latin word *administrate*, which means to care or to look after the people and manage their affairs. Hence according to this wide definition, almost every human activity involves some kind of administration. Even in the primitive societies, activities such as hunting, gathering etc. require some form of organisation.

The decision has to be made regarding who will be doing what. Certain norms of behaviour had to be laid down to decide the distribution of work among the members of the community. But administration in such a scenario is simple as it involves less complex operations and lesser number of people.

But with increase in complexity in modern day life, the administration of both public and public life has become more complex.

The following are some of the definitions given by prominent scholars for *Administration*.

E.N. Gladden: “Administration is a long and slightly pompous word, but it has a humble meaning, for it means, to care for or look after people, to manage affairs... is determined action taken in pursuit of a conscious purpose.”

F.M. Marx: “Administration is a determined action taken in pursuit of a conscious purpose. It is the systematic ordering of affairs and the calculated use of resources aimed at making those things happen which one wants to happen and foretelling to the contrary.”

Felix A. Nigro: “Administration is the organisation and use of men and materials to accomplish a purpose.”

Herbert A. Simon: “In its broadest sense, administration can be defined as the activities of groups cooperating to accomplish common goals.”

John A. Veig: “Administration is determined action taken in pursuit of conscious purpose. It is the systematic ordering of affairs and the calculated use of resources, aimed at making those things happen which we want to happen and simultaneously preventing

developments that fail to square with our intentions. It is the marshalling of available labour and materials in order to gain that which is desired at the lowest cost in energy, time and money.”

Keith Henderson: “Administration is the arrangement of men and materials in the rational carrying out of purposes.”

Pfiffner: “Administration is the organisation and direction of human and material resources to achieve desired ends.”

L.D. White: “The art of administration is the direction, coordination and control of many persons to achieve some purpose or objective.”

D. Waldo: “Administration is a type of cooperative human effort that has a high degree of rationality.”

Brooks Adams: “Administration is the capacity of coordinating man and often conflicting social energies in a single organism, so adroitly that they shall operate as a unity.”

Ordway Tead: “Administration is a variety of component elements which, together in action, produce the result of a defined task done. Administration, primarily, is the direction of people in association to achieve some goal temporarily shared. It is the inclusively process of integrating human efforts so that a desired result is obtained.” He further adds, “Administration is the central power house of the motivational impulsion and spirit which makes the institution drive to fulfil its purpose.”

James McCann: “Administration is the organisation and use of men and materials to accomplish a purpose. It is the specialized vocation of managers who have skills of organizing and directing men and materials just as an engineer has the skill of building structures or a doctor has the skill of understanding the human ailments.”

Luther Gulick: “Administration has to do with getting things done; with the accomplishment of defined objectives.” George E. Berkley: “Administration is a process involving human beings jointly engaged in working towards common goals.”

From the above definitions it is clear that administration is essentially a group activity which involves coordination and cooperation between the members to achieve desired results. This also means that administration is carried on with an element of rationality. Hence administration is a rational action, an attempt to maximise the results achieved by a group of people. While administration is a collective activity, and not all such collective activities are considered to be administration.

10.3.2 Public Administration Defined

Administration is a common term defining both public and private activities. Public Administration is that part of administration which is concerned with the activities of the government.

It is also called as governmental administration because the word ‘public’ in Public administration essentially points to ‘government’. Hence the focus of public administration is on public bureaucracy, that is, governmental bureaucratic organisation.

The following are definitions of Public Administration as given by various scholars.

Woodrow Wilson: “Public Administration is detailed and systematic execution of law. Every particular application of law is an act of administration.” He further says: Administration is the most obvious part of government; it is the government in action; it is the executive, the operative, the most visible side of the government.”

L.D. White: “Public Administration consists of all those operations having for their purpose the fulfillment or enforcement of public policy.”

Luther Gulick: “Public Administration is that part of the science of administration which as to do with government and thus concerns itself primarily with the executive branch where the work of government is done, though there are obviously problems in connection with the legislative and judicial branches.”

H.A. Simon: “By Public Administration is meant in common usage, the activities of the executive branches of the national, state and local governments.”

Pfiffner: “Public Administration consists of doing the work of the government whether it be running an X-ray machine in a health laboratory or coining money in the mint... Public Administration consists of getting the work of government done by coordinating the efforts of the people so that they can work together to accomplish their set tasks.”

E.N. Gladden: “Public Administration is concerned with the administration of the government.” H. Walker: “The work which the government does to give effect to a law is called Public Administration.”

Willoughby: “The term administration may be employed in Political Science in two senses. In its broadest sense it denotes the work involved in the actual conduct of governmental affairs, regardless of the particular branch of government concerned. It is, thus, quite proper to speak of the administration of the legislative branch of the government, the administration of justice or judicial affairs, or the administration of the executive branch as well as the administration of the affairs of the administrative branch of the government, or the conduct of the affairs of the government generally. In its narrowest sense, it denotes the operations of the administrative branch only. As students of Public Administration we are concerned with the narrowest meaning of the term.”

D. Waldo: “Public Administration is the art and science of management as applied to the affairs of the State.” He further observes. “The process of public administration consists of the actions involved in affecting the intent or desire of a government. It is thus, the continuously active,” business part of a government, concerned with carrying out the law as made by legislative bodies (or other authoritative agents) and interpreted by the courts, through the process of organisation and management. The field of study – putatively a science or discipline – of public administration focuses upon public administration as a process.”

M. E. Dimock: “Public Administration is the fulfillment or enforcement of public policy as declared by the competent authorities. It deals with the problems and powers of the organisation and techniques of management involved in carrying out the laws and policies formulated by the policy-making agencies of government. Public administration is the law in action. It is the executive side of a government.”

F.A. Nigro: “Public Administration

- (i) is a cooperative group effort in a public setting;
- (ii) covers all the three branches – executive, legislative and judicial, and their inter-relationship;
- (iii) has an important role in the formulation of public policy and is thus part of the political process;
- (iv) is different in significant ways from private administration; and
- (v) closely associated with numerous private groups and individuals in providing services to the community.”

J.S. Hodgson: “Public Administration comprises all activities of persons or groups in government or their agencies, whether these organisations are international, regional or local in their scope, to fulfill the purposes of these governments or agencies.”

Ridley: “Public Administration in the public sector...It is administration by the state... Public Administration is governmental administration...It is administration by public authorities...Public authorities are authorities which administer according to the rules of public administration. Public administration should be the study of administration, descriptive, theoretical and normative.”

M. RuthnaSwamy: “When administration has to do with the affairs of a state or minor political institutions like a Municipal or County Council, or District Board, it is called Public Administration.” Dimock and Dimock: Like the study of politics, the study of public administration is a study of what people want through government and how they go about getting it. In addition, administration is the area of study and practice where law and policy are recommended and carried out.”

J. Greenwood and D. Wilson: “Public Administration is an activity, a set of institutions and a subject of study.” Rosenbloom: “Public Administration does involve activity, it is concerned with politics and policy-making, it tends to be concentrated in the executive branch of government, it does differ from private administration, and it is concerned with implementing law.” He further adds, “Public Administration is the use of managerial, legal and political theories and processes to fulfill legislative, executive and judicial governmental mandates for the provision of regulatory and service functions for the society as a whole or for some segments of it.”

M. Marx: “Public Administration has come to signify primarily the organisation, personnel, practices and procedures essential to effective performance of the civilian functions entrusted to the executive branch of government.”

To sum up, Public Administration:

- Deals with the ends of the state, the interest of the public and law, and of the sovereign will;
- Provides for regulatory and other service related functions to the people in order to attain good life;
- Differs significantly from private administration, as it emphasises on ‘publicness’;
- It covers all three branches in a democracy, although it may tend to be viewed under the executive branch;
- Is a non-political bureaucratic system operating within a political system; and
- Is the business side of the government and is concerned with the policy-making and its execution.

10.4 CHARACTERISTICS OF PUBLIC ADMINISTRATION (CIVIL SERVICE)

The following are the characteristics of Public Administration, they are not exclusive and exhaustive. Some of the following may be available only in the public field and others may relate to administrative efficiency.

1. **Anonymity:** anonymity is an important characteristic of a public servant. He should maintain anonymity while carrying out the services for the public. The official acts are not carried out in their personal capacity, rather they are the agents of the government and carry out acts by virtue of the post they hold.

2. **Consciousness of Community Service:** the Public administrator works for the 'public'. The act is carried out for the betterment of the community and not for deriving financial benefits out of them.
3. **Public Responsibility:** the administrators have to be held publicly responsible for their acts and actions. They have to be questioned by the public regarding such aspects which will help the administration function on the right path. In India and Britain this is achieved with the help of **Ministerial Responsibility** and other such facilities which let people, the press and the representatives of the people question the actions of the administrators.
4. **Monopoly:** such conditions of monopoly are usual in the sphere of the government. From this characteristic arise other characteristics because of lack of competition in the administrative process.
5. **Large-Scale Organisation:** it is the usual character of a government organisation, as it deals with numerous issues concerned with the state and its subjects. Numerous problems arise because of this characteristic of administration. And this is not an essential character of administration. Though smaller organisations exist, they exist within the larger organisation of the state.
6. **Consistency of treatment:** this is an essential characteristic as the public official should not render unequal or favoured treatment to a section of people. Everyone should be treated equally and without discrimination. Unlike private service, favoured treatment cannot be accorded. The public administration should follow the law and principles laid down by the Constitution in all aspects.
7. **Public Information:** if the character of public responsibility has to work, then the public should have access to information regarding all such acts and functions of the administrators. The secrecy is considered to be intolerable in a democratic setup, and hence the administrators have to take special steps to provide information to the public even without them demanding for such information. Public administration is held to be everybody's business.

10.5 SIGNIFICANCE OF PUBLIC ADMINISTRATION (CIVIL SERVICE)

In the contemporary age, which has witnessed the rise of 'Administrative state' has seen growth of role of the public administration. The functions it has been assigned to perform has grown in scope and function, and it is continuously increasing. Many of such functions relate to the essential requirement of human life, such as education, health, social security, sanitation etc. All these functions are over and above the basic regulatory function of the administration. The view point of eminent scholars below reflect the significance of the public administration.

Woodrow Wilson: "Administration is the most obvious part of the government; it is the government in action, it is the executive, the operative and the most visible side of the government."

Brooke Adams: "Administration is an important human faculty because its chief function is to facilitate social change and to cushion the shock of social revolution."

Paul H. Appleby: "Administration is the basis of government. No government can exist without administration. Without administration government would be a discussion club, if indeed, it could exist at all."

According to **Gerald Caiden** Public administration has taken up the following crucial roles in the modern contemporary society:

- Preservation of polity;
- Maintenance of stability and order;
- Management of large scale commercial services;
- Ensuring growth and economic development;
- Institutionalisation of Socio-economic changes;
- Formation of public opinion;
- Influencing public policies; and
- Formation of public opinion.

The significance of public administration can be studied under the following heads,

(i) Public Administration (Civil Service) as an Instrument of Governance

The most important function of the government is to govern, that is, maintain the peace, law and order, to ensure the safety and security of the people in the country. The government also has to uphold the contracts concluded between the people and settle any disputes arising between them. During the initial stages of the evolution of the government, this was probably the basic functions carried out by the administration.

As the government evolved and developed, many other important functions have been taken over by the administration, but the basic function remained the same. It is impossible to bring in development if peace is not maintained in the society. This function is highly essential and necessary, and without it civilised life is impossible.

The regulatory function of the public administration has not remained static. It has been growing in complexity as the government evolved. New methods have been developed to effectively distribute the goods for the public, new technologies have been incorporated by the administration for effective public service delivery.

(ii) Public Administration (Civil Service) as an Instrument of development and Change

The public administration has a very significant role to play as an instrument of change and development. The public administration embodies within itself the desires, qualities and aspirations of the people, it also reflects the intellect of its people. The public administration is an important tool in achieving development, and without it development is not possible.

Manpower is need to run the colleges, schools and other technical institutions. Manpower is also need to build infrastructures such as roads, bridges, buildings etc. and to run the industrial machinery. Scientific manpower is needed to carry out research and development. And only a well-developed and established public administration can make all this a reality.

Though a part of the contribution is made by the private sector, it cannot complete the task in full. The private may not be willing to contribute towards establishing the basic and essential infrastructure. For example, country-wide rail connectivity, telecommunication systems, roads, basic research etc. all have to be organised by the government.

In several developmental areas the initial thrust has be given by the government, without its support development in these sectors is not possible. And this is not possible without a well-established system of public administration. This aspect was highlighted by the western governments and the aid agencies which sought to help develop the south, that is, the developing nations.

It was contended that the aid will not be of use unless an effective system of public administration is established with skilled manpower. Financial assistance cannot be transformed into productive schemes. Thus the initial task of the developing countries, is therefore, to develop adequate and necessary administrative machinery to take up diverse tasks relating to development.

The administrative support relates not only to aspects related to economic development. In the developing countries, the public administration is also an instrument of social change. A number of welfare schemes have to be taken up. New laws to bring in development have to be enacted and enforced. For examples, laws relating to dowry, untouchables, protection of SCs, STs, rights of minorities, Children, labour, women etc. Though the impetus for development comes from the political class, it is the administration that drafts and enforces them. This is the fundamental task of the public administration.

(iii) **Public Administration (Civil Service) as an instrument of Welfare State**

In a modern democratic state, the government has to carry out several welfare functions for the people. This includes various aspects related to provision of schooling, medical facilities and other social security related issues. With the breaking down of the joint-family system, the responsibility of taking care the elderly and the infants, orphans and the widows fall upon the shoulders of the government. With the economic slowdown, the government now has to lookout for the unemployed youths also.

The development may raise up new problems such as those of creation of urban slums, pollution, juvenile delinquents etc. The state therefore has to identify all these problems and device necessary solutions addressing them. The formulation of such schemes and implementing them is another important function of the Public Administration.

The Public administration is thus not only the protector of the rights of the citizens, they have also become the provider of services for the people. The welfare of the people is now dependent on how effective the public administration functions. And because of this, the modern state is called as an “*Administrative State*.” Prof. V.V.Donham had stated, “*If our civilisation fails, it will be mainly because of administration.*”

(iv) **The Stabilising role of Public Administration (Civil Service) in society**

According to Prof. Paul Pigors of the Massachusetts Institute of Technology, the primary function of the public administration is that of stabilising the social institutions. The administrative function ensures the continuity of existing order with minimal effort and risk. Its fundamental aim is to “carry on” rather than venturing into new and untried avenues. Administrators are, therefore, the stabilizers of the society and the guardians of the tradition.

They are stabilizers in both positive and negative sense. In the positive sense, they help in the continuity of the system and help in preserving its principles. But they also act in other ways to frustrate new ideas and developments to change and reform the existing system. They resist change and slow down the rate of experimentation.

(v) **Public administration (Civil Service) as a key to modern society**

Modern society is considered to be a great society, as it consists as many groups connected together to achieve common objective. Every institution in a great society, and even the great society rests upon the administration. The state, like that of the private enterprises also rest upon the administration. And hence whatever the future might hold, the administration will be an essential instrument in service delivery.

(vi) **Public administration (Civil Service) as a mechanism for promoting culture in the society**

Public administration is not just an instrument of governance, it is also an important instrument used for promoting and preserving the culture of the society. The ideals and the values of the state may be high, and its impact on the lives of the people can only be measured only if these values are put in actual practice. Thus the public administration becomes an important instrument to implement the values and the ideals of the state. By becoming the part of social and cultural life of the people, it has become a permanent force in determining the character and activities of the state itself. Hence, Waldo calls administration as, “*part of the cultural complex which is not only acted upon but which also acts.*”

(vii) **Public administration (Civil Service)– a fourth branch of government**

Till the 19th century the role of state was of regulatory nature, and public administration did not play vital role in the lives of the people. It acted as an instrument of coercion and control rather than doing public service.

Because of the increase in complexity of society, the role of the State has changed, there is increase in nature and volume of functions concerning the social change and development. Welfare of the people is now considered to be paramount.

The era of *lassiez faire* state has come to an end, and now a positivist-interventionist welfare state has emerged in its place. This therefore has enhanced the importance of public administration. Hence scholars related to the public administration gave a separate status to the public administration, they not just separated it from the politics, but they called it as the *fourth branch* of government along with the executive, legislature and the judiciary.

(viii) **Increasing role of public administration (Civil Service) in policy making**

The modern welfare state has added new dimensions of role to public administration. Thus the nature of role played by the bureaucracy in policy making is changing slowly. The **concept of neutrality** of civil servants is also losing its significance.

The public administration is playing an important role in policy making in various way. It helps the executive in identifying the areas for policy making, they prepare the policy proposals, analyse various alternative and solutions available, dividing the major policy into various sub-policies, formulating programmes of actions and various modifications required in the existing policies.

The public administration is the only possible and effective instrument that could be used to formulate and implement the policies which the modern government is called upon to address. In the present era, the chief function of an administrator is considered to be policy making.

10.6 THEORIES RELATING TO BUREAUCRACY (CIVIL SERVICE)

10.6.1 Hegel's Theory

Hegel in his book *Philosophy of Right* talks about the nature of state, and the philosophical basis of existence of state. He talks about the system which exists outside the formal state setup, that is, the family and the civil society. And according to Hegel the civil servants carry the value of the society from which they come from. They have affinity towards the family and also become member of the civil society and finally raise to be a civil servant. The class division in the society

integrates the society and not divides it. Hegel places the civil servants into the middle class, and he considers the middle class to be balancing factor in the society, and calls it the 'pillar of the state'.

1. Hegel acknowledges the importance of division of labour and power in a public authority.
2. He states about the important role played by the civil servants in the government.
3. He ruler shall be aid and advised by the ministry and civil service, and all these member should satisfy the educational requirements.
4. According to Hegel the society is divided into three classes based on the division of labour.
 - a. The agriculture- substantial or immediate class
 - b. The business- reflecting or formal class
 - c. The civil servants- universal class

Such a membership is essential for gaining status and recognition in a civil society.

5. The Civil servants or the bureaucracy is considered to be a "universal class" because it concerns with the universal interests of the society.
6. As members of the bureaucracy they are paid salary by the state. They have to be highly educated and must qualify for the appointment to government posts on the basis of merit. They are also provided with safety of tenure and hence are independent of immediate political pressure.
7. The state according to Hegel is the march of god. It is a rational and ethical entity. The Constitutional law according to Hegel is divided into three,
 - a. The legislature- establish universal law making
 - b. The executive- universal administering of the laws
 - c. The Crown- the ultimate decision maker and units the other two arms of the state.

The executive consists of the civil servants and the other higher advisory officials.

The government has its own division of labour whereby the administration is divided into various departments managed by special officials.

The appointment is made on the basis of knowledge and ability. The tenure is conditional and based on effective fulfilment of their duties. The offices of the civil servants are open to all class and categories of citizens.

8. The executive does not remain unchecked, to quote Hegel, "*The security of the state and its subjects against the misuse of power by ministers and their officials lies directly in their hierarchical organization and their answerability; but it lies too in the authority given to societies and corporations*"
9. The qualities of the civil servants will be, being dispassionate, upright and polite. This is because of their proper education in thought and ethical conduct.
10. The civil servants are universal class because
 - a. They subsume all the particular classes under the universal class, and therefore reflect universal interest;
 - b. Show a disposition of mind, which shuns selfish ends for effective discharge of public functions to achieve universal public good.

The Hegelian concept of bureaucracy is identical to that of Weber's Ideal type conception.

- a. Tenured system of bureaucracy
- b. Motivated to the service of the commonwealth and the people
- c. Recruited on basis of merit
- d. Paid according their performance
- e. Autonomy and independent from other spheres
- f. Acts as a break on the civil society

10.6.2 Weber's Bureaucracy

Max Weber was the first scholar to make a systematic analysis of bureaucracy as a system of organisation. The credit for systematic formulation of bureaucratic theory goes to him. His classic study provides for the starting point for the analysis of bureaucracy. As already seen, we have studied the formulation as given by Hegel, but his he has not explicitly mentioned about bureaucracy and his theory generally was not about bureaucracy. Hence Max Weber was the first person the separate the sphere of bureaucracy from the political system and study it.

10.6.3 Characteristics of Bureaucracy given by Weber

Weber identified the bureaucracy with the legal-rational authority. According to Weber the essence of bureaucracy is its rational character, that is, it is governed by a set of rules which is easily understood. He saw bureaucracy as an impersonal system operating on the basis of known rules and implemented by full-time appointed officials. Hence the Weberian model of bureaucracy excludes the elected political executives. He regarded the bureaucracy based on the legal-rational authority as the most effective basis of an organisation. He saw it as the most efficient organisation form for the administrative purposes.

Weber developed the legal-rational idea type bureaucracy to explain its defining features. The following are the characteristics of the bureaucracy as given by Weber:

1. In a legal sense, each office has a clearly defined sphere of authority.
2. The officials all receive fixed salary in money according to their rank in the hierarchy. They are also eligible to receive a fixed pension.
3. The job is the primary occupation of the official, he has full concentration on it.
4. The official is subject to strict and systematic control and discipline in his conduct in the office.
5. There is a proper career structure, where the promotion is based on the merit and/or seniority. The basis of promotion depends on the judgment of the superior officer.
6. The employees of the bureaucratic organisation are personally free and are subject to restrictions with regard to their impersonal official duties.
7. The administrative offices are arranged hierarchically; that is, each higher office controls and supervises the lower office below it.
8. The officials, are appointed, and not elected, on basis of a free contract. The official is always free to resign.
9. The officials are selected on the basis of technical qualifications as required by each post.
10. The official does not own his/her office and the means of administration. They cannot appropriate their position.

These ten features constitute Weber's world renowned ideal, pure or most legal rational type bureaucracy. This concept of ideal type bureaucracy is applicable to both private and private administrative systems.

10.6.4 Attributes of Bureaucracy

According to Weber, *"Bureaucracy is by far the most efficient instrument of large scale administration which has ever been developed and the modern social order has become overwhelming dependent on it."* He was of the opinion that a purely bureaucratic form of organisation had the chance and capability to attain the highest level of efficiency.

The following are the important elements of Weber's legal-rational type system.

1. **Hierarchy- a formal structure of well-defined authority:**

It is the basic feature in the organisation which defines the position. It is the ranking of various positions in a descending order from the top to the bottom. It is a separation between the superior and the subordinate offices. Each level controls a level below them and in turn is controlled by the level above them. Weber gives greater importance to this characteristic of bureaucracy, "the organisation of offices follows the principle of hierarchy, that is, each lower office is under the control and supervision of a higher one." Thus no office is left uncontrolled in the system. It serves as a line of control and also as delegation of authority.

2. **Division of Labour-**

The functioning is divided based on the specialisation. The organisation is thus broken down in basis of such specialised functions. Each employee is given a specific function, and thus becomes a master of it. The area of competence is demarcated. This raises the overall productivity and efficiency of the organisation. Each official thus knows what his function is and what to perform and also what not to perform that is not to encroach upon the functions of others. Another important aspect of division of labour is that it makes sure that no area is left uncovered.

3. **Rules-**

The official function is carried out on basis of the rules. And these rules operate in reference only to the official job only. The emphasis is laid upon the rules in order to avoid the arbitrariness, personal favour etc. which may hinder the working of the organisation. The rules enable the decision taken at higher levels get implemented at the lower levels. The rules help in maintaining the uniformity and also in coordination of the efforts in the organisation. Thus rules help in stability, continuity and probability of the system, and each one knows the outcome of their action.

4. **Impersonality-**

Irrational sentiments have to be avoided in any organisations, especially a public organisation such as Bureaucracy. The officials should discard their personal likes, dislikes etc. while performing their official duty. There has to be no bias while performing such tasks for the government. Every employee and the other people should be treated equally on par with each other. Thus decisions, should be governed by rational factors and not personal factors. And impersonality helps in dealing with people both within and outside the organisation.

5. **Official Records-**

Another important feature of Weberian Bureaucracy is that everything is recorded in writing. The official records are therefore maintained. All the decisions and activities of the

organisation are recorded in writing and it is preserved for future reference. The filing system helps in preserving such records.

6. Differentiation of Public and Private ends-

Personal interests and private ends are kept separate from the public purpose and the function. One's personal interest should never interfere with his official work. The rationality should always be maintained in the organisation. They are paid employees of the organisation, their tenure is determined by official rules and regulations, and they should not have any exclusive interest in the organisation.

These are thus the characteristics of the Bureaucracy as elaborated by Weber. These are not any regular characteristic, but are of an organisation which is 'ideal' which means that it doesn't exist in reality. The characteristics such as **precision, discipline, strictness, continuity and reliability** are the underlining feature of the bureaucracy. These characteristics technically make bureaucracy the most efficient organisation.

10.6.5 Reasons for Growth of Bureaucracy (Civil Service)

Weber was the first person to identify the reasons for the growth of bureaucracy in the West. He identified the following reasons:

1. **Money Economy:** the development of money economy as the important and foremost reason for the birth and development of bureaucratic system. To quote Weber, "*The development of money economy, in so far as the pecuniary compensation of the official is concerned, is a pre-supposition of bureaucracy.*" Weber observed that the bureaucratic organisation would only survive if the money economy develops and a steady economic growth is maintained.
2. **Emergence of mass democracy:** the emergence of larger middle class who are demanding the benefits of the mass democracy, such as the social and economic equality in another important reason for growth of bureaucracy. The impersonal bureaucracy operating based on rules was associated with the negation of practice of according special privilege to a specific group of persons.
3. **Protestant ethic:** according to Weber Protestant social ethic contributed to the development and ascendancy of bureaucracy. This concept was opposed to traditionalism, old-age customs and methods. It called for working on fullest potential of an individual, not for greed or pursuit of pecuniary gain. Such new kind of ethos helped in modernisation of the economy, increase in production and productivity. This ethics also developed rational planning, personal discipline, technology and finally the bureaucratic organisation.
4. **Capitalist system:** the system based on ruthless competition played an important role in the development of bureaucracy. A system of highly effective bureaucracy was needed to maintain the competition in the free market economy. The bureaucracy was the most efficient instrument which could be used to achieve the organisational goals.

Thus all these factors were responsible for the growth and development of bureaucracy in the modern age.

10.6.6 Comparison between Weber and Hegel

The following is the comparison made between the philosophy of Weber and Hegel as presented to the CHEIRON: International Society for the History of the Social Sciences, by Gordon A. Welty.

There are more in common between the conception made by Weber and Hegel, though their fundamental basis differed. Both call that bureaucracy is an effective system. But Weber's rational type development goes beyond Hegel's view, and following is the few comparison of concepts of Weber and Hegel.

Weber	Hegel
There is a principle of fixed and official jurisdictional areas, which are generally ordered by rules, by laws or administrative regulations.	Division of labor occurs in the business of the executive (or the chief official of the State and his administration)... the business of government shall be divided into its abstract (or rule-bound) branches manned by special officials as different centres of administration...
Methodical provision is made for the regular and continuous fulfilment of (bureaucratic) duties and for the execution of the corresponding rights; only persons who have the generally regulated qualifications to serve are employed.	Between an individual and his (bureaucratic) office there is no immediate natural link. Hence, individuals are not appointed to office on account of their birth or native personal gifts. The objective factor in their appointment is (their) knowledge and proof of (their) ability.
The principles of office hierarchy and of levels of graded authority ... offers the governed the possibility of appealing the decision of a lower office to its higher authority ...	The security of the State and its subjects against the misuse of power by ministers and their officials (i.e. the bureaucracy) lies directly in their hierarchical organization and their answerability...
Once established and having fulfilled its task, an office tends to continue in existence...	... while the actions of the officials (or bureaucrats) are the fulfillment of their duty, their office is also a right exempt from contingency (i.e. exempt from arbitrary intervention from above).
The management of the modern office is based upon written documents, "the files," which are preserved in their original or draft form.	(A decision based on) the content of current affairs of state or the legal provisions required to meet existing needs (requires) their objective aspects, i.e. the grounds on which (the) decision is to be based, the relative laws, circumstances, etc. (This implicates what Weber calls "the files").
...bureaucracy segregates official activity as something distinct from the sphere of private life.	...The assured satisfaction of particular needs (the bureaucrat's subjective ends) removes the external compulsion which may tempt a man to seek ways and means of satisfying (his subjective ends, his particular needs) at the expense of his official duties.
Office management ... usually presupposes thorough and expert training.	(The education of the bureaucrat consists of) direct education in thought and ethical conduct. Such an education is a mental counterpoise to the mechanical and semi-mechanical activity involved in acquiring the so-called "sciences" of matters connected with administration (administrative science).
When the office is fully developed, official activity demands the full working capacity of the official ...	The state does not count on optional, discretionary services... casual servants may fail for private reasons to fulfill their duties completely ...

The management of the office follows general rules, which are more or less, stable, more or less exhaustive and which can be learned.

The nature of the executive functions (as expressed in a bureaucracy) is that they are objective and that in their substance they have been explicitly fixed by previous decisions.

10.6.7 Marxian Criticism

The concept of bureaucracy was not central to Marx's thoughts. But he made a detailed study about the bureaucratic system in his "Critique of Hegel's Philosophy of Right". He had devoted an entire section on bureaucracy. He had expressed his views on the structure, function and the relationship of bureaucracy with the state and the society. He analysed the system as a set of relationships that arise because of the prevailing socio-economic context. Hence the conceptualisation of Marx's bureaucracy has to be understood within his general framework of his theory of class conflict, crisis of capitalism and the advent of communism.

Marx introduced the idea of bureaucracy in his criticism of Hegel's conception of executive authority of the state. Marx rejected the positive picture of state as presented by Hegel. According to Marx, the state does not represent the general interest of the people, rather it projects and serves only the interest of the dominant class in the society. And in the capitalist system, the state was the handmaiden of the dominant capitalist class.

Hence according to Marx,

- Bureaucracy is an instrument of domination used by the dominant class to exercise control over the lower class in the society.
- Interest of the bureaucracy is linked to that of the dominant class and the state.
- The bureaucracy is not functional as said by Hegel, it arises from the pathological division of labour in the society. It is an instrument of perpetual exploitation of the weaker sections of the society.
- In a capitalist society, the bureaucracy works to support and consolidate the class division and domination.
- The bureaucracy constitutes a particular, closed group within the state. It has its own interest which it defends against the other classes in the society.
- It uses the power to promote and sustain its own private ends. It does not act to achieve general interest of the society.
- The true purpose and intention of the state is cloaked in secrecy, mechanist action, and the faith in the authority.
- The objective of the bureaucracy becomes, securing higher position in the hierarchy, and making a better career. Hence the bureaucrats treat state as their private property.
- The information and other resources are manipulated to serve the interests of the dominant group.
- Another important character of bureaucracy is the hierarchy, according to Marx, "*...its hierarchy is a hierarchy of knowledge. The top entrusts the understanding of detail to the lower levels, whilst the lower levels credit the top with understanding of the general, and so, all are mutually deceived. Comprehensive knowledge is not possible in such a situation where knowledge is deliberately split up.*"
- Another important characteristic of bureaucracy is its secrecy. It carries out all its actions in secrecy to achieve its objective of privatising the civil society. Political consciousness is considered to be a treason. The spirit of mystery is preserved internally

through hierarchy and externally through the nature of closed society. As Marx states, the truth is that bureaucracy captures and hold the substance of the state.

- The bureaucracy becomes autonomous and an oppressive force.
- The bureaucracy contributes to the alienation of the people. According to Marx, “*even the paper qualification of the bureaucrat are a mark of separation from the rest of the society.*”
- Incompetence is another feature of bureaucracy. It is in opposition to Hegel’s view that bureaucracy is the most competent authority in the society.
- According to Marx, the bureaucracy leads a parasitic existence. It does not occupy an organic position in the society divided between the exploiter and the exploited. He simply calls it a ‘parasitic body’ used to maintain the status quo and privileges of the dominant class in the society.
- Bureaucracy is inseparable from the state. And it is integral part of the exploitative system. And hence it will not exist in a communal system of governance.

10.6.8 Comparison of Views of Hegel and Marx

Below is the views on bureaucracy as taken by Marx and Hegel. Marx developed his criticism based on the works of Hegel and hence views of Marx are in opposition to that of Hegel.

Marx	Hegel
Bureaucracy is not the will of the universal, it does not serve the general interest. It serves the private interest and reinforces the private spirit.	Bureaucracy is the will of the universal, and it serves the general interest of the people.
Bureaucracy leads to alienation of the people.	Bureaucracy is an integrating force which links the civil society and the state.
Bureaucracy owes its origin to the division of society into exploiters and exploited.	It arises from the opposition between the particular interest of the civils society and the general interest of the state.

Marx thus views bureaucracy as an oppressive force, the instrument of the capitalist system, which is used to exploit the weaker section of the society. This form of thinking of including bureaucracy within the social setup influenced other scholars who studied bureaucratic system, this includes Max Weber also.

10.7. GENERALIST VS SPECIALISTS DEBATE

The generalists and specialists are two important formulation of civil service in India. The proper relationship between them is essential for effective functioning of the civil service. But there has always undying issues between these two since the days of independence.

10.7.1 Meaning of the Term

A generalist civil servant does not possess a specialised qualification but is well equipped with the administrative procedures, rules and regulations and hence can be appointed to any administrative field.

He belongs to the managerial class, and performs activities such as planning, organising, coordinating, budgeting, staffing, directing, supervising and controlling.

Thus the civil servant who makes policies, coordinates, supervises and controls the administration is called as **generalists**. An IAS officer is a generalist civil servant par excellence.

As R.B.Jain observed, *“In his professional capacity a generalist possess the skill and techniques of the manager and a kind of politician. As a manager he is responsible for getting things done, and as a politician, he is responsible for interpreting the minds of the people to the complex social, economic and even political problems of the state within the constraints of the administrative system.”*

A specialised civil servant on the other hand, is the one who holds special knowledge or skill in a particular area. He is a professional expert in that area. Thus like a generalist, he is not an all-rounder. The specialist areas include that of the engineers, doctors, educationists, economists, police, agriculturalists etc.

10.7.2 Categorisation of Civil Service in India

The civil service in India can be categorised into technical and non-technical fields. The recruitment for the specialised services takes place based on basis of such specialised and professional qualifications. Hence the technical services need subject and professional experts from that particular field. The following are some of the services that require professional expertise,

- Indian Economic Service;
- Indian Statistical Service;
- Indian Forest Service;
- Central Engineering Service;
- Central Meteorological Service and so on.

The non-technical services are those for which the recruitment are carried out on basis of general educational qualifications. It is open to all candidates who have the necessary minimum qualification. These services include the following,

- Indian Administrative Service;
- Indian Foreign Service;
- Indian Police Service;
- Indian Revenue Service;
- Indian Audit and Account Service and so on.

These non-technical services can be further classified into functional and general purpose services. For the functional services the people get selected and remain in their service throughout their career all other services except the IAS falls into the category of functional non-technical service.

Hence IAS is the only general purpose service. The members of this cadre occupy all the top most administrative positions in the country. There is no separate functional field of occupation for the IAS cadre.

10.7.3 Areas of Controversy

The controversy between the generalists and the specialists relate to the following aspects,

- The entry to top posts are generally denied to the members of specialist service. Most of these top posts are occupied by members of the IAS, which is a generalist service.

- At the regional level specialised posts such as the Divisional Commissioner, Command Area Development Commissioner Etc. are all occupied by generalists.
- The generalists enjoy more proximity to the political heads than the specialists.
- The district is headed by the Collector, who is a 'generalist civil servant par excellence'. At the district level there are number of other institutions which are headed by specialists. Hence generalist heads team of specialists.
- The specialists are hence considered to be the subordinates of the generalists. The views, opinions and advice are not taken by the IAS- generalist service from the specialists.
- There is wide possibility of inter-organisational mobility by the generalists, than that of the specialists. The IAS officers can move from one department to another, or to a public enterprise, or local government etc. while there is no such scope for the specialists who can only move within their own departments.
- The pay and service conditions of the generalists are much more attractive than that of the specialists. This is the most important grievance of the specialists.
- Below the secretariat level, the departments are generally manned by the specialists, but sometimes, a generalist is appointed as the head of a technical department, such as Director of Health, Animal Husbandry etc.
- The generalists have a quicker and better chance of promotion and career development than the specialists.
- All the performance appraisal of the specialists is carried out by the generalist IAS officers.

Hence the abovementioned controversy has led to discontentment amongst the services. And thus has affected the morale and efficiency.

10.7.4 The Case for the Generalists

The following points are in support of the generalists,

- a. The tenure system in the secretariat whereby, on rotation the people with the field experience are appointed, requires generalist administrators.
- b. A generalist can act as a mediator between the political head and the specialist, between the government and the people, between the pressure groups and public interest.
- c. The specialists are narrow-minded and are experts only in a particular field. They "know more and more about less and less". As Paul H. Appleby stated, "the price of specialisation of every kind is parochialism". Hence the generalist, on the other hand, have a broader outlook and flexibility in their approach.
- d. The generalists are suited to higher management positions as they are much more experienced, and have high calibre, ability to manage things.
- e. There has to be a generalist civil servant at all positions to carry on managerial functions.

10.7.5 The Case for Specialists

The following is in support and favour of specialist entry and greater role in the field of administration,

- a. The IAS officers are considered to be the “Jack of all and Master of none”. They are not equipped to deal with technical aspects related to administration.
- b. In the present setup, the political head is deprived of technical and subject matter advice.
- c. The generalists are not aware of the realities in the field, hence the policies formulated by them are unrealistic and un-implementable. Only the specialists know the difficulty of implementing and the problems faced by the people in the field.
- d. The earlier era of ‘intelligent amateur theory’ does not hold good in the present times. The functions related to administration has become much more complex, technical and subject specific, hence only a specialist can deal with them effectively.
- e. The generalists are not suitable for policy making as they do not have sufficient knowledge and understanding required to resolve the problems plaguing the society.

10.7.6 ARC Recommendations

The First Administrative Reforms Commission in 1969, in its Report on Personnel Administration made the following recommendations to resolve the generalist and specialist controversy.

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.

Unified Grading structure: A unified grading structure based on qualifications and nature of duties and responsibilities was suggested.

The first ARC had set out its philosophy on domain expertise as follows:

- Devising a rational basis to fill policy-making positions with those possessing required qualifications and competence. This would involve an optimum use of different Services for secretariat assignments as also the adoption of special measures to build necessary specializations in the secretariat.
- Selecting senior management personnel from all relevant sources – generalist and specialist. For the purpose, talent should be identified and nurtured in all the services, especially among those who have not so far been inducted into the higher management positions in the secretariat.
- Providing greater opportunities to talented personnel to move to higher positions in the civil services on the basis of competence and performance.

The first ARC classified higher civil service posts into two categories: (a) posts in the field, and (b) posts at headquarters. The field posts were held by the members of the ‘functional’ services which included not only the various engineering services but also services such as accounts and income tax. The first ARC noted that the only service that was not functional but occupied most of the higher posts in the civil services was the IAS. The ARC recommended that the IAS should be converted into a functional service.

Consistent with its philosophy of organizing the administrative machinery along functional lines and inducting talent from all sources, the ARC recommended eight broad areas of specialization:

- Economic Administration
- Industrial Administration
- Agricultural and Rural Development Administration

- Social and Educational Administration
- Personnel Administration
- Financial Administration
- Defence Administration and Internal Security
- Planning

The first ARC recommended a scheme of reforms to enable entry into middle and senior management levels in the Central Secretariat from all Services on the basis of knowledge and experience in the respective areas of specialization. The ARC also indicated, in broad terms, the knowledge and specialization required for staffing posts in each of these areas. The selection of personnel to the eight areas of specialization was to be made through a mid-career competitive examination. All Class I officers belonging to the All-India and Central Services with experience of eight to twelve years in the functional areas would be eligible. The selection process would consist of a written test to be administered by the UPSC and an interview to be conducted by a committee consisting of the Chairman, UPSC and two senior Secretaries of the Government of India.

The first ARC recommended a **unified grading structure** so that posts entailing similar qualifications, difficulties and responsibilities are grouped in the same grade. The principle of equal pay for equal work was sought to be recognized for the entire country for both the Union and the State Governments and even the local bodies. It was of the view that in the absence of a careful evaluation of the work content of jobs at certain levels and the matching of scales of pay thereto, the principle of equal pay for equal work cannot be implemented. The imbalance in remuneration attached to headquarters posts and field posts and the multiplicity of pay scales for different groups was sought to be addressed by this unified grading system. For grading, it recommended that the following considerations be taken into account:

- In services that provide for postings in the secretariat and at the field level, the liability for service all over the country should be reflected in the grading system.
- For services that provide only for field postings or postings only in secretariats but not in both, the grades would have to be related to the duties and responsibilities of these posts.
- The fact that the members of the State civil services are required to work only within the State and not outside, should be reflected in their grades.
- Posts involving higher research should be graded high, even though such posts carry little or no administrative responsibility.

The Commission recommended that the number of grades should range between 20 and 25.

10.7.7 Steps Taken

The government of India has taken the following steps to resolve the generalist-specialist conflict,

1. It created the Central Secretariat Service in 1948. This created a separate cadre of permanent secretariat officers.
2. It created the Central Administrative Pool in 1957 for appointments to the higher positions in the central secretariat.
3. It created the Indian Forest Service in 1966. It is a specialist all-India cadre service.

4. It has not been including the specialists in the board of management of the public sector undertakings.
5. It had also appointed many specialists in the erstwhile planning commission.
6. It created the Indian Economic Service and Indian Statistical Service, these are both specialised central service.
7. It has been appointing specialists to the senior administrative posts, such as, the Secretary, Additional Secretary, Joint Secretary and so on.

10.8 MINISTER-CIVIL SERVANT RELATIONSHIP

The Second ARC Report in its 10th Report states the following regarding the Minister-civil servant relationship, A healthy working relationship between Ministers and civil servants is critical for good governance. While the principles governing the roles and responsibilities of Ministers and civil servants are well defined in political theory, in the actual working of this relationship this division of responsibility becomes blurred with both sides often encroaching upon the other's sphere of responsibility. In any democracy, Ministers are responsible to the people through Parliament and therefore the civil servants have to be accountable to the Minister. However, an impartial civil service is responsible not only to the government of the day but to the Constitution of the land to which they have taken an oath of loyalty. At the same time, implementing the policies of the duly elected government is a core function of civil servants. That is why the division of responsibility between the civil servants and ministers needs to be more clearly defined. A framework in which responsibility and accountability is well defined would be useful.

10.8.1 Constitutional Provisions in India

The Indian Constitution provides for separation of powers between the legislature, executive and judiciary with well-defined roles and responsibilities for each one of them. Since India is a parliamentary democracy, there is an interface between the legislature and the executive at the level of the Council of Ministers, which is collectively responsible to the legislature. In terms of Articles 53 and 154, the executive power of the Union and the States vests in the President or Governor directly or through officers subordinate to him. These officers constitute the permanent civil service and are governed by Part XIV of the Constitution.

The Rules of Business of Government do provide for the Secretary to the Government to advise his/her Minister about the course of action proposed in a particular matter and to submit to him a note which tells him about the propriety or legality of his/her orders and suggest that either such orders not be given or that they be suitably modified. The relationship between the Secretary and the Minister is organic. The Minister has the mandate of the people to govern, but the Secretary has an equivalent constitutional mandate to advise the Minister. Once his/her advice has been suitably considered, unless the Minister passes an illegal order, the Secretary is bound to implement it. The Minister, on his/her part, is required to support the Secretary who is implementing his/her order. Once a law is framed or rules and regulations are approved, they apply to everyone, whether a member of the political executive or of the permanent civil service. **A civil servant is required to implement the orders of government without bias, with honesty and without fear or favour.** It is precisely in this area that a degree of a difference of opinion often occurs between the political executive and the civil servants.

10.8.2 Civil Service in Post Independent India

In the initial years after Independence, relations between Ministers and civil servants were characterized by mutual respect and understanding of each other's respective roles, with neither encroaching upon the other's domain. However, in subsequent years, matters started changing for the worse. While some civil servants did not render objective and impartial advice to their Ministers, often some Ministers began to resent advice that did not fit in with short-term political interests. There was also a tendency for some Ministers at the Union and the State levels to focus more on routine administrative matters such as transfers in preference to policy making. At the same time, some civil servants learnt the art of 'manoeuvring' for favours in return for pliability in their decision making. This trend was further accentuated by rising materialism and acquisitiveness in society as well as decline in values across the board. As a result, 'political neutrality' which was the hallmark of the civil service in the pre-Independence era as well as in the period right after Independence, was gradually eroded. These trends led to the phenomenon of 'politicisation of the civil service' in India.

10.8.3 Areas of Friction

The areas of potential conflict in the relationship between the political executive and the permanent civil service can be identified as follows:

- a. The concept of neutrality
- b. Advisory role of civil servants in policy making
- c. Statutory role of the civil servants
- d. Discharge of delegated functions
- e. Transfers and postings of civil servants

a. The concept of Neutrality

Sardar Patel had made the following observations in the Constituent Assembly to support the continuance of the pre-independence civil service structure:-

"It needs hardly to be emphasized that an efficient, discipline and contended civil service assured of its prospects as a result of diligent and honest work, is a sine-qua non of sound administration under democratic regime even more than under an authoritarian rule. The service must be above party and we should ensure that political considerations, either in its recruitment or in its discipline and control, are reduced to the minimum if not eliminated altogether."

Unfortunately, this vision of civil service neutrality no longer holds good. Changes in governments particularly at the state level often lead to wholesale transfer of civil servants. Political neutrality is no longer the accepted norm with many civil servants getting identified, rightly or wrongly, with a particular political dispensation. There is a perception that officers have to cultivate and seek patronage from politicians for obtaining suitable positions even in the Union Government. As a result, the civil services in public perception are often seen as increasingly politicized.

The Commission is of the view that the political neutrality and impartiality of the civil services needs to be preserved. The onus for this lies equally on the political executive and civil servants. The Commission in its Report on "Ethics in Governance" while examining

the ethical framework for Ministers has recommended that a code of ethics for Ministers should inter-alia include the following:

“Ministers must uphold the political impartiality of the civil service and not ask the civil servants to act in any way which would conflict with the duties and responsibilities of the civil servants.”

As observed by Paul Appleby civil servants should not confuse ‘political neutrality’ with ‘programme neutrality’. At the stage of policy formulation, the role of civil servants is to render free and frank advice which should not be coloured by any political considerations. Once a policy or programme has been approved by the elected government, it is the duty of the civil servant to faithfully and enthusiastically see to its implementation. Not carrying out this task in the right spirit would amount to misconduct inviting appropriate sanctions.

b. Advisory role of civil servants in Policy making

Rendering policy advice to the political executive is the most important “staff function” of the civil servant. Policy making is the ultimate responsibility of the Minister. After a policy is approved by the elected government, it is duty of the civil servant to implement such policy in the right earnest whether he/she agrees with it or not. At the same time, it is the duty of the civil servant to provide the factual basis, thorough analysis of all possible implications of any measure under consideration and free and frank advice, without fear or favour, at the stage of policy formulation. It is unfortunate that at times senior civil servants get bogged down in routine administrative decision making and are unable to contribute adequately to this crucial aspect of their functions. However, for civil servants to be able to provide appropriate policy inputs, they must acquire the necessary combination of a broad perspective of the sector as well as of the Government as a whole, combined with conceptual clarity and requisite knowledge.

If a policy that is being formulated is perceived by the civil servant to be against public interest, his/her responsibility is to convince the political executive about the adverse implications of such a policy. However, if the political executive does not agree with such an advice, there is little that the civil servant can do other than putting his/her views clearly on record. It is for the other institutional mechanisms such as Parliament, the CAG, Judiciary and ultimately the electorate to hold the political executive to account for bad policy

c. Statutory role of the Civil Servants

Civil servants are required to discharge statutory functions under various legislative enactments which may sometimes be quasi-judicial in nature. The role of the executive magistrate under the Cr. PC, the role of an Assessing Officer under the Income Tax Act and of the SHO under the Cr.PC and the respective Police Acts are some examples of such functions. It has been observed that there is an increasing trend on the part of the senior functionaries both in the civil services as well as elected representatives including Ministers to interfere in such statutory functions. Acquiescence in the face of such interference is primarily the fault of the officer who has been entrusted with these statutory functions although those bringing such extraneous pressures should also be held to account.

d. Discharge of Delegated Functions

In a democracy, the ultimate executive authority for all purposes lies with the political executive which is accountable to the people through Parliament. However, like in

any large organization, Government also has to function through a hierarchy of functionaries to carry out defined tasks at different levels and in different locations. This necessitates on practical considerations the delegation of authority and responsibility to the civil servants at different levels in government. Such delegation is in line with the principles of subsidiarity which helps to take government closer to the people. The principles of sound management demand that authority and responsibility should go hand-in-hand.

It has been observed that there is an increasing tendency in government departments to centralize authority and also after having first delegated authority downwards, to interfere in decision making of the subordinate functionaries. This is an unfortunate trend and it is for those holding leadership positions in government both in the political executive and in the civil services to correct it since such centralization leads to inefficiencies and poor service delivery. It is also for the legislature to correct this trend by means of legislative enactments in certain critical areas as has been done for local bodies through Constitutional amendments (73rd and 74th) followed by State laws.

e. Postings and Transfers of Civil Servants

The National Commission to Review the Working of the Constitution made the following observations regarding transfers and postings of civil servants:

“Arbitrary and questionable methods of appointments, promotions and transfers of officers by political superiors also led to corrosion of the moral basis of its independence. It has strengthened the temptation in services to collusive practices with politicians to avoid the inconvenience of transfers and to gain advantages by ingratiating themselves to political masters. They would do the politicians’ biddings rather than adhere to rules. Lest the situation becomes more vicious, it is necessary that a better arrangement be conceived under the Constitution. The question of appointments, transfers and placements is not to be left to the discretion of the politicians or administrative bosses but be entrusted to independent and autonomous boards. The Commission, therefore, recommends that the questions of personnel policy including placements, promotions, transfers and fast-track advancements on the basis of forward-looking career management policies and techniques should be managed by autonomous Personnel Boards for assisting the high level political authorities in making key decisions. Such civil service boards should be constituted under statutory provisions. They should be expected to function like the UPSC. Reputed management experts from institutes of management, well known for their excellence, should be inducted into these boards to provide a broad based pool of expertise. The principle is not to take politics out of personnel policy but to make knowledge and information institutionally available to the political decision-makers on the basis of appropriate parliamentary legislation under Article 309. The sanctity of parliamentary legislation under Article 309 is needed to counteract the publicly known trends of the play of unhealthy and destabilizing influences in the management of public services in general and higher civil services in particular.”

Arbitrary and motivated transfers of government servants which are not in public interest and good governance have become a matter of great concern particularly in some States although the position is somewhat better at the Union Government level.

10.8.4 Minister Vs Civil Servant

Pfiffner has elaborated about the difference in activities of the Minister and the Civil servant, they are as follows,

Minister	Civil Servant
He is an amateur	He is a professional expert
He is a non-technical person	He is a technical and a subject matter and administrative expert.
He is partisan towards the interest of this party, the community to which he belongs, and the region from where he hails from.	He is non-partisan and carry out acts in a neutral manner as specified by the minister.
He is the face to the public, and hence has no contact with the public.	They work in the back ground. People do not know their faces and hence they have less people contact.
They are more involved in the formulation of the policy in order to implement the electoral promises made in their manifesto.	They have no such obligation, their involvement is less compared to the ministers, and they have other vital roles to play.
They are involved in more in the decision making process. They are the final authority to take decisions.	Their role is more advisory in nature. They render advice to the ministers regarding various aspects
Their position is of temporary nature. Their membership lasts only for a tenure of 5 years and has to be re-elected in order to gain membership again.	They hold a permanent seat. They are recruited through merit and they raise in the organisation via promotion. They only retire when they attain their super annulation.

10.9 THE CONCEPT OF MINISTERIAL ACCOUNTABILITY TO PARLIAMENT

The Public Service Committee in the Britain recommended the following as a working definition of Ministerial Accountability:

Ministers owe a fundamental duty to account to Parliament. This has, essentially, two meanings. First, that the executive is obliged to give an account—to provide full information about and explain its actions in Parliament so that they are subject to proper democratic scrutiny

Second, a Minister's duty to account to Parliament means that the executive is liable to be held to account: it must respond to concerns and criticisms raised in Parliament about its actions because Members of Parliament are democratically elected representatives of the people. A Minister's effective performance of his functions depends on his having the confidence of the House of Commons....

The Committee also considered that, as part of ministers' obligation to explain their actions to Parliament, they should make civil servants available to committees.

The following is the Resolution recommended on ministerial accountability:

1. Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their Department and Next Steps Agencies;
2. It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who

knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister.

3. Ministers should be as open as possible with Parliament, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant statute and the Government's Code of Practice on Access to Government Information (Second Edition, January 1997);
4. Similarly, Ministers should require civil servants who give evidence before Parliamentary Committees on their behalf and under their directions to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code (January 1996).

It can be seen that the resolution gives civil servants duties toward Parliament only in carrying out the requirements of their ministers.

As the Committee concluded *"it is not possible absolutely to distinguish an area in which a minister is personally responsible, and liable to take blame, from one in which he is constitutionally accountable. Ministerial responsibility is not composed of two elements which have a clear break between the two"*.

10.10 ANONYMITY OF CIVIL SERVANTS

The word anonymity means that the Civil Servants work behind the curtain without taking any praise or blame. Mohit Bhattacharya States, *"Anonymity meant that the civil servant would merely advise the politician from behind and would be protected from being exposed to the din and fury of the politics."*

The concept of anonymity requires that the Minister answer for the actions of the civil servants working under him in the parliament, and thus protect him from the criticism from the parliamentarians. **This means that the minister assumes total responsibility for all the acts of omissions and commissions of the civil servant working under him.**

The minister is the head of the ministry/department concerned and is politically responsible for its acts. He is mainly concerned with the policy making and consults his secretary on these aspects. The course of action is the prerogative of the minister. Hence he is completely responsible for the positive or negative results of the policy and not the secretary.

Therefore, the concept of anonymity is counterpart to the concept of Ministerial responsibility. This means that both these concepts go hand in hand together.

India and Britain follow the Parliamentary form of government. The concept of collective responsibility is the bedrock of the existence of parliamentary democracy. This means that the executive are responsible to the Parliament for all their acts and functions. Hence the principle of Ministerial Responsibility states that the Minister has to be responsible for the policy decisions he takes and should protect the civil servant from being exposed to the questions in the Parliament.

This concept of anonymity functions only in cases of legal and proper acts carried out by the civil servant. And thus does not protect in cases of illegal and improper acts. The Minister has to thus protect the civil servant who has acted to implement the policy within the legal boundaries. He need not protect those who are guilty of abuse of authority

for personal ends or other illegal or criminal acts. In all such cases the civil servant is guilty and is held personally responsible for his actions.

As the civil service is governed by the concept of anonymity it is not accountable to the Parliament. But it is accountable to its political executives. The minister since he is answerable to the parliament, makes the civil servant answerable to him. The scheme of accountability is so distributed that, the Minister is accountable to the Parliament and the Civil servant is accountable to the Minister.

The Chagla Commission was constituted after the Mundhra Scandal to enquire into the issue concerning the Life insurance Corporation of India made to by private shares. The commission held in its report that, *“constitutionally the minister is responsible for the action taken by his secretary. He cannot take shelter behind them nor can he disown their actions.”* Thus the Chagla commission upheld the principle of Ministerial Responsibility and the concept of anonymity of civil service.

10.1.1 CIVIL SERVICE NEUTRALITY

Neutrality implies political impartiality or non-political nature of the civil service. It means that the civil servants should remain politically neutral and be non-political and serve the government of the day impartially. They should render free and frank advice to the executives without any consideration. They should be,

- Objective
- Apolitical
- Dispassionate
- Non-partisan
- Professional

And should do their job with efficiency, loyalty, integrity and dedication.

According to Mohit Bhattacharya, neutrality means, ‘a kind of political sterilisation, the bureaucracy remaining unaffected by the changes in the flow of politics....There might be changes in political leadership, but the civil servant would be unfailingly offering “technical” advice to the political master keeping himself aloof from the “politics” of the day.’

According to R.B.Jain, *“Political neutrality not only meant the absence of political activity or bias on the part of the individual member of the bureaucracy but also that the bureaucracy would respond to the will of the government, no matter what its political complexion be.”*

10.1.1.1 Assumptions Based on which Neutrality is Envisaged

The following are the assumptions based on which the political neutrality is advocated.

- a. In a liberal democracy having multi-party system, the government and the party governing changes generally after every elections. Hence under these circumstances, the neutrality of civil service is precondition for the efficient functioning of the government. Thus it helps in serving the government of the day with same vigour and enthusiasm.
- b. The neutrality rests on the basic principle of merit system. As the civil servants are recruited through a formal system, they do not owe their allegiance to any political party. This helps them to remain neutral, non-partisan and serve the government effectively.

- c. According to Gerald E. Caiden, the merits of the neutral bureaucracy, viz. continuity, permanency, professionalism, and reliability far outweigh the disadvantages such as, incrementalism, conservatism and reluctance to change.
- d. According to Masterman Committee, *“the public interest demands, maintenance of political impartiality in the civil service and of confidence in that impartiality as an essential part of the structure of the government.”*
- e. The ‘spoils system’ and the ‘politicised bureaucracy’ are not the desirable alternatives of a ‘neutral bureaucracy’, which is permanent and laudable.
- f. According to the UN handbook, political neutrality, *“is an essential complement to the merit system, for it guarantees that the career officials...will give the government, whatever its political make up, absolutely impartial advice, criticism and assistance in any matter which concerns it.”*

10.11.2 Breakdown of The Concept of Neutrality

The concept of neutrality is presently not in vogue. Though it was thought to be an essential characteristic, a number of factors have caused for it to change. According to R.B.Jain the following are the reasons for the breakdown of the concept of neutrality in civil service:

1. The decision making in the policy initiatives is not the prerogative of the political executives alone, the civil servants play an important role in such decision making process.
2. The civil servants are involved in the sphere of politics via policy formulations, implementations, its execution and legislation, these acts are generally political and is difficult to distinguish it from non-political acts.
3. Civil servants being humans is difficult to be remain neutral in all scenarios, issues and problems. There is always some degree of subjective bias in issues affecting them, which cannot be eliminated from their judgments.
4. During the performance appraisal of the top-civil servants an element of political assessment comes in.
5. The civil servant assume the role of the leadership, and this is especially so in the developing countries which are engaged in socio-economic upliftment and restructuring.

10.12 PROBLEMS OF BUREAUCRATISATION

Though the bureaucracy leads to efficiency, it also on the other hand leads to other problems. The following are some of the problems that arise because of the bureaucratisation:

- Bureaucratisation results in emphasis of routine and detail in work, this results in red tape or delay.
- The bureaucracy has a tendency to keep on expanding, and hence in course of time the funding to a large extent goes for the payment of the bureaucrats instead of meeting the developmental objectives.
- In developing countries, since other organs of governance, such as the civil society, pressure groups etc. are not well established, hence the bureaucracy acts without any restraint with no one to control or question them.
- The politicians are amateurs and often have to heed the advice of the much experienced and knowledgeable civil servants.

- The aim of the politicians generally is to formulate the policy for the people and they are responsible for them, the civil servants on the other hand have no such compulsion, they are thus work for their own self-aggrandizement.
- It is generally understood that the bureaucracy has to be under the control of the elected representatives. But in the developing countries the bureaucracy is more powerful and holds the political office below them.
- In some of the countries, the military and the civil servants remove the democratically elected government and assume power themselves and start ruling the country. Such dictatorship can be seen in some developing countries.
- Lack of professionalism and poor capacity building
- Inefficient incentive systems that rewards the corrupt and the incompetent and not the upright and honest.
- Outdated rules and procedures that limit the civil servant from performing effectively.
- Systemic discrepancies in promotion and empanelment
- Lack of proper transparency and accountability procedures - there is also no safety for whistle blowers
- Arbitrary and capricious transfers – insecurity in tenures impedes institutionalization
- Political interference and administrative submission
- A gradual erosion in values and ethics
- Patrimonialism

10.13 ADMINISTRATIVE REFORMS

The following are the reforms given in the Second Administrative reform commission as compiled by FICCI in its handbook on 2nd ARC.

10.13.1 Strengths and Weaknesses of Indian Administration

The reasonably swift and efficient response of our administration to a series of major natural calamities – the Tsunami of December 2004, the Mumbai floods of July, 2005, and the recent earthquake in Jammu & Kashmir - demonstrates that in times of crisis we are able to marshal our resources effectively. All these and competent election management show that we have an impressive administrative infrastructure and it responds well when objectives are clearly defined, resources are made available and accountability is surely enforced.

69. In general there is high degree of dissatisfaction in society on account of unfulfilled expectations and poor delivery. One reason why we are not able to overcome our weaknesses is the incapacity to institutionalize the best practices from our own country and elsewhere. For this, a conscious effort not only to identify and document best practices but also build policy and create new structures and institutions to allow mass replication needs to be made.

In general, the positive power to promote public good seems to be severely restricted, making it difficult for even the most conscientious and competent functionaries to deliver optimal results. The systemic rigidities, needless complexity and over centralization have made most elected politicians and appointed public servants ineffective and helpless. But the negative power of abuse of authority in pursuit of pelf, privilege and patronage, or harassment of public through flagrant violation of law, petty tyranny and nuisance value is virtually unchecked. This imbalance in the exercise of power is at the heart of the crisis of governance. As a result most

agencies of government are functioning sub-optimally, and government programmes have not yielded the desired results. At most levels authority is divorced from accountability, leading to a system of realistic and plausible alibis for non-performance. Most functionaries are thus caught in a vicious cycle.

10.13.2 Priority Action Areas

There are two fundamental, interrelated objectives, which need to be achieved in the coming decades. The first is the fulfilment of human and national potential. This entails prevention of avoidable suffering and ensuring human dignity, access to justice and opportunity to all Indians so that every citizen is a fulfilled and productive human being. Only then can we realize our potential fully and play our rightful role in the global arena, protecting the vital interests of present and future generations, and promoting global peace, stability and prosperity.

Human development takes place through access to good quality education and health-care to make every citizen productive and fulfilled. Despite our long-standing commitment to these goals, the results are uneven and far from satisfactory. Allocation of resources is undoubtedly inadequate leading to huge unmet demand. Even what is spent is not very productive in outcomes. Most of the nation's gene pool is wasted because of inadequate and poor quality of school education. Higher education too is not very successful in promoting excellence of producing service providers, leaders, managers and wealth creators, for the future. The public health system has also been unsatisfactory and inadequate, private health expenditure, which already accounts for about 80% of total expenditure, is growing (14% per annum) much faster than GDP. The resultant high cost and poor access seriously undermines human development.

The third broad area is infrastructure and sustainable natural resource development. While the economic aspects of these are well-recognized, the governance challenges are not adequately addressed. For instance, effective land administration is crucial to capital formation in agriculture and soil conservation. Energy plantation and biofuel production would require great administrative innovation and grassroots coordination. Urban management involves much more than resource allocation for infrastructure and poses formidable challenges of governance. Power distribution management through local people's involvement and ownership in a consumer-friendly way is more a governance issue than an economic or tariff problem. We need to create innovative modes of governance in dealing with such challenges.

Another area which needs special attention is the changing nature of federalism. The last decade has witnessed significant maturing of our federalism. The states are increasingly empowered to determine their own policies and programmes, and the union is ever more sensitive to local needs. However, the role of the Union is expanding in a substantial measure in recent years in new ways. Education, healthcare, rural and urban development and social security are either state subjects, or largely under state jurisdiction. And yet, the services are increasingly driven by union policies and funds. Paucity of resources at state level, need for standardization of services, compulsions of reducing regional disparities, and the imperatives of meeting the challenges of a growing economy in the modern world have necessarily enlarged the Union's role in these sectors. However, we need to carefully design mechanisms to monitor these programmes and enforce accountability at the local level, even as the desired outcomes are achieved, and the constitutional scheme of division of powers is fully respected.

- Propensity to centralize has been the dominant feature of our administration.
- We need to truly redesign government on the basis of the principle of subsidiary.

- A task which can be performed by a small unit should never be entrusted to a large unit.
- Only when economies of scale and technical complexity demand entrustment to the larger tier should it be done so.
- All the financial devolution and personnel transfer should match functional domain determined on this basis.
- The citizen will therefore see the link between his vote and public good, and monies can be traced to services delivered.
- The structure of local governments envisaged in the 73rd and 74th Constitutional amendments is now in place, but the soul of self-governance and empowerment is largely missing.
- Hence because of the economic reform process, the states have come into their own, and yet the Union has in recent years discovered a more meaningful and strategic role for itself.
- Local government empowerment need not mean weakening of states. States must be enabled to discover their vital role in providing strategic inputs and leadership even as local governments deliver most of the basic services.

Pervasive corruption is the most disturbing element of our governance. Happily, recent years witnessed encouraging trends in certain sectors. Wherever competition, choice, transparency and technology have been introduced, corruption has dramatically declined. However, in other core sectors where the state's role is critical, corruption continues unchecked. There are signs of growing corruption in some of these state controlled sectors, indicating a shift from the traditional forms of corruption. Police, criminal justice system, healthcare delivery, public procurement and contracting, transfers and postings of officials, tax collection and land administration are areas, which are by nature fully or substantially state-controlled. Corruption is either continuing or growing in these sectors, as the inexhaustible demand for illegitimate funds in our governance system continues unabated. Clearly far-reaching political and electoral reforms to transform our political culture and alter the nature of incentives in public life are the need of the hour.

10.13.3 Good Governance

Governance is admittedly a weak link in our quest for prosperity and equity. We have an impressive governance infrastructure and significant successes to our credit. But we need to refashion the instruments to suit the emerging challenges. The quest for good governance - governance which is efficient, citizen centric and is rooted in a sound value system, is based on three inter-related fundamental ideas.

- The first is rule of law. Rule of law requires that laws and their implementation should be transparent, predictable and credible, and that those who make and implement laws should be accountable for their decisions. While the government of the day is accountable to the legislature, at the operating levels of administrations this accountability is often lacking. A steady pulse in the recommendations of the Commission is thus the emphasis on accountability at each level of administration and minimization of unfettered discretion in decision making. From accountability of decision making flows credibility, predictability and transparency.
- The second fundamental idea is to put the citizen first. All too often the relationship between the State and the citizen is a master client relationship, with the citizen reduced to the status of a supplicant. This has to go. Systemic changes along with information technology makes it possible to reduce, if not eliminate altogether, the time and trouble

involved in the citizen's contact with the State. It also makes it possible to introduce automaticity in decision making. The State has no look upon itself as a service provider, and, as in many cases the State is a natural monopoly, the Commission has made a number of recommendation to curtail monopolistic behaviour by State agencies.

- The third most important idea is the citizen's participation in decision making. In our scheme of things the Union Government being the furthest removed from the day-to-day life of the citizen represents the principle of rationality. The State Governments, because of the sheer size of constituencies also tends to be removed from the daily concerns of the citizen. It is the third tier of governance, the panchayats and the municipal bodies, which is the closest to the citizen and can represent the principle of concern. Hence, it is necessary that there is greater devolution of powers, from the Union to the State Governments and from the State Governments to local bodies, and that the local bodies function in appropriate units that allow participation of every citizen in decision making. This devolution will not weaken either the Union or the States: in fact it will strengthen them by enabling them to focus on matters they are uniquely equipped to address.

The 2nd ARC has noted the need for real decentralization of power with effective institutional checks for greater control by citizens on how they are governed. Judicial and police reforms need to ensure speedy, efficient and accessible justice and swift, sure and severe punishment for abuse of office. Self-regulatory mechanisms to uphold standards in professional groups are another area that requires urgent attention in the changing context. Finally, measures of accountability including the recently enacted Right to Information, well-designed citizen's charters with penalties for nonperformance, independent and effective anti-corruption agencies, citizen involvement in the fight against graft and leakages will surely expose corruption much more easily and enforce compliance with acceptable norms of public conduct.

10.13.4 Political and Executive Capability

Political direction of the administration is the essence of democracy and the 73rd and 74th amendments to the Constitution have expanded the scope of political decision making. This casts a great responsibility on the political parties, to educate and train their functionaries in administrative decision making.

Every State has its 'establishment', which is usually its civil service. From 1858 onwards the civil services have provided the 'establishment' of the Indian State, often through difficult and trying times. The structured merit-based recruitment and placement of civil servants in different cadres was seen as one of the methods of unifying the country after Independence. Today there is considerable managerial talent available outside the civil services. Ministers can draw upon a very large base of intellectual expertise not available in the Government. The Commission has made several suggestions on nurturing talent for the 'establishment' of the Indian State from an early age, sustaining their morale and skills, upgrading the Services throughout their career and the induction of fresh talent at appropriate stages.

10.13.5 Functional Review and Rationalization

Efficient discharge of government business is hampered by horizontal and vertical dispersal of decision making. Single or strongly related subjects are often administered in different

ministries. The resultant narrow focus of Ministries entail that coherent points of view, or policy, emerges only after extensive and prolonged consultations. Such delay could be avoided by having Ministries that can take a holistic view of the subject. This would also result in governments which are more compact and in which coordination is quicker and easier. In the existing government structure issues are examined at too many levels, and the contribution of some of them is minimal. These levels need to be reduced to a rational number. The commission has made suggestions on internal working of ministries and departments. The Commission has also recommended creation of effective Executive Agencies with well-defined role and functions. This would facilitate the Ministries to focus more on policy making and analysis while the projects/programmes are implemented by the Executive Agencies.

10.13.6 Budgeting and Audit

Budgeting and Audit are critically important tools of governance. The mis-match between plan and budget classification needs to be ironed out to permit rigorous monitoring of expenditure. An expert group needs to look at accrual based budgeting. Ministries need to be realistic in making their estimates of expenditure so that large unspent balances do not remain at the end of the year. A multi-year perspective would be helpful in dealing with this. Audit is often seen as an adversarial exercise, which it need not be. While Auditors have to be sensitive to administrative compulsions, Ministries and Department need to understand that audit is an instrument for enhancing administrative efficiency. There is a need for better understanding and synergy between auditor and auditee for improved accountability and audit impact.

(a) **PC Hota Committee Report on Civil Services Reforms (Extracts of some important recommendations from the committee report)**

Introduction

The Civil Services, in India, is widely recognized has steel frame of administration because of their indispensable contribution towards the consolidation and administration of our country. Civil Service Reform in India is a difficult exercise considering the great diversity of our population, language, culture, infrastructure and the institutions of governance. We are the world's largest democracy with an area about 3.2 million sq.km. and over a billion people. Civil service reforms also have to take into account constitutional provisions governing the distribution of powers between the Union, the States and the institutions of local government.

There have been several studies in the past on civil services reform, few of them, before Independence, are royal commission on public service in India (1912-1915) and Royal Commission on superior civil service in India (1923-1924). After Independence the Secretariat Re-organization Committee under the chairmanship of Sir Girijashankar Vajpayee (1947); the Committee on Reorganization of Government of India headed by Shri Gopalaswami Aiyangar, the Report on Public Administration (1951) by Shri A.D. Gorwala and the reports of 1953 and 1956 by Paul Appleby.

Continuing with the legacy, the Government of India on 03 February 2004 with comprehensive terms of reference to examine the whole gamut of civil service reforms and to submit our Report within a period of six months. The terms of reference are as follows:

- (i) Making the Civil Service
 - responsive and citizen-friendly
 - transparent
 - accountable
 - ethical in its (a) actions and (b) interface with the people,
- (ii) Making the civil service egovernance friendly.
- (iii) Putting a premium on intellectual growth of civil servants and on upgrading their domain knowledge
- (iv) Protecting the civil service against wrongful pressure exerted by
 - a. administrative superiors
 - b. political executive
 - c. business interests
 - d. other vested interests.
- (v) Changes, if any necessary, in the various All India Services Rules and Central Civil Rules to provide a statutory cover to the proposed civil service reforms.

Term of Reference One: Making the Civil Service Responsive, Transparent, Accountable and Ethical

There is no formal arrangement by which Departments and Ministries of Government of India validate their programmes from the point of view of the common man or the beneficiary. To make the civil service citizen-friendly, each office/Department/Ministry must identify the points of citizen interface in their programmes. In other words, services to the common people, which are expected to be delivered by the office/Department/Ministry, need to be identified in consultation with the beneficiaries. The office/Department/Ministry will also have to benchmark the quality of services and the period within which services can be delivered. The grievance redressal mechanism should be strengthened and held accountable so that a common citizen will know the officer he can contact if he has a grievance and the time required to attend to the grievance.

1. To mould young entrants for the higher civil service through training, government may go back to the period from 1948 till 1971 when the age of eligibility was 21-24 years for general candidates (as against 21-30 years for general candidates at present) with five years age concession for members of the Scheduled Castes/Scheduled Tribes. Age concession for candidates of the Other Backward Classes may be three years as at present.
2. As no competitive examination will be proof against selection of a few unsuitable candidates, Directors of Training Academies may invoke the Probation Rules to weed out unsuitable officer-trainees.
3. Officers must have Annual Performance Plans. Invariably an Annual Performance Plan will be a component of the Action Plan/Vision Statement of the Department/Ministry and its strategic long-term plan. Wherever possible, performance targets must be quantified. If it is not possible to quantify the targets, some other mode of target setting be done to ensure that an officer is held strictly accountable for performance.
4. After 15 years of service, a rigorous review be carried out of performance of civil servants based on the earlier quinquennial review of performance. If an officer is not

honest and performance-oriented, he be weeded out of service on completion of 15 years on proportionate pension. An officer should also have the option to retire on proportionate pension after 15 years of service. A similar review be carried out subsequently at periodic intervals to determine if performance level of an officer has fallen sharply/if there are allegations against an officer's integrity.

5. Each Department/Ministry should be required to identify the points of citizen interface, benchmark the quality of services and strengthen the existing grievance redressal mechanism.
6. Officers of the higher Civil Service must supervise work of junior functionaries by regular visits and inspections. All officers of the higher Civil Service must put on the website/print media their contact telephone numbers during office hours. Every Ministry/Department/ Office having large public interface must have a few toll free telephone numbers with voice mail facility.
7. Junior officers at the cutting edge level of administration should be given training in customer service, attending to phone calls and resolving public grievances.
8. Rules under the Freedom of Information Act 2002 be notified immediately. The implementation of the Act be reviewed after three/four years by an independent Task Force.
9. The Official Secrets Act be modified to cover only the essential minimum requirements of national security, public order and individual privacy.
10. All officers having a public interface to wear name badges while on duty.
11. The duties, functions and responsibilities of all senior posts be laid down and publicized.
12. After every five to seven years in service, a civil servant should spend at least two months with a non-government organization, academic institution or the private sector.
13. ISO 9000 be introduced for government offices.
14. A full time officer should be posted in the Information and Facilitation Centre and each Department should attend to public grievances.
15. Annual Property Return of all public servants be put on the website.
16. Rules be framed under the Benami Transactions (Prohibition) Act 1988 for attachment/forefeiture of benami/ill-gotten property of corrupt public servants.
17. Article 311 of the Constitution be amended to enable President/Governor to dismiss/remove public servants summarily in case of corrupt practice/having assets disproportionate to known source of income. The officer concerned may be given post decisional hearing to prove his innocence. To ensure natural justice, such post-decisional hearing has been held to be constitutionally valid by the Supreme Court of India.
18. Under the overall control of the Central Vigilance Commission, committees of experts be set up in various Departments to scrutinize cases of officers before initiating departmental action for corrupt practices/launching prosecution against them under the Prevention of Corruption Act 1988. Such a reform will encourage honest officers to take bold commercial decisions in the public interest without the lurking fear of a vigilance/CBI inquiry.

19. Section 13 (1) (d) (iii) of the Prevention of Corruption Act 1988 be amended so that civil servants are not incriminated for taking bona fide commercial decisions in the public interest.
20. Every programme of government should specify the deliverables in terms of services. Functioning of government offices having large interface with the common man should be assessed once in three/four years by independent organizations.
21. Citizen Centres should be set up to build capability for analyzing and suggesting changes in government policies. The civil service training institutes should perform the nodal role in this behalf.
22. Each Department of the Government should develop an internal evaluation mechanism on the basis of clearly laid down parameters. The result of such evaluation should be part of the Annual Administration Report. Departments should be held accountable for outcomes and there should be a sharp focus on service delivery.
23. A State of Governance Report should be brought out evaluating the performance of each State on the basis of a set of parameters of good governance.

Term of Reference Two: Making the Civil Service e-Governance Friendly

‘e-Government’ is the use of Information and Communication Technologies (ICT) to transform government by making it more accessible, effective and accountable. e Government includes: (a) Providing greater access to information in government; (b) Promoting participation in government by enabling members of the public to interact with government officials; (c) Making government more accountable by making its operations more transparent and thus reducing opportunities for corruption; and (d) Providing development opportunities, especially benefiting rural and traditionally under-served communities.

24. Points of public interface in government should be identified for focused attention and improvement. Within a period of two years the procedures in the areas of public interface should be simplified and electronic service 97 delivery for the common people be introduced. Each Department/Ministry may lay down a time schedule to extend service delivery through electronic means.
25. To provide a clean, honest and transparent government, antiquated rules and procedures in Government must be discarded and new simplified ones be put in place. Such an exercise is absolutely essential for introduction of e-governance.
26. e-Governance can augment efficiency and ensure transparency in government. The Andhra Pradesh experiment of identifying officers as Chief Information Officers to be trained in the Indian Institute of Management, Ahmedabad, in e-Governance is a noteworthy initiative. New entrants to the Civil Service have adequate hands – on experience with computers and the internet and they could be sent periodically for further training in application of e-Governance.
27. Each Department should identify skill gaps keeping in view its functions and take steps to train the required number of people.
28. The National Informatics Centre (NIC) should function as a vehicle for disseminating best practices across the country.
29. Officers posted as Chief Executive of e-governance projects should be given reasonable tenure and held accountable for results.

30. The administrative and financial flexibility required for introducing innovative e-governance measures should be identified and operationalised.
31. The Minimum Agenda for e-Governance should be carried forward and each Department is required to identify specific activities which will be e-enabled in the next 12 months.
32. Departmental examination should include a practical test on the ability to use and apply computers.
33. Each Department/Ministry should have its own website of basic information relating to the Department/Ministry and the website be available for registering public grievances.

Term of Reference Three: Putting a Premium on Intellectual Growth

During public consultations, the committee was approached by several Group 'A' services including the Indian Information Service, the Indian Trade Service and the Indian Economic Service, who highlighted what they described as the less than ideal conditions under which their cadres are being managed. It was pointed out that apart from the stagnation at various levels, some of these services no longer serve the purposes for which they were set up. Their services are no longer being utilized optimally, leading many officers to leave the service or seek premature retirement. It may be true that the requirements of the Departments have changed and the service concerned is no longer in a position to meet them. If it is decided that a particular service is no longer required or requires a different set of skills, steps should be taken to either upgrade the skills of the existing incumbents or modify the recruitment processes to achieve the desired outcome. Continuing with a set of demoralized and demotivated group of senior civil servants is neither in the interest of the government nor that of the officers concerned.

34. Each Department/Ministry should undertake a review of the particular service of which it is the Cadre Controlling Authority to ensure that officers of the service are used optimally, promotion prospects for them are adequate and skill levels of officers are upgraded periodically. Each Department/Ministry should undertake a skill needs assessment to identify required skills and upgrade skill levels.
35. Civil servants should be encouraged to move laterally to non-government organizations.
36. Government should actively support and encourage outstanding work done by civil servants through National/State awards and commendations.
37. The initiative taken by the Department of Personnel and Training to provide funds to the Indian Institute of Management, Bangalore to develop a two-year course for officers of the IAS at mid-career level is a worthwhile experiment. Similar training programmes be devised for the Indian Police Service, the Indian Forest Service and other Central Services.

Term of Reference Four and Five: Protecting Civil Servants Against Wrongful Pressure and Changes in All India Service Rules and Central Civil Service Rules

Article 309 of the Constitution provides that "Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State, provided that it shall be competent for the President, or such person as he may direct, in the case of services and posts in connection

with the affairs of the Union, and for the Governor of a State, or such person as he may direct, in the case of services and regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.”

38. In the proposed Civil Service law, the highest political executive shall continue to be the final authority to order transfer of any officer before his tenure is over; but he will be expected to give due consideration to Report of the Administrative Inquiry/ views of the Civil Service Board/Establishment Board and record reasons on the need for premature transfer of an officer. It is reiterated that the political executive shall have the final authority to transfer an officer at any stage in the public interest. An officer aggrieved by order of premature transfer can agitate the matter before a three-Member Ombudsman, who may, where suitable, award monetary compensation to the aggrieved officer. The constitution of the Ombudsman will be the same as the Ombudsman proposed for the Disputes Redressal Council. The President/Governor shall receive reports from the Ombudsman and shall lay an Annual Report on such transfers on the table of the Legislature. There should be a suitable provision in the law to enable States to adopt it and make it applicable in the States without going through the long process of drafting a law and get it passed in the Legislature.
39. The proposed comprehensive law on the Civil Service shall incorporate, inter alia, a Code of Ethics and a statutory minimum tenure in a post to an officer. Under the proposed law, if an officer is sought to be transferred before his tenure, there would be an expeditious administrative inquiry by a designated senior officer to be earmarked for this purpose. This can be dispensed with if the transfer is on promotion/deputation/foreign training. In all other cases, the Report of Inquiry with the views of the Civil Service Board/Establishment Board would be put up to the Chief Minister if officers of the All India Service/other civil services work in the States, or the Appointments Committee of the Cabinet if the officers work under the Central Staffing Scheme. For the officers of the other Central Services 100 working in Ministries/Departments but not under the Central Staffing Scheme, the new law will prescribe a tenure with a provision for administrative inquiry before an officer is sought to be transferred except on specified grounds.
40. The recommendation of the Surinder Nath Committee (July 2003) for increasing the domain knowledge of IAS officers be implemented. Similar exercise be undertaken to increase domain knowledge of officers of the other two All India Services and officers of the Central Services.
41. Officers of the All-India Service on deputation to their home State must invariably report back to their parent cadres on expiry of their periods of deputation. Only one term of deputation for an officer of the All India Service be allowed to the home State and that too to attend to urgent personal problem. The exemption at present available for officers of the North-East/Jammu & Kashmir cadres in matters of deputation may continue. Any violation of this stipulation will attract a major penalty proceeding and also be taken into account while considering the officer's empanelment/promotion. Such a stipulation would also be applicable to officers of the Central Service who go

on deputation to different State governments and to officers who go on deputation to international agencies/foreign governments.

42. Introduction of sophisticated technology alone would not make the administration people-friendly unless higher civil servants' have a proactive attitude and reach out to the common people. They must spend much more time in field visits, inspections, tours and night halts in remote and rural areas.
43. As officers of State Services appointed to All India Services by promotion also have to play leadership roles, they should face an Interview by the Selection Board. The Interview will not be a test of knowledge but will be only a test of leadership qualities.
44. The selection for promotion to All India Service will be made on an overall assessment of suitability of officers on basis of record of service and the Interview Test, Not more than 50% of the officers in a batch should make it to the Senior Administrative Grade. 30% should be the upper limit for Higher Administrative Grade and 20% for the highest grade of Secretaries to Government of India.
45. As there are large number of senior officers of the All India Service in different cadres, in selected districts, senior officers of the rank of Commissioners/Deputy Inspector Generals of Police/Conservators of Forests may be considered for posting as District Magistrates/Senior Superintendents of Police/ Divisional Forest Officers. The practice of posting very senior/Commissioner level officers in districts was prevalent before Independence and even for a few years after Independence. It is still prevalent in some States.
46. If the Establishment Board, after giving the views of the Minister in charge, who is a Member of the ACC, its utmost consideration, fails to change its original recommendation regarding the posting of an officer under the Central Staffing Scheme, the Cabinet Secretary may send the proposals of the Board with observations of the Minister in charge through the Home Minister, who is a Member of the ACC, to the Prime Minister, who heads the ACC for a final decision.
47. Steps be taken to reduce the number of officers who are empanelled for senior posts under the Central Staffing Scheme.
48. A member of the higher Civil Service would be debarred from being appointed as a Private Secretary or Officer on Special Duty to a Cabinet Minister / Minister of State in Government of India or in a State subject to certain stipulations. Ministers may have one of the officers of the civil service in their Department/Ministry to function as Private Secretary for a continuous period of two years only. The stipulation that no officer of a Civil Service can be Private Secretary of a Minister in the States or in the Central Government for more than two years may provide for an exception in case of the Prime Minister and the Chief Ministers.
49. Members of the All India Services and the Central Services, who are regular recruits through competitive examinations and who are unable to get promoted to the higher levels in their respective service due to non availability of posts, may be allowed the next higher grade as personal to them a year before retirement on superannuation. Such up gradation shall be available only to officers with proven record of efficiency and integrity.
50. Suspension from service of All India Service officers by the State Government will be invalid if not confirmed by the Government of India within a period of 60 days.

51. Under the new Civil Service law, a member of the higher civil service should not be appointed to any statutory commission or a constitutional authority after his retirement on superannuation. To insulate him from the temptation of post-retirement assignment, he should be appointed to such statutory bodies/Constitutional Authority only when he is not over 55 years of age so that he can demit office from these Commissions and Authorities after serving for five to six years.
52. There is a case for better compensation package for members of the higher civil service. Such compensation must bear a reasonable comparison with compensation for executives in the private sector. Issues related to a better package of compensation to the higher Civil Services may be referred to the next Central Pay Commission.
53. There should be a cooling off period of at least two years after resignation/retirement before a civil servant can join a political party and contest elections to any political office. No civil servant can be appointed to the high constitutional office of Governor of a State unless a period of two years elapses between his resignation/retirement and his appointment as a Governor.
54. The recommendations of the National Police Commission relating to tenure of senior police officers, independent review of the work of police departments and streamlining the powers of arrest should be implemented. The recommendations of the Malimath Committee on criminal justice system be also implemented.
55. The procedure for reimbursement of medical expenses of civil servants should be simplified so that quality medical services are available from recognized private hospitals without having to report to the CGHS on each occasion of ailment. The facilities available at the CGHS hospitals also need to be strengthened.
56. To increase the representation of women in the civil service, it is proposed that within 15 years, at least 25 percent members of the higher civil service should be women as against 12 to 13 percent women at present. Women in the higher civil service be given four years of leave with full pay in their entire service career over and above the leave due to them under the normal leave rules. Such facility will enable them to balance their roles as officers with their roles as mothers/housewives.

Term of Reference Six: Changes in Rules Governing the Disciplinary Proceedings

The rules provide different procedures for imposing major or minor penalty on the Charged Officer. The decision to initiate major or minor penalty procedure is taken by the administrative Department/competent authority in consultation with the CVC in case of any allegation of malpractice/lack of integrity. In many cases, major penalty proceedings are resorted to even in cases where minor penalty proceedings would suffice. We feel that Administrative Department/Disciplinary Authority may scrutinize the allegations more carefully and resort to minor penalty proceedings where the circumstances involve minor infringements of rules or procedural irregularities. Minor penalty proceedings can be concluded expeditiously as the Disciplinary Authority can take a decision regarding guilt of the charged official only on receipt of his explanation to the charge-sheet whereas a major penalty proceeding requires adherence to very elaborate procedure with appointment of an Inquiring Authority, examination and cross examination of witnesses, and scrutiny of documents produced as exhibits in the inquiry by either the Presenting Officer or the charged official.

57. To eliminate delay in disposal of a disciplinary inquiry, the Union Public Service Commission need not be consulted in case of a civil servant facing charges of corrupt practice and whose case has been referred to the Central Vigilance Commission for the first stage/second stage advice. If however the officer is penalized in the inquiry and prefers an appeal, the case may be referred to the UPSC for advice on the appeal petition.
58. Where minor disciplinary proceedings are sufficient to meet the end of justice, major penalty proceedings which are lengthy and time-consuming should not be initiated.
59. An Inquiry Officer should be relieved from his normal duties for a sufficient period to enable him to complete the departmental inquiry expeditiously and submit the report.
60. A database on disciplinary cases should be maintained to keep track of their progress.

Term of Reference Seven: Any Other Matter

61. An Employees Health Insurance Scheme on the pattern of defence forces should be introduced for the civil service.
62. A high level Selection Committee having a representation of the Chairman, Union Public Service Commission be established to prepare a panel of two names for appointment of one of them as a member of the State Public Service Commission by the Governor of a State. Similar High Level Selection Committee be constituted to recommend a panel of two names for appointment of one of them as a Member of the Union Public Service Commission by the President. Similar Committees be constituted to recommend panel of suitable names for other high level statutory and constitutional appointments such as Securities and Exchange Board of India, Telecom Regulatory Authority of India, Insurance Regulatory Authority, the Election Commission, the Comptroller & Auditor General to which retired civil servants are usually appointed.
63. To minimize litigation on service matters, in every Department/ Ministry there would be a Dispute Resolution Council (DRC) comprising a retired official as Chairman and two serving officers as members. The decision of the DRC shall be invariably implemented. In case of disagreement orders of Core Group of Secretaries/Cabinet Secretary be obtained before DRC's report is acted upon. Similar Dispute Redressal Councils be set up by State Governments.
64. To ensure that the issues relating to the civil service get focused attention at the highest political level, the Empowered Sub-Committee on Governance of the National Development Council should go into the policy issues of the civil service and make suitable recommendations.

(b) Central Civil Services (Conduct) Rules, 1964 (Updated)

General

1. Every Government servant shall at all times--
 - (i) maintain absolute integrity;
 - (ii) maintain devotion to duty; and
 - (iii) do nothing which is unbecoming of a Government servant.
 - (iv) Commit himself to and uphold the supremacy of the constitution and democratic values: defend and uphold the sovereignty and integrity of India, the security of the State, public order, decency and morality;

- (v) maintain high ethical standards and honesty;
 - (vi) maintain political neutrality;
 - (vii) promote the principles of merit, fairness and impartiality in the discharge of duties;
 - (viii) maintain accountability and transparency;
 - (ix) maintain responsiveness to the public, particularly to the weaker section;
 - (x) maintain courtesy and good behaviour with the public;
 - (xi) take decisions solely in public interest and use or cause to use public resources efficiently, effectively and economically;
 - (xii) declare any private interests relating to his public duties and take steps to resolve any conflicts in a way that protects the public interest;
 - (xiii) not place himself under any financial or other obligations to any individual or organisation which may influence him in the performance of his official duties;
 - (xiv) not misuse his position as civil servant and not take decisions in order to derive financial or material benefits for himself, his family or his friends;
 - (xv) make choices, take decisions and make recommendations on merit alone;
 - (xvi) act with fairness and impartiality and not discriminate against anyone, particularly the poor and the under-privileged sections of society;
 - (xvii) refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices;
 - (xviii) maintain discipline in the discharge of his duties and be liable to implement the lawful orders duly communicated to him;
 - (xix) maintain confidentiality in the performance of his official duties as required by any laws for the time being in force, particularly with regard to information, disclosure of which may prejudicially affect the sovereignty and integrity of India, the security of the State, strategic, scientific or economic interests of the State, friendly relation with foreign countries or lead to incitement of an offence or illegal or unlawful gain to any person;
 - (xx) perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities.
2. (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority;
- (ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior;
- (iii) The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter;
- (iv) A Government servant who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.

Promptness and Courtesy

No Government servant shall

- a. in the performance of his official duties, act in a discourteous manner;
- b. in his official dealings with the public or otherwise adopt dilatory tactics or wilfully cause delays in disposal of the work assigned to him.

Observance of Government's Policies

Every Government servant shall, at all times-

- (i) act in accordance with the Government's policies regarding age of marriage, preservation of environment, protection of wildlife and cultural heritage;
- (ii) observe the Government's policies regarding prevention of crime against women.

Prohibition of Sexual Harassment of Working Women

1. No Government servant shall indulge in any act of sexual harassment of any woman at any work place.
2. Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at the work place.

Employment of Near Relatives of Government Servant in Companies or Firms

1. No Government servant shall use his position or influence directly or indirectly to secure employment for any member of his family in any company or firm;
2. (i) No Class I Officer shall, except with the previous sanction of the Government, permit his son, daughter or other dependant, to accept employment in any company or firm with which he has official dealings or in any other company or firm having official dealings with the Government;
3. No Government servant shall in the discharge of his official duties deal with any matter or give or sanction any contract to any company or firm or any other person if any member of his family is employed in that company or firm or under that person or if he or any member of his family is interested in such matter or contract in any other manner and the Government servant shall refer every such matter or contract to his official superior and the matter or contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

Taking Part in Politics and Elections

1. No Government servant shall be a member of, or be otherwise associated with, any political party or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.
2. It shall be the duty of every Government servant to endeavour to prevent any member of his family from taking part in, subscribing in aid of, or assisting in any other manner any movement or activity which is, or tends directly or indirectly to be, subversive of the Government as by law established and where a Government servant is unable to prevent a member of his family from taking part in, or subscribing in aid of, or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the Government.
3. No Government servant shall canvass or otherwise interfere with, or use his influence in connection with or take part in an election to any legislature or local authority:

Provided that -

- (i) a Government servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted;
- (ii) a Government servant shall not be deemed to have contravened the provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

Explanation: The display by a Government servant on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

Joining of Associations by Government Servants

No Government servant shall join or continue to be a member of, an association the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India, or public order or morality.

Demonstration and Strikes

No Government servant shall -

- (i) engage himself or participate in any demonstration which is prejudicial to the interests of the sovereignty and integrity of India, the security of the state, friendly relations with foreign States, public order, decency or morality, or which involves contempt of court, defamation or incitement to an offence, or
- (ii) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other Government servant.

Criticism of Government

No Government servant shall, in any radio broadcast, telecast through any electronic media or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion -

- (i) which has the effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government:

Provided that in the case of any Government servant included in any category of Government servants specified in the second proviso to sub-rule (3) of rule 1, nothing contained in this clause shall apply to bonafide expression of views by him as an office-bearer of a trade union or association of Government servants for the purpose of safeguarding the conditions of service of such Government servants or for securing an improvement thereof; or

- (ii) which is capable of embarrassing the relations between the Central Government and the Government of any State; or
- (iii) which is capable of embarrassing the relations between the Central Government and the Government of any foreign State;

Gifts

1. Save as provided in these rules, no Government servant shall accept, or permit any member of his family or any other person acting on his behalf to accept, any gift.
Explanation. The expression “gift” shall include free transport, boarding, lodging or other service or any other pecuniary advantage when provided by any person other than a near relative or personal friend having no official dealings with the Government servant.
Note (1) - A casual meal, lift or other social hospitality shall not be deemed to be a gift -
Note (2) - A Government servant shall avoid accepting lavish hospitality or frequent hospitality from any individual, industrial or commercial firms, organisations, etc., having official dealings with him.
2. On occasions such as weddings, anniversaries, funerals or religious functions, when the making of gift is in conformity with the prevailing religious and social practice, a Government servant may accept gifts from his near relatives or from his personal friends having no official dealings with him, but shall make a report to the Government, if the value of such gift exceeds;-
 - (i) rupees twenty five thousand in the case of a Government servant holding any Group ‘A’ post;
 - (ii) rupees fifteen thousand in the case of a Government servant holding any Group ‘B’ post;
 - (iii) rupees seven thousand five hundred in the case of a Government servant holding any Group ‘C’ post; and
3. In any other case of a Government servant shall not accept any gift without sanction of the Government if the value thereof exceeds.
 - (i) rupees one thousand five hundred in the case of a Government servant holding any Group ‘A’ or Group ‘B’ post; and
 - (ii) rupees five hundred in the case of a Government servant holding any Group ‘C’ or Group ‘D’ post.
4. Notwithstanding anything contained in sub-rules (2), and (3) a Government servant, being a member of the Indian delegation or otherwise, may receive and retain gifts from foreign dignitaries if the market value of gifts received on one occasion does not exceed rupees one thousand. In all other cases, the acceptance and retention of such gifts shall be regulated by the instructions issued by the Government in this regard from time to time.
5. A Government servant shall not accept any gifts from any foreign firm which is either contracting with the Government of India or is one with which the Government servant had, has or is likely to have official dealings. Acceptance of gifts by a Government servant from any other firm shall be subject to the provisions of sub-rule (3).]

Dowry

No Government servant shall-

- (i) give or take or abet the giving or taking of dowry; or
- (ii) demand directly or indirectly, from the parent or guardian of a bride or bridegroom, as the case may be, any dowry.

Explanation: For the purposes of this rule, ‘dowry’ has the same meaning as in the Dowry Prohibition Act, 1961(28 of 1961).

Public Demonstrations in Honour of Government Servants

No Government servant shall, except with the previous sanction of the Government, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour; or in the honour of any other Government servant:

Private Trade or Employment

1. Subject to the provisions of sub-rule (2), no Government servant shall, except with the previous sanction of the Government-
 - a. engage directly or indirectly in any trade or business, or
 - b. negotiate for, or undertake, any other employment, or
 - c. hold an elective office, or canvass for a candidate or candidates for an elective office, in any body, whether incorporated or not, or
 - d. canvass in support of any business of insurance agency, commission agency, etc., owned or managed by any member of his family, or
 - e. take part except in the discharge of his official duties, in the registration, promotion or management of any bank or other company registered or required to be registered, under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force, or of any co-operative society for commercial purposes.
 - f. participate in or associate himself in any manner in the making of-
 - (i) a sponsored media (radio or television) programme; or
 - (ii) a media programme commissioned by Government media but produced by a private agency; or
 - (iii) a privately produced media programme including video magazine:

Provided that no previous permission shall be necessary in case where the Government servant participates in a programme produced or commissioned by Government media in his official capacity.

2. A Government servant may, without the previous sanction of the Government,-
 - a. undertake honorary work of a social or charitable nature, or
 - b. undertake occasional work of a literary, artistic or scientific character, or
 - c. participate in sports activities as an amateur, or
 - d. take part in the registration, promotion or management (not involving the holding of an elective office) of a literary, scientific or charitable society or of a club or similar organisation, the aims or objects of which relate to promotion of sports, cultural or recreational activities, registered under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force, or
 - e. take part in the registration, promotion or management (not involving the holding of elective office) of a co-operative society substantially for the benefit of Government servants, registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law for the time being in force:

Provided that:

- (i) he shall discontinue taking part in such activities, if so directed by the Government; and
- (ii) in a case falling under clause (d) or clause (e) of this sub-rule, his official duties shall not suffer thereby and he shall, within a period of one month of his taking part in such activity, report to the Government giving details of the nature of his participation.

Investment, Lending and Borrowing

1. No Government servant shall speculate in any stock, share or other investment:
 Provided that nothing in this sub-rule shall apply to occasional investments made through stock brokers or other persons duly authorised and licensed or who have obtained a certificate of registration under the relevant law.
 Explanation - Frequent purchase or sale or both, of shares, securities or other investments shall be deemed to be speculation within the meaning of this sub-rule.
2. (i) No Government servant shall make, or permit any member of his family or any person acting on his behalf to make, any investment which is likely to embarrass or influence him in the discharge of his official duties. For this purpose, any purchase of shares out of the quotas reserved for Directors of Companies or their friends and associates shall be deemed to be an investment which is likely to embarrass the Government servant.
- (ii) No Government servant who is involved in the decision making process of fixation of price of an Initial Public Offering or Follow-up Public Offering of shares of a Central Public Sector Enterprise shall apply, either himself or through any member of his family or through any other person acting on his behalf, for allotment of shares in the Initial Public Offerings or Follow-up Public Offerings of such Central Public Sector Enterprise.
3. If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule(2), the decision of the Government thereon shall be final.
4. (i) No Government servant shall, save in the ordinary course of business with a bank or a public limited company, either himself or through any member of his family or any other person acting on his behalf,-
 - a. lend or borrow or deposit money, as a principal or an agent to, or from or with, any person or firm or private limited company within the local limits of his authority or with whom he is likely to have official dealings or otherwise place himself under any pecuniary obligation to such person or firm or private limited company; or
 - b. lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid;

Provided that a Government servant may, give to, or accept from a relative or a personal friend, a purely temporary loan of a small amount free of interest, or operate a credit account with a bona fide tradesman or make an advance of pay to his private employee; Provided further that nothing in this sub-rule shall apply in respect of any transaction entered into by a Government servant with the previous sanction of the Government.

- (ii) When a Government servant is appointed or transferred to a post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule (4), he shall forthwith report the circumstances to the prescribed authority and shall thereafter act in accordance with such order as may be made by such authority.

Insolvency and Habitual Indebtedness

A Government servant shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Government servant against whom any legal proceeding is instituted for

the recovery of any debt due from him or for adjudging him as an insolvent, shall forthwith report the full facts of the legal proceedings to the Government.

Note. - The burden of proving that the insolvency or indebtedness was the result of circumstances which, with the exercise of ordinary diligence, the Government servant could not have foreseen, or over which he had no control, and had not proceeded from extravagant or dissipated habits, shall be upon the Government servant.

Movable, Immovable and Valuable Property

1. (i) Every Government servant shall on his first appointment to any service or post submit a return of his assets and liabilities, in such form as may be prescribed by the Government, giving the full particulars regarding -
 - a. the immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;
 - b. shares, debentures and cash including bank deposits inherited by him or similarly owned, acquired, or held by him;
 - c. other movable property inherited by him or similarly owned, acquired or held by him; and
 - d. debts and other liabilities incurred by him directly or indirectly.

Restrictions in Relation to Acquisition and Disposal of Immovable Property Outside India and Transactions with Foreigners, etc.

Notwithstanding anything contained in sub-rule (2) of Rule 18, no Government servant shall, except with the previous sanction of the prescribed authority, -

- a. acquire, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property situated outside India;
- b. dispose of, by sale, mortgage, gift or otherwise or grant any lease in respect of any immovable property situated outside India which was acquired or is held by him either in his own name or in the name of any member of his family;
- c. enter into any transaction with any foreigner, foreign Government, foreign organisation or concern,-
 - (i) for the acquisition, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property;
 - (ii) for the disposal of, by sale, mortgage, gift or otherwise, or the grant of any lease in respect of any immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.

Explanation.- In this rule “prescribed authority” has the same meaning as in Rule 18.

Restriction Regarding Marriage

1. No Government servant shall enter into, or contract, a marriage with a person having a spouse living; and
2. No Government servant, having a spouse living, shall enter into, or contract, a marriage with any person:

Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (1) or clause(2), if it is satisfied that-

- a. such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and (b) there are other grounds for so doing.
3. A Government servant who has married or marries a person other than of India Nationality shall forthwith intimate the fact to the Government.

Consumption of Intoxicating Drinks and Drugs

A Government servant shall

- a. strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;
- b. not be under influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug; refrain from consuming any intoxicating drink or drug in a public place
- c. not appear in a public place in a state of intoxication;
- d. not use any intoxicating drink or drug to excess.

Explanation: For the purposes of this rule, 'public place' means any place or premises (including a conveyance) to which the public have, or are permitted to have, access, whether on payment or otherwise.

Prohibition Regarding Employment of Children Below 14 Years of Age

No Government servant shall employ to work any child below the age of 14 years.

(c) Fourth Report – Ethics in Governance

Second Administrative Reforms Commission (Extracts from the Report on Ethics in governance)

1. Coalition and Ethics

The Constitution should be amended to ensure that if one or more parties in a coalition with a common programme mandated by the electorate either explicitly before the elections or implicitly while forming the government, realign midstream with one or more parties outside the coalition, then Members of that party or parties shall have to seek a fresh mandate from the electorate.

2. Ethical Frame Work for Ministers

In addition to the existing Code of Conduct for Ministers, there should be a Code of Ethics to provide guidance on how Ministers should uphold the highest standards of constitutional and ethical conduct in the performance of their duties.

Dedicated units should be set up in the offices of the Prime Minister and the Chief Ministers to monitor the observance of the Code of Ethics and the Code of Conduct. The unit should also be empowered to receive public complaints regarding violation of the Code of Conduct.

The Prime Minister or the Chief Minister should be duty bound to ensure the observance of the Code of Ethics and the Code of Conduct by Ministers. This would be applicable even in the case of coalition governments where the Ministers may belong to different parties.

An annual report with regard to the observance of these Codes should be submitted to the appropriate legislature. This report should include specific cases of violations, if any, and the action taken thereon.

The code of ethics, the code of conduct and the annual report should be put in public domain.

An office of ethics commissioner may be constituted by each house of parliament. This office, functioning under the speaker/chairman, would assist the committee on ethics in discharge of its functions, and advise members, when required, and maintain necessary records.

In respect of states the commission recommend the following,

All states legislature may adopt a code of ethics and a code of conduct for their members.

Ethics Committees may be constituted with well-defined procedures for sanctions in case of transgressions, to ensure the ethical conduct of legislatures.

Registers of members interest may be maintained with the declaration of interest by members of the state legislatures.

Annual reports providing details including transgressions may be placed on the table of the representatives houses.

An office of ethics commissioner may be constituted by each house of state legislatures. The office would function under Speaker/Chairman, on the same bases as suggested for Parliament.

3. Office of Profit

- a. The Law should be amended to define office of profit based on the following principles:-

All officers in purely advisory bodies where the experience, insights and expertise of a legislator would be inputs in governmental policy, shall not be treated as offices of profit, irrespective of the remuneration and perks associated with such an office.

All offices involving executive decision making and control of public funds, including positions on the governing boards of public undertakings and statutory and non-statutory authorities directly deciding policy or managing institutions or authorizing or approving expenditure shall be treated as offices of profit, and no legislator shall hold such offices.

If a serving Minister, by virtue of office, is a member or head of certain organizations like the Planning Commission, where close coordination and integration between the Council of Ministers and the organization or authority or committee is vital for the day-to-day functioning of government, it shall not be treated as office of profit.

(The use of discretionary funds at the disposal of legislators, the power to determine specific projects and schemes, or select the beneficiaries or authorize expenditure shall constitute discharge of executive functions and will invite disqualification under Articles 102 and 191, irrespective of whether or not a new office is notified and held.)

- b. Schemes such as MPLADS and MLALADS should be abolished.
- c. Members of Parliament and Members of State Legislatures should be declared as 'Public Authorities' under the Right to Information Act, except when they are discharging legislative functions.

4. Disqualification of Peoples Representatives

The issue of disqualification of members on grounds of defection should be decided by the President/Governor on the advice of the Election Commission.

Section 8 of the Representation of the People Act, 1951 needs to be amended to disqualify all persons facing charges related to grave and heinous offences and corruption, with the modification suggested by the Election Commission.

5. **Code of Ethics for Civil Servants**

'Public Service Values' towards which all public servants should aspire, should be defined and made applicable to all tiers of Government and parastatal organizations. Any transgression of these values should be treated as misconduct, inviting punishment.

Conflict of interest should be comprehensively covered in the Code of Ethics and in the Code of Conduct for officers. Also, serving officials should not be nominated on the Boards of Public undertakings. This will, however, not apply to non-profit public institutions and advisory bodies.

6. **Ethical Frame Work for Judiciary**

A National Judicial Council should be constituted, in line with universally accepted principles where the appointment of members of the judiciary should be by a collegium having representation of the executive, legislature and judiciary. The Council should have the following composition:

- The Vice-President as Chairperson of the Council
- The Prime Minister
- The Speaker of the Lok Sabha
- The Chief Justice of India
- The Law Minister
- The Leader of the Opposition in the Lok Sabha
- The Leader of the Opposition in the Rajya Sabha

In matters relating to the appointment and oversight of High Court Judges, the Council will also include the following members:

- The Chief Minister of the concerned State
 - The Chief Justice of the concerned High Court
- a. The National Judicial Council should be authorized to lay down the Code of Conduct for judges, including the subordinate judiciary.
 - b. The National Judicial Council should be entrusted with the task of recommending appointments of Supreme Court and High Court Judges. It should also be entrusted the task of oversight of the judges, and should be empowered to enquire into alleged misconduct and impose minor penalties. It can also recommend removal of a judge if so warranted.
 - c. Based on the recommendations of the NJC, the President should have the powers to remove a Supreme Court or High Court Judge.
 - d. Article 124 of the Constitution may be amended to provide for the National Judicial Council. A similar change will have to be made in Article 217. Also, since the Council is to have the authority to oversee and discipline judges, further changes will need to be made to Article 217 (Clause 4).
 - e. A Judge of the Supreme Court should be designated as the Judicial Values Commissioner. He/she should be assigned the task of enforcing the code of conduct. Similar arrangement should also be made in the High Court.

7. **The Prevention of Corruption Act, 1988**

The following should be classified as offences under the Prevention of Corruption Act:

- Gross perversion of the Constitution and democratic institutions amounting to wilful violation of oath of office.

- Abuse of authority unduly favouring or harming someone.
- Obstruction of justice.
- Squandering public money.

Section 7 of the Prevention of Corruption Act needs to be amended to provide for a special offence of ‘collusive bribery’. An offence could be classified as ‘collusive bribery’ if the outcome or intended outcome of the transaction leads to a loss to the state, public or public interest.

- a. In all such cases if it is established that the interest of the state or public has suffered because of an act of a public servant, then the court shall presume that the public servant and the beneficiary of the decision committed an offence of ‘collusive bribery’.

The punishment for all such cases of collusive bribery should be double that of other cases of bribery. The law may be suitably amended in this regard.

10.13.7 Sanctions for Prosecution

- a. Prior sanction should not be necessary for prosecuting a public servant who has been trapped red-handed or in cases of possessing assets disproportionate to the known sources of income.
- b. The Prevention of Corruption Act should be amended to ensure that sanctioning authorities are not summoned and instead the documents can be obtained and produced before the courts by the appropriate authority.
- c. The Presiding Officer of a House of Legislature should be designated as the sanctioning authority for MPs and MLAs respectively.
- d. The requirement of prior sanction for prosecution now applicable to serving public servants should also apply to retired public servants for acts performed while in service.
- e. In all cases where the Government of India is empowered to grant sanction for prosecution, this power should be delegated to an Empowered Committee comprising the Central Vigilance Commissioner and the Departmental Secretary to Government. In case of a difference of opinion between the two, the matter could be resolved by placing it before the full Central Vigilance Commission. In case, sanction is required against a Secretary to Government, then the Empowered Committee would comprise the Cabinet Secretary and the Central Vigilance Commissioner. Similar arrangements may also be made at the State level. In all cases the order granting sanction for prosecution or otherwise shall be issued within two months. In case of refusal, the reasons for refusal should be placed before the respective legislature annually.

10.13.8 Liability of Corrupt Public Servant to Pay Damage

In addition to the penalty in criminal cases, the law should provide that public servants who cause loss to the state or citizens by their corrupt acts should be made liable to make good the loss caused and, in addition, be liable for damages. This could be done by inserting a chapter in the Prevention of Corruption Act.

8. Protection to Whistleblowers

Legislation should be enacted immediately to provide protection to whistleblowers on the following lines proposed by the Law Commission:

- Whistleblowers exposing false claims, fraud or corruption should be protected by ensuring confidentiality and anonymity, protection from victimization in career, and other administrative measures to prevent bodily harm and harassment.
- The legislation should cover corporate whistleblowers unearthing fraud or serious damage to public interest by willful acts of omission or commission.

Acts of harassment or victimization of or retaliation against, a whistleblower should be criminal offences with substantial penalty and sentence.

9. The Lokpal

- a. The Constitution should be amended to provide for a national Ombudsman to be called the Rashtriya Lokayukta. The role and jurisdiction of the Rashtriya Lokayukta should be defined in the Constitution while the composition, mode of appointment and other details can be decided by Parliament through legislation.
- b. The jurisdiction of Rashtriya Lokayukta should extend to all Ministers of the Union (except the Prime Minister), all state Chief Ministers, all persons holding public office equivalent in rank to a Union Minister, and Members of Parliament. In case the enquiry against a public functionary establishes the involvement of any other public official along with the public functionary, the Rashtriya Lokayukta would have the power to enquire against such public servant(s) also.
- c. The Prime Minister should be kept out of the jurisdiction of the Rashtriya Lokayukta because the Prime Minister is unchallenged authority along with leadership provides stability to our constitutional scheme. The Prime Minister is accountable to parliament and if he is opened to formal scrutiny by extra parliamentary authorities. The Government viability will be eroded and parliamentary supremacy will be in jeopardy. This would in turn undermine governance and public interest.
- d. The Rashtriya Lokayukta should consist of a serving or retired Judge of the Supreme Court as the Chairperson, an eminent jurist as Member and the Central Vigilance Commissioner as the ex-officio Member.
- e. The Chairperson of the Rashtriya Lokayukta should be selected from a panel of sitting Judges of the Supreme Court who have more than three years of service, by a Committee consisting of the Vice President of India, the Prime Minister, the Leader of the Opposition, the Speaker of the Lok Sabha and the Chief Justice of India. In case it is not possible to appoint a sitting Judge, the Committee may appoint a retired Supreme Court Judge. The same Committee may select the Member (i.e. an eminent jurist) of the Rashtriya Lokayukta. The Chairperson and Member of the Rashtriya Lokayukta should be appointed for only one term of three years and they should not hold any public office under the government thereafter, the only exception being that they can become the Chief Justice of India, if their services are so required.
- f. The Rashtriya Lokayukta should also be entrusted with the task of undertaking a national campaign for raising the standards of ethics in public life.

10. The Lokayukta

- a. The Constitution should be amended to incorporate a provision making it obligatory on the part of State Governments to establish the institution of Lokayukta and stipulate the general principles about its structure, power and functions.

- b. The Lokayukta should be a multi-member body consisting of a judicial Member in the Chair, an eminent jurist or eminent administrator with impeccable credentials as Member and the head of the State Vigilance Commission as ex-officio Member. The Chairperson of the Lokayukta should be selected from a panel of retired Supreme Court Judges or retired Chief Justices of High Court, by a Committee consisting of the Chief Minister, Chief Justice of the High Court and the Leader of the Opposition in the Legislative Assembly. The same Committee should select the second Member from among eminent jurists/administrators. There is no need to have an Up-Lokayukta.
- c. The jurisdiction of the Lokayukta would extend to only cases involving corruption. They should not look into general public grievances.
- d. The Lokayukta should deal with cases of corruption against Ministers and MLAs.
- e. Each State should constitute a State Vigilance Commission to look into cases of corruption against State Government officials. The Commission should have three Members and have functions similar to that of the Central Vigilance Commission.
- f. The Anti Corruption Bureaus should be brought under the control of the State Vigilance Commission.
- g. The Chairperson and Members of the Lokayukta should be appointed strictly for one term only and they should not hold any public office under government thereafter.
- h. The Lokayukta should have its own machinery for investigation. Initially, it may take officers on deputation from the State Government, but over a period of five years, it should take steps to recruit its own cadre, and train them properly.
- i. All cases of corruption should be referred to Rashtriya Lokayukta or Lokayukta and these should not be referred to any Commission of Inquiry.

11. **Ombudsman at Local Level**

A local bodies Ombudsman should be constituted for a group of districts to investigate cases against the functionaries of the local bodies. The State Panchayat Raj Acts and the Urban Local Bodies Act should be amended to include this provision.

The local bodies Ombudsman should be empowered to investigate cases of corruption or maladministration by the functionaries of the local self governments, and submit reports to the competent authorities for taking action. The competent authorities should normally take action as recommended. In case they do not agree with the recommendations, they should give their reasons in writing and the reasons should be made public.

12. **Promoting Transparency**

The Commission recommends encouragement of the mechanism of 'integrity pacts'. The Ministry of Finance may constitute a Task Force with representatives from Ministries of Law and Personnel to identify the type of transactions requiring such pacts and to provide for a protocol for entering into such a pact. The Task Force may, in particular, recommend whether any amendment in the existing legal framework like the Indian Contract Act, and the Prevention of Corruption Act is required to make such agreements enforceable.

13. **Reducing Discretion**

- a. All government offices having public interface should undertake a review of their activities and list out those which involve use of discretion. In all such activities, attempt

should be made to eliminate discretion. Where it is not possible to do so, well-defined regulations should attempt to 'bound' the discretion. Ministries and Departments should be asked to coordinate this task in their organizations/offices and complete it within one year.

- b. Decision-making on important matters should be assigned to a committee rather than individuals. Care has to be exercised, however, that this practice is not resorted to when prompt decisions are required.
- c. State Governments should take steps on similar lines, especially in local bodies and authorities, which have maximum 'public contact'.

14. Ensuring accessibility and Responsiveness

- a. Service providers should converge their activities so that all services are delivered at a common point. Such common service points could also be outsourced to an agency, which may then be given the task of pursuing citizens' requests with concerned agencies.
- b. Tasks, which are prone to corruption, should be split up into different activities that can be entrusted to different persons.
- c. Public interaction should be limited to designated officers. A 'single window front office' for provision of information and services to the citizens with a file tracking system should be set up in all government departments.

15. Vigilance Network

A national database containing the details of all corruption cases at all levels should be created. This database should be in the public domain. Identified authorities should be made responsible for updating the database regularly.

16. Protection the Honest Civil Servant

- a. Every allegation of corruption received through complaints or from sources cultivated by the investigating agency against a public servant must be examined in depth at the initial stage itself before initiating any enquiry. Every such allegation must be analyzed to assess whether the allegation is specific, whether it is credible and whether it is verifiable.
Only when an allegation meets the requirements of these criteria, should it be recommended for verification, and the verification must be taken up after obtaining approval of the competent authority. The levels of competent authorities for authorizing verifications/enquiries must be fixed in the anti-corruption agencies for different levels of suspect officers.
- b. In matters relating to allegations of corruption, open enquiries should not be taken up straightaway on the basis of complaints/source information. When verification/secret enquiries are approved, it should be ensured that secrecy of such verifications is maintained and the verifications are done in such a manner that neither the suspect officer nor anybody else comes to know about it. Such secrecy is essential not only to protect the reputation of innocent and honest officials but also to ensure the effectiveness of an open criminal investigation. Such secrecy of verification / enquiry

will ensure that in case the allegations are found to be incorrect, the matter can be closed without anyone having come to know of it. The Inquiry/Verification Officers should be in a position to appreciate the sensitivities involved in handling allegations of corruption.

- c. The evaluation of the results of verification/enquiries should be done in a competent and just manner. Much injustice can occur due to faulty evaluation of the facts and the evidence collected in support of such facts. Personnel handling this task should not only be competent and honest but also impartial and imbued with a sense of justice.
- d. Whenever an Inquiry Officer requires to consult an expert to understand technical/complex issues, he can do so, but the essential requirement of proper application of mind has to take place at every stage to ensure that no injustice is caused to the honest and the innocent.
- e. Capacity building in the anti-corruption agencies should be assured through training and by associating the required experts during enquiries/investigations. Capacity building among public servants who are expected to take commercial/financial decisions should be built through suitable training programmes.
- f. The supervisory officers in the investigating agencies should ensure that only those public servants are prosecuted against whom the evidence is strong.
- g. There should be profiling of officers. The capabilities, professional competence, integrity and reputation of every government servant must be charted out and brought on record. Before proceeding against any government servant, reference should be made to the profile of the government servant concerned.
- h. A special investigation unit should be attached to the proposed Lokpal (Rashtriya Lokayukta)/State Lokayuktas/Vigilance Commission, to investigate allegations of corruption against investigative agencies. This unit should be multi-disciplinary and should also investigate cases of allegations of harassment against the investigating agency. Similar units should also be set up in states.

17. *Appoint of the Chief Election Commissioner/Commissioners*

A collegium headed by the Prime Minister with the Speaker of the Lok Sabha, the Leader of Opposition in the Lok Sabha, the Law Minister and the Deputy Chairman of the Rajya Sabha as members should make recommendations for the consideration of the President for appointment of the Chief Election Commissioner and the Election Commissioners.

18. *Expediting Disposal of Election Petitions*

Special Election Tribunals should be constituted at the regional level under Article 323B of the Constitution to ensure speedy disposal of election petitions and disputes within a stipulated period of six months. Each Tribunal should comprise a High Court Judge and a senior civil servant with at least 5 years of experience in the conduct of elections (not below the rank of an Additional Secretary to Government of India/Principal Secretary of a State Government). Its mandate should be to ensure that all election petitions are decided within a period of six months as provided by law. The Tribunals should normally be set up for a term of one year only, extendable for a period of 6 months in exceptional circumstances.

19. Grounds of Disqualification for Membership

Appropriate legislation may be enacted under Article 102(e) of the Constitution spelling out the conditions for disqualification of membership of Parliament in an exhaustive manner. Similarly, the States may also legislate under Article 198 (e).

20. Immunity Enjoyed by Legislatures

- a. The Commission, while endorsing the suggestion of the National Commission to Review the Working of the Constitution, recommends that suitable amendments be effected to Article 105(2) of the Constitution to provide that the immunity enjoyed by Members of Parliament does not cover corrupt acts committed by them in connection with their duties in the House or otherwise.
- b. The Commission also recommends that similar amendments may be made in Article 194(2) of the Constitution in respect of members of the state legislatures.

21. Strengthening Investigation and Prosecution

- a. The State Vigilance Commissions/Lokayuktas may be empowered to supervise the prosecution of corruption related cases.
- b. The investigative agencies should acquire multi-disciplinary skills and should be thoroughly conversant with the working of various offices/ departments. They should draw officials from different wings of government.
- c. Modern techniques of investigation should also be deployed like electronic surveillance, video and audio recording of surprise inspections, traps, searches and seizures.
- d. A reasonable time limit for investigation of different types of cases should be fixed for the investigative agencies.
- e. There should be sustained step-up in the number of cases detected and investigated. The priorities need to be reoriented by focusing on 'big' cases of corruption.
- f. The prosecution of corruption cases should be conducted by a panel of lawyers prepared by the Attorney General or the Advocate General in consultation with Rashtriya Lokayukta or Lokayukta as the case may be.
- g. The anti-corruption agencies should conduct systematic surveys of departments with particular reference to highly corruption prone ones in order to gather intelligence and to target officers of questionable integrity.
- h. The economic offences unit of states need to be strengthened to effectively investigate cases and there should be better coordination amongst existing agencies.

22. Citizens Initiative

- a. Citizens' Charters should be made effective by stipulating the service levels and also the remedy if these service levels are not met.
- b. Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.
- c. Reward schemes should be introduced to incentivise citizens' initiatives.
- d. School awareness programmes should be introduced, highlighting the importance of ethics and how corruption can be combated.

23. Role of Media

- a. It is necessary to evolve norms and practices requiring proper screening of all allegations/complaints by the media, and taking action to put them in the public domain.
- b. The electronic media should evolve a Code of Conduct and a self regulating mechanism in order to adhere to a Code of Conduct as a safeguard against malafide action.
- c. Government agencies can help the media in the fight against corruption by disclosing details about corruption cases regularly.

24. Social Audit

Operational guidelines of all developmental schemes and citizen centric programmes should provide for a social audit mechanism.

25. Supervisions

- a. The supervisory role of officers needs to be re-emphasised. It bears reiteration that supervisory officers are primarily responsible for curbing corruption among their subordinates, and they should take all preventive measures for this purpose.
- b. Each supervisory officer should carefully analyze the activities in his/her organization/office, identify the activities which are vulnerable to corruption and then build up suitable preventive and vigilance measures. All major instances of loss caused to the government or to the public, by officials by their acts of omission or commission should be enquired into and responsibility fixed on the erring officer within a time-frame.
- c. In the Annual Performance Report of each officer, there should be a column where the officer should indicate the measures he took to control corruption in his office and among subordinates. The reporting officer should then give his specific comments on this.
- d. Supervisory officers who give 'clean certificates' to subordinate corrupt officers in their Annual Performance Reports should be asked to explain their position in case the officer reported upon is charged with an offence under the Prevention of Corruption Act. In addition, the fact that they have not recorded adversely about the integrity of their subordinate corrupt officers should be recorded in their reports.
- e. Supervisory officers should ensure that all offices under them pursue a policy of suo motu disclosure of information within the ambit of the Right to Information Act.

26. Monitoring Compliance

- a. All offices having large public interface should have an online complaint tracking system. If possible, this task of complaint tracking should be outsourced.
- b. There should be an external, periodic mechanism of 'audit' of complaints in offices having large public interface.
- c. Apart from enquiring into each complaint and fixing responsibility for the lapses, if any, the complaint should also be used to analyse the systemic deficiencies so that remedial measures are taken.

27. Audit

- a. It should be prescribed that as soon as any major irregularity is detected or suspected by the audit team, it should be immediately taken note of by government. A suitable mechanism for this may be put in place. It shall be the responsibility of the head of the office to enquire into any such irregularity and initiate action.
- b. Audit teams should be imparted training in forensic audit.
- c. Each office should make an annual public statement regarding pending audit queries.

28. Promoting Competitions

- a. Each Ministry/Department may undertake an immediate exercise to identify areas where the existing 'monopoly of functions' can be tempered with competition. A similar exercise may be done at the level of State Governments and local bodies. This exercise may be carried out in a time bound manner, say in one year, and a road map laid down to reduce 'monopoly' of functions. The approach should be to introduce competition along with a mechanism for regulation to ensure performance as per prescribed standards so that public interest is not compromised.
- b. Some Centrally Sponsored schemes could be restructured so as to provide incentives to states that take steps to promote competition in service delivery.
- c. All new national policies on subjects having large public interface (and amendments to existing policies on such subjects) should invariably address the issue of engendering competition.

29. Using Information Technology

- a. Each Ministry/Department/Organisation of government should draw up a plan for use of IT to improve governance. In any government process, use of Information Technology should be made only after the existing procedures have been thoroughly re-engineered.
- b. The Ministry of Information and Technology needs to identify certain governmental processes and then take up a project of their computerization on a nationwide scale.
- c. For computerization to be successful, computer knowledge of departmental officers needs to be upgraded. Similarly, the NIC needs to be trained in department specific activities, so that they could appreciate each other's view point and also ensure that technology providers understand the anatomy of each department.

30. Proactive Vigilance on Corruption

Taking proactive vigilance measures should primarily be the responsibility of the head of the office.

31. Intelligence Gathering

Supervisory officers should assess the integrity of his/her subordinates based on his/her handling of cases, complaints and feedback from different sources. This could then become an important input for risk profiling of officers.

(d) The ASPA Code of Ethics – 1994

The American Society for Public Administration (ASPA) exists to advance the science, processes, and art of public administration. The Society affirms its responsibility to develop the spirit of professionalism within its membership, and to increase public awareness of ethical principles in public service by its example. To this end, we, the members of the Society, commit ourselves to the following principles.

I. Serve the Public Interest

Serve the public, beyond serving oneself. ASPA members are committed to:

1. Exercise discretionary authority to promote the public interest.
2. Oppose all forms of discrimination and harassment, and promote affirmative action.
3. Recognize and support the public's right to know the public's business.
4. Involve citizens in policy decision-making.
5. Exercise compassion, benevolence, fairness and optimism.
6. Respond to the public in ways that are complete, clear, and easy to understand.
7. Assist citizens in their dealings with government.
8. Be prepared to make decisions that may not be popular.

II. Respect the Constitution and the Law

Respect, support, and study government constitutions and laws that define responsibilities of public agencies, employees, and all citizens. ASPA members are committed to:

1. Understand and apply legislation and regulations relevant to their professional role.
2. Work to improve and change laws and policies that are counterproductive or obsolete.
3. Eliminate unlawful discrimination.
4. Prevent all forms of mismanagement of public funds by establishing and maintaining strong fiscal and management controls, and by supporting audits and investigative activities.
5. Respect and protect privileged information.
6. Encourage and facilitate legitimate dissent activities in government and protect the whistle blowing rights of public employees.
7. Promote constitutional principles of equality, fairness, representativeness, responsiveness and due process in protecting citizens' rights.

III. Demonstrate Personal Integrity

Demonstrate the highest standards in all activities to inspire public confidence and trust in public service. ASPA members are committed to:

1. Maintain truthfulness and honesty and to not compromise them for advancement, honor, or personal gain.
2. Ensure that others receive credit for their work and contributions.
3. Zealously guard against conflict of interest or its appearance: e.g., nepotism, improper outside employment, misuse of public resources or the acceptance of gifts.
4. Respect superiors, subordinates, colleagues and the public.

5. Take responsibility for their own errors.
6. Conduct official acts without partisanship.

IV. **Promote Ethical Organizations**

Strengthen organizational capabilities to apply ethics, efficiency and effectiveness in serving the public. ASPA members are committed to:

1. Enhance organizational capacity for open communication, creativity, and dedication.
2. Subordinate institutional loyalties to the public good.
3. Establish procedures that promote ethical behavior and hold individuals and organizations accountable for their conduct.
4. Provide organization members with an administrative means for dissent, assurance of due process and safeguards against reprisal.
5. Promote merit principles that protect against arbitrary and capricious actions.
6. Promote organizational accountability through appropriate controls and procedures.
7. Encourage organizations to adopt, distribute, and periodically review a code of ethics as a living document.

V. **Strive for Professional Excellence**

Strengthen individual capabilities and encourage the professional development of others. ASPA members are committed to:

1. Provide support and encouragement to upgrade competence.
2. Accept as a personal duty the responsibility to keep up to date on emerging issues and potential problems.
3. Encourage others, throughout their careers, to participate in professional activities and associations.
4. Allocate time to meet with students and provide a bridge between classroom studies and the realities of public service.