BLOCK II:
CHALLENGES TO ADMINISTRATION

Unit 1 : Administrative Corruption.

Unit 2 : Red tape and procedural delays

Unit 3 : Right to Information.

Unit 4 : Minister Civil Servant Relationship

Unit 5 : Bridging the Gap: People and administration.

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UNIT- 1

ADMINISTRATIVE CORRUPTION

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1.1 Introduction

The word corruption is derived from the Latin word "corruptus," which means corrupted. In legal terms, it refers to the abuse of a trusted position in one of the branches of power (executive, legislative, judicial) or political or other organizations, with the intent to obtain, for oneself or others, material gain that is not legally justified. In addition, administrative corruption is one of the most common forms of corruption in all branches of government.

Government exist to deliver value to their communities and to preside over the 'authoritative allocation of values'. The delivery of value is politically contested. Whatever ideologies prevail or the courses of action taken, they are cornerstone to the public administration. Government may choose to deliver goods and services, or they may choose to regulate their delivery, or may leave them completely alone. They can choose to regulate heavily or lightly, they may regulate the economy, health care, transport, communication, water quality etc. If things are delivered or regulated according to the ethical principles and underpinned by good administration, then the community receives value. If they are tainted by corruption then the community is cheated.

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Corruption is a multifaceted phenomenon that involves different types of actors, activities and behaviours. Corruption is one of the most high-profile issues in the contemporary world. According to the 2011 'World Speaks' surveys, conducted by Globe Scan for the BBC World Service, corruption was the world's most talked about problem, ahead of extreme poverty, unemployment, the cost of living and crime, violence and security. In low GDP countries, the focus on corruption was even higher, a finding reinforced in a December 2013 statement by World Bank Group President, Jim Yong Kim, that 'in the developing world, corruption is public enemy number one'.

1.2 Objectives

In this unit, administrative corruption is highlighted. Administrative corruption is regarded as the big malaise in the public administration. After reading this unit, you will able to:

- *Discuss* the administrative corruption
- *Understand* the causes of administrative corruption
- *Examine* the various provisions to eradicate administrative corruption in India

1.3 Administrative Corruption

Corruption refers to "the misuse of public power, office, or authority for private benefit through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement" (United Nations Development Programme, 1999, New York, UNDP).

Administrative corruption occurs in most, especially state institutions, where individuals, companies and other entities in their operations face it. However, there are difficulties in precisely defining this type of corruption. The term administrative corruption is often understood as a form of corruption, which mainly involves bribing lower employees to avoid fulfilling obligations or to "jump the queue" when enabling some business. On the other hand, the term it is often defined too broadly and is thus confused with political corruption or these two forms of corruption are treated as a uniform form of corruption. However, the notion of administrative corruption is certainly broader and does not only involve lower-level employees (admittedly, at

higher levels of state administration, it is difficult to distinguish between administrative or political corruption) and classic bribery (other forms of accepting, facilitating or giving undue advantage are also present).

Corruption has existed ever since the emergence of human civilizations and governments have been grappling with abuse cases by state authorities. Such crimes as embezzlement, bribery and forgery are not new and are as ancient as governments. Over the past centuries, there has been a reverse relationship between the appropriate use of power and the expansion of corruption. This means that whenever power is used appropriately, corruption is reduced. In one-party or authoritarian regimes, lack of freedom of speech and freedom of the press as well as non-existence of rival political parties lead to deeper damage by administrative corruption and provide many opportunities to commit acts of graft in contrast to multi-party and democratic systems. Political parties, as pillars of democratic societies, can help control the bureaucratic machines of those societies, thus limiting the scope of corruption. Parties in democratic systems have a range of tasks including: institutionalizing political life, selecting politicians, organizing demands of citizens, adapting special interests with public interests, and helping shape the government policy. If performed properly, these tasks will help reduce corruption in a society. The political systems, which claim they are legitimate and consider themselves guardians of ethical and moral values, tend to strictly censor the news about corruption within the regimes and their dealing with different issues is not such as to leak to the media. They publish offenders in such a way that they would not attract the attention of the public and the press. Instances are geographical relocations, change of posts, etc. This is while the governments, which are not interested in such slogans, certainly tackle corruption more effectively. The economies, which are state-run, are more vulnerable to corruption. In other words, the government's interference in economic activities is a factor that makes the level of corruption different from one society to another.

1.3.1 Meaning of Administrative Corruption

Administrative corruption highlights two aspects of corruption: bribery (or other provision of unjustified benefit) for the provision of legal services, where corruption occurs so that a business starts running smoothly, to speed

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up matters, etc. In this case, there is no serious violation of the law, only the modified use of it in a way that is not normal, although the procedure is seemingly legal; and bribery (or other provision of unjustified benefit) for the provision of illegal services or illegal acts with a violation of regulations and laws.

Administrative Corruption is defined as the use of public office for private gain, or in other words, use of official position, rank or status by an office bearer for his own personal benefit. Following from this definition, examples of corrupt behaviour would include: (a) bribery, (b) extortion, (c) fraud, (d) embezzlement, (e) nepotism, (f) cronyism, (g) appropriation of public assets and property for private use, and (h) influence peddling.

SAQ:

Q. What do you understand by administrative corruption? Write in your own words. (80 words)

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1.3.2 Level of Administrative Corruption

In society, administrative corruption occurs at various levels in the entire state administration. There are three levels of corruption.

- Micro level means giving small gifts to public officials for achieving the desired service, which is the officials' duty anyway. Corruption at this level is tied to those officials who deal with documentation and license issuing. People are very tolerant of this type of corruption; it has become a part of everyday life, and the amount of unlawfully acquired funds does not exceed the average monthly salary of an official.
- The middle level includes public officials at a higher level. It is most widespread at the local level, where the local politics, with its help, achieves solutions that fall within the competence of the middle level

of public officials. The public does not tolerate such corruption; it can amount to a few monthly salaries of an individual official.

- Macro level corruption, on the other hand, is linked to government procurement, to the conclusion of major contracts, the performance of major work in the country (e.g. construction) and other major investments. It is the most dangerous part of the corruption that takes place in the highest social and political circles and is enabled through the abuse of functions and positions, political power, and the abuse of social status. Such forms of corruption usually remain hidden, and if they are detected, the leading players remain undetected. They are usually representatives of elites who, through corruption, transfer large amounts of money.

Kingsley, however, divided corruption differently. He divided it into three types according to which segment of the public sector it occurs in.

- Individual corruption: Corruption that it is embedded in a relationship or primarily arises in a relationship between an individual citizen and officials or some other state authority.
- Business corruption: Corruption that is embedded in the relationship or primarily arises in the relationship between companies and officials or some other state authority.
- Political corruption: Corruption that takes place among officials in higher public administration positions and at the political level.

1.3.3 Causes of Administrative Corruption

The main causes of administrative corruption are low salaries, dissatisfaction of civil servants with work, low professional standards, etc. The important causes of administrative corruption are:

- Corrupt government: such corruption occurs, for example, when ministers or other important political figures extort bribes or decide on projects to be carried out for personal gain, or when the government, in return for political funding or personal gain, provides favourable benefits in terms of contracts with the state or offers protection against prosecution for corruption committed at home

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and abroad. Such protection only encourages corruption, as those who commit it have little fear of prosecution at home or in the country where the projects are carried out. However, as examples lead, corruption spreads throughout the state apparatus from the top to down.

- Lack of a consistent anti-corruption policy in the government: even if the government is not corrupt, the lack of a consistent anti-corruption policy will undermine all the attempts of this government's fight against corruption. For example, if a competent service tries to encourage companies to adopt ethical policies, to regulate anti-bribery laws, to strengthen the prosecution of those companies that have committed bribery or fraud, while another service responsible for other matters (in the same government), whose interests relate primarily to the profitability of a business, demands more lenient anti-corruption laws to protect business interests, lowers the requirements for the disclosure, accountability and prosecution of corruption. On the one hand, the government is thus trying to fight corruption, and on the other, it is jeopardizing such efforts. In this case, corruption will not decrease.
- Insufficient reporting of corruption: insufficient reporting of corruption generates corruption because perpetrators are not afraid of being exposed.
- Insufficient or inadequate prosecution of corruption: inadequate and insufficient prosecution of corruption will facilitate corruption in both developing and developed countries. If there is no clear evidence that corruption is being prosecuted, unscrupulous individuals and companies will continue to commit it and get rich at the expense of ethical individuals and companies who do not.
- The vulnerability of project officials to corruption: infrastructure projects are usually public sector projects where the state or local community lead and finance a project. Individual officials of the department responsible for the selection and management of these projects may, for a variety of reasons, be susceptible to corruption.

- Vulnerability of other government officials to corruption: other government departments also involved in various infrastructure or development projects (issuance of visas, issuance of import permits, customs clearance, planning permits, permits for land approval, etc.). These employees (especially in developing countries) may have too little incentive to act ethically, especially where they are poorly paid and aware of corruption or are aware of large-scale corruption higher in government circles. Consequently, they may, to improve their income, resort to extortion. Contractors are often in a tough spot and wonder if they will have to comply with extortion requirements, suffer losses and delays on projects, or even have to withdraw completely from a country where extortion is common.
- Lack of publicly available data on corruption convictions: potential lenders, donors and participants should be screened when conducting the due diligence process for a future project. It would also be necessary to find out who the potential main participants in the project are, their employees, joint venture partners and companies from their group, and whether they have been investigated, prosecuted or convicted of corruption. If the countries had a national public register with information on convictions and prosecutions, that would significantly help with due diligence.
- Lack of sufficient data on national infrastructure: corruption that may arise (for example, on a road project) during selection or measuring of a new road for corrupt purposes. The lack of comprehensive and orderly data on the state of national road networks makes it difficult for lenders, donors or financiers, as well as planners, to determine whether a proposed road project (which may have been approved due to the corruption of an official or minister) is genuinely in the interest of the community, and not carried out solely for private purposes.
- Lack of sufficient data on the comparative price of infrastructure projects, materials and methods: lack of such information means that there is no method of assessing whether the offer price is appropriate. Suppose, tenderers agree with covert collusion on

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pricing. In that case, the bidding prices alone will not be a reliable criterion for selection and the project might be greatly overpaid due to lack of measurable data.

SAQ:

Q. How will you stop administrative corruption? (80 words)

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1.3.4 Types of Administrative Corruption

Administrative corruption refers to a condition within administrative system, which is caused by frequent offenses by the employees and is far-reaching. This finally prevents the system from functioning effectively and efficiently. These offenses, which lead to administrative corruption, are of different types.

The most common offenses are: Financial corruption which itself is of several types like bribery, embezzlement, graft in government purchases from the private sector, and graft in government contracts with contractors E-tax fraud

- Using government property for personal use
- Skip the job, fake mission reports, spending time at workplace for things unrelated to one's job.
- Stealing public property by employees.
- Consuming more than needed.
- Preferring relationships to rules and regulations.
- Corruption in terms of identifying and in fighting offenses (tolerance of corruption).
- Corruption in terms of offering government goods and services.
- Corruption in terms of issuing permits for economic and social activities.

- Employment corruption (failure to observe rules and criteria of meritocracy while selecting people or promoting them in the organization.

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STOP TO CONSIDER

A political researcher Hayden Hymer divides administrative corruption into three types: black, gray and white. Black administrative corruption is something that is abhorrent to the masses and political elite and the perpetrator must be punished. One instance is accepting bribes in exchange of skipping safety standards for housing. Gray administrative corruption is something that is abhorrent to the majority of the elite but the masses are indifferent to it. An example is negligence on part of employees regarding the implementation of rules that are unpopular with people but the elite believe they are necessary. White administrative corruption is something that on the face of it goes against the law but most members of the society (the elite and most ordinary citizens) do not deem it as detrimental and significant as to demand punishment for the perpetrator. An instance is turning a blind eye to violations of rules that have been rendered unnecessary by social and cultural changes.

Gap between the classes, distribution of wealth, income resources, tax rates, inflation rate, the government's financial power to meet the needs of its workers, etc. all lead to the formation of different layers of corruption in a society. The development of communications technology, advanced financial systems, an upgraded educational and welfare system and enhanced management and accounting skills are all reasons why the scale and type of corruption differ in developed and developing nations as they move towards their development goals.

CHECK YOUR PROGRESS

1. Mention the important causes of Administrative Corruption.
2. Discuss about the types of administrative corruption

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1.4 Administrative Corruption in India

India is one of the few countries in the world where corruption has corroded public life alarmingly. There are two major actors in public life, politicians and civil servants. While political corruption is widely debated and discussed, the bureaucratic corruption does not figure so prominently in public domain. It is true that the former is more dangerous than the latter because of the decisive position of the political masters in democratic governance. But the latter cannot be ignored easily. Significantly, Karl Marx defined them as ruling classes. For Marx, bureaucracy does not hold any organic position in the society. For him, the bureaucrats are parasites and are like apron strings of the ruling political class. In a democratic form of government, power of the people is vested in the state. In addition, the state expresses itself through a network of institutions and offices designed for discharging its responsibilities. In every public office, the incumbent is entrusted with public power. A modem state has three organs charged with responsibility of rule making, rule application and rule adjudication. Moreover, all of them are required to uphold high moral principles. ''The problem of ethical conduct for public official arises by virtue of the power he commands, the authority he wields and the commitment of loyal and disinterested service to the public''

Since 1991, economic liberalization in India has reduced red tape and bureaucracy, supported the transition towards a market economy and transformed the economy. However, though the Indian economy has become the sixth largest in the world, its growth has been uneven across social and economic groups, with sections of society experiencing some of the highest levels of poverty in the world. Endemic corruption contributes to this uneven distribution of wealth. The cost of corruption, perceptible in public sector inefficiencies and inadequate infrastructure, is undermining efforts to reduce poverty and promote sustainable growth.

India has witnessed huge scams and scandals. The Bofors scam, Bihar's Fodder scam, purchases by the Department of Telecommunications, Jain Hawala Case, Lakhubhai Pathak Case, various land grab cases, HDW Submarine case and certain defence purchases have been widely reported in the press and are now the subject matter of judicious scrutiny. There is a widespread perception that corruption in contracts, commodity imports,

international financial transactions and violations of the Foreign Exchange Regulation and Income Tax Acts has also increased. In 10 years of UPA rule, India witnessed huge scams namely 2G scam (2008), Satyam scam (2009), Commonwealth Game scam (2010), Cash-for-vote scam (2011), Coal scam (2012), Adarsh scam (2012), etc.,

Narendra Modi touted the catchy slogan, "Na khaunga nakhane dunga". If the Bharatiya Janata Party (BJP) were elected to power, Modi would neither indulge in corruption, nor tolerate it in his government. It was, at least in part, on the basis of such pledges that BJP stormed to power in the 2014 general election. But, reports and studies emphasis that the country continues to face major governance challenges. There is a lack of transparency in governance rules, procedures are complicated and the bureaucracy enjoys broad discretionary power. Nepotism is embedded in the civil service, journalists are harassed for reporting on corruption and recent years have seen an increase in off-the-books campaign finance arrangements. These findings confirm the prevalence of the bureaucratic and administrative forms of corruption that take place at the implementation end of politics, where the public meet public officials. Bureaucratic corruption pervades the Indian administrative system with widespread practices of bribery and nepotism. India has the highest bribery rate in Asia and the most number of people who use personal connections to access public services, according to a new report by a corruption watchdog named *Transparency International*. The (GCB) – Asia, found that nearly 50 per cent of those who paid bribes were asked to, while 32 per cent of those who used personal connections said they would not receive the service otherwise. The report is based upon the survey which was conducted between June 17th and July 17th, 2020 in India with a sample size of 2,000. "With the highest bribery rate (39 per cent) in the region, India also has the highest rate of people using personal connections to access public services (46 per cent)" , the report said.

Bribery in public services continues to plague India. Slow and complicated bureaucratic process, unnecessary red tape and unclear regulatory frameworks force citizens to seek out alternate solutions to access basic services through networks of familiarity and petty corruption, the report said.

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1.4.1 Stages of Administrative Corruption in India

Four drivers set the stage for the vast majority of administrative corruption in contemporary India. The first two – Lack of enforcement capacity and regulatory complexity – are deep causes, or foundational characteristics of India's institutions. The other two – inadequate regulation of political finance and shortcomings in public sector recruitment and postings – are more proximate offshoots of India's institutional infirmities.

These four drivers give rise to three distinct types of malfeasance: facilitative, collusive and extractive corruption. Most Indians will immediately recognize facilitative corruption from their regular interaction with the state machinery: officials demanding bribes to perform or expedite the basic functions of their job, like issuing passports or ration cards. Collusive corruption involves bribes paid to circumvent regulations, kickbacks from government procurement, and bribes paid illegitimately to obtain government contracts or licenses all fit into this category. Extractive corruption comprises diverse crimes, from embezzlement and harassment bribery to shirking and simply not showing up to work.

Check Your Progress

1. Discuss about the administrative corruption in India. Mention some of the famous scams in India.
2. Do you think the current BJP Government has been able to stop administrative corruption? Give your answers.
3. Explain various stages of administrative corruption in India.

1.4.2 Mechanisms to Fight Administrative Corruption in India

The Government has put in place a well-developed legal and institutional framework, with institutions including the Central Bureau of Investigation, the Office of the Comptroller and the Auditor General, and the Central Vigilance Commission. The Supreme Court, in particular, has taken a firm stance against corruption in recent years and made several important rulings. Another achievement in the fight against corruption has been the enactment of the Right to Information (RTI) Act in 2005, which grants citizens access

to government information and a mechanism to control public spending. In spite of progress, however, law enforcement remains weak and reforms have a long way to go.

The Santhanam Committee constituted by the Central government has identified certain procedural causes of corruption. These are: red tape and administrative delay; unnecessary regulations; scope of personal discretion; cumbersome procedures; scarcity of goods and services and lack of transparency. Thus, we have a situation where on the one hand enterprising business persons are ready to pay "speed money" and on the other civil servants agree to exercise discretion, not infrequently, for ulterior motives. Other reasons for corruption are where officers on behalf of the State engage private companies to perform specific tasks or public works or provide services and these companies, in collusion with officials, indulge in corrupt practices such as overcharging, providing low quality work, etc. Secondly, wide discretionary powers conferred to people with specialized skills and knowledge as in the field of defence projects can lead to corrupt practices. Of late, a number of such scams have unfolded such as Bofors, HDW Submarines, defence purchases, etc. Thirdly, lack of transparency, unclear, ambiguous and technically complicated regulations lead to corruption, as the public is unable to exercise effective control.

A problem that often arises in the fight against administrative corruption is that people often do not even recognize it, because for them, it is already a part of everyday life or they are already completely used to living with it as it is a kind of folklore (generally typical of countries in transition and developing countries, where a gift to an official for service is almost self-evident) and those who get rich because of it do not receive condemnation, but admiration: "He is resourceful!", therefore, a lot of work should be put into prevention and education, because only if people start realizing that they are the ones who are paying for everything, or that they are at a disadvantage due to corruption (poor roads, more expensive health care, slow and poor services of the state apparatus, etc.), a critical mass is formed that establishes zero tolerance for corruption and only thus is a successful fight against corruption guaranteed.

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It should be emphasized that different countries have different bases for administrative corruption. Due to low and irregular salaries in some countries, officials salvage their livelihoods through corruption, while in other countries, officials could live comfortably without it (in such countries, corruption is a means of raising personal standards). Consequently, the answer to how to deal with corruption successfully is not unambiguous, as some countries have achieved great successes in a relatively short period (Singapore, Estonia and Georgia), while others have been struggling with it for a long time (the best-known example is Italy).

India's performance on the Global Integrity Index indicates a huge gap between anti-corruption policies and practice. The legal and institutional framework to curb corruption is well developed and the country receives high scores in terms of anti-corruption law and institutions. An analysis was conducted by Transparency India to identify possible gaps between the UN Convention against Corruption (UNCAC) and the legal and institutional framework in place in the country.

The report confirmed the good quality of the legal framework against corruption in India, with existing legislation in line with most of the requirements of the UNCAC. The largest-and almost only-substantial gap was identified by the report in the area of whistleblower protection. Some of the provisions to fight administrative corruption in India are mentioned below:

- **The 1988 Prevention of Corruption Act** criminalize corruption in the public and private sectors in the form of active and passive bribery, extortion, bribery of foreign officials, abuse of office and money laundering. There is also a 2002 Prevention of Money Laundering Act (amended in 2005). At the local level, state governments have state laws that address specific aspects of corruption.
- **The 2005 Right to Information (RTI) Act** represents one of the country's most critical achievements in the fight against corruption in recent years. Under the provisions of the Act, any citizen may request information from a "public authority" which is required to

reply expeditiously or within 30 days. The Act also requires every public authority to computerise their records for wide dissemination and to proactively publish certain categories of information for easy citizen access.

- The **Central Bureau of Investigation** (CBI) is the prime investigation agency of the central government and is generally referred to as a credible and respected institution in the country. It is placed under the Ministry of Personnel, Pensions & Grievances and consists of three divisions: the Anti-Corruption Division, the Special Crimes Division and the Economic Offences Division. These units have the power to investigate cases of alleged corruption in all branches of the central government, but need the permission of state governments to investigate cases at the state level. The Supreme and High Courts can instruct the CBI to conduct investigations. Like the CVC, the CBI has a complaint mechanism on its website.
- **Lokpal** is an anti-corruption body or ombudsman, responsible for looking into corruption complaints at the national level. The Lokpal movement in India was spearheaded by activist Anna Hazare, with his Jan Lokpal movement in 2011. The Lokpal and Lokayuktas Act were passed by the parliament in 2013. In 2019, retired Supreme Court judge Pinaki Chandra Ghose was appointed as the first Lokpal of India.
- **Jurisdiction**: All corrupt cases under the Prevention of Corruption Act, 1988. It covers MPs, Ministers, 'Group A officers in a company or body owned by the government, any officer of a government-financed society or trust or funded by Foreign (Contribution Regulation) Act, 1976 or that gets funds from the public, excludes PM, judiciary and any action of an MP in the Parliament or Committee.
- The **Lokayukta** is an anti-corruption authority constituted at the state level. It investigates allegations of corruption and mal-administration against public servants and is tasked with speedy redressal of public grievances. The origin of the Lokayukta can be

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traced to the Ombudsman in Scandinavian countries. The Administrative Reforms Commission, (1966-70), had recommended the creation of the Lokpal at the Centre and Lokayukta in the states. The Lokayukta is created as a statutory authority with a fixed tenure to enable it to discharge its functions independently and impartially. The person appointed is usually a former High Court Chief Justice or former Supreme Court judge. Members of the public can directly approach the Lokayukta with complaints of corruption, nepotism or any other form of mal-administration against any government official.

STOP TO CONSIDER

Some of the important facts regarding Lokpal and Lokayukta

- In 1809, the institution of ombudsman was inaugurated officially in Sweden.
- In the 20th century, Ombudsman as an institution developed and grew most significantly after the Second World War.
- New Zealand and Norway adopted this system in the year 1962 and it proved to be of great significance in spreading the concept of the ombudsman.
- In 1967, on the recommendations of the Whyatt Report of 1961, Great Britain adopted the institution of the ombudsman and became the first large nation in the democratic world to have such a system.
- In 1966, Guyana became the first developing nation to adopt the concept of the ombudsman. Subsequently, it was further adopted by Mauritius, Singapore, Malaysia, and India as well.
- In India, the concept of constitutional ombudsman was first proposed by the then law minister Ashok Kumar Sen in parliament in the early 1960s.
- The term Lokpal and Lokayukta were coined by Dr. L. M. Singhvi.

- **Benami Property Act 1988,** The term 'Benami' in Hindi translates to 'no name' or 'without name'. Benami transactions or Benami property would be one where a person's own name is not used but the name of another person or a fictitious person is used instead. Recent amendments have widened the definition of the Benami Property and allow the government to confiscate such properties without any hassles of court approvals.
- **Central Vigilance commission Act 2003,** The Act gives statutory status to Central Vigilance Committee. Central Vigilance Commissioner shall be appointed by President on recommendation of a Committee consisting of the PM, MHA and LoP in LS. It covers IAS officers, Gazetted officers of center, senior members of the PSB banks etc. The Commission, while conducting the inquiry has all the powers of a Civil Court.
- The '**Public Interest Litigation**' (PIL) has been borrowed from American jurisprudence, where it was designed to provide legal representation to previously unrepresented groups like the poor, the racial minorities, unorganised consumers, citizens who were passionate about the environmental issues, etc. Public interest Litigation means litigation filed in a court of law, for the protection of "Public Interest", such as Pollution, Terrorism, Road safety, Constructional hazards etc. Any matter where the interest of public at large is affected can be redressed by filing a Public Interest Litigation in a court of law.

In 2015, the Government of India launched a massive campaign named '**Digital India'**. This was done to make the government services accessible in various parts of the country. The main aim was to improve access to technology to the people of the country and to tackle the issue of corruption.

The Prime Minister of India, Narendra Modi also undertook an initiative to make rural households digitally literate. The massive 2,351.38 crore project is an effort to cover approximately 6 crore households under its umbrella. The project was executed by a body known as PMGDisha (Pradhan Mantri Gramin Digital Saksharta Abhiyan) to achieve its target by the end of March 2019. It will also help people connect with just the touch of a button. The

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government also wants to make digital payment platforms popular amongst businesses. This will facilitate more people to jump in on the digital platforms and ease doing business across various parts of the country.

Technological approaches to tackling corruption are appealing but face their own set of challenges. Technological innovations still rely on higher levels of government to monitor and enforce punishments for malfeasance, which they may be loathe to do for political economy reasons. In addition, the logistical details of last-mile delivery can severely hinder effectiveness. Technology-based solutions work best with concerted institutional support, and when they decentralise enforcement, circumvent middlemen bureaucrats, and empower ordinary citizens. For example, a technologically innovative programme in Andhra Pradesh used biometrically authenticated smartcards to decentralise payment-making authority for the rural jobs guarantee scheme and social security pensions, resulting in a more than 40 per cent reduction in leakage. In light of this success, the federal government has a unique opportunity to leverage the Aadhaar unique identity number programme to further marginalize middlemen in service delivery. In the fight against administrative corruption, most of research scholars recommend that:

- Corporations and government organizations must implement structures and cultures that strengthen effective institutional practices and procedures to eliminate corrupt practices; ethical values and practices should be promoted in all corporations and government organizations in order to foster discipline and self-restraint of employees who may be tempted to engage in corrupt activities; all employees in companies and government organizations must develop, adopt and sign anti-corruption;
- Policies and documents that will show that they are willing to be incorruptible in all their activities; legislators should work to adopt legislative instruments that promote good ethical practices and eliminate corrupt practices in companies and government institutions; the mass media must strive to promote good governance in part of their program continuously;
- Impartial and fair decisions, the rule of law and transparent anti-corruption procedures and structures;

- Whistle-blowers who expose and report all corrupt practices in their organizations should be encouraged.

In short, to summarize the previous findings, in order to prevent administrative corruption, it is essential to set clear rules, transparent laws and clear deadlines, without the possibility of excessive influence in state structures both vertically and horizontally.

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Check Your Progress

1. Can *Digital India* eradicate administrative corruption in India? Give your suggestions.
2. Discuss about Lokpal and Lokayukta Act in fighting against administrative corruption.
3. Recommend various measures for eradicating administrative corruption in India.

1.5 Summing Up

In conclusion, tackling administrative corruption is a massive task, but the enormity of the challenge should not dampen reformers' spirits. The stakes are high left unchecked; administrative corruption will hamper any nation's ability to grow its economy and to provide opportunities for its young population. Worse, administrative corruption also risks diminishing the faith ordinary citizens have in the rule of law and the democratic system; such distrust can trigger a negative spiral as even honest reform initiatives are viewed with suspicion and stymied. Reformers should take comfort in knowing that they are not forging a new path; the literature is replete with examples of effective, inexpensive and logistically simple solutions. India stands to gain immensely from combining these fixes with the more arduous task of strengthening important institutions and State capabilities. While the ability of these solutions to circumvent weak public sector institutions has its limits, the potential gains from reform suggest that such an agenda should be pursued with urgency.

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UNIT- 2

RED TAPE AND PROCEDURAL DELAYS

Unit Structure:

2.1 Introduction

2.2 Objectives

2.3 Red Tape

- **2.3.1 Definition of Red Tape**
- **2.3.2 Three Kinds of Red Tape**
- **2.3.3 Approaching Different Perspectives of Red Tape**

2.4 Procedural Delays

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2.5 Summing Up

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2.1 Introduction

Red tape is the excessiveness of laws, procedures, and rules imposed by the government, which eventually delay organizations' work. It not only plays a negative role in the public sector but also has a profound impact on individuals' job satisfaction, organizational commitment, public service motivation, and work performance. Red tape has become one of the key research topics in public administration. Red tape can be described as 'rules, regulations and procedures that entail a compliance burden without advancing the legitimate purposes they were intended to serve'. The negative effect of red tape on procedural satisfaction is likely to be less pronounced for individuals with a managerial position for two reasons. First, managers may actually 'use' red tape in a strategic way. For example, red tape can be used as a managerial tool to delay promotions to other positions or departments within the organization of highly effective subordinates. Policy makers can further for their own interests, by creating red tape that deliberately limits political and social rights of specific citizen groups. Second,

in certain cases, more burdensome promotion procedures also serve a legitimate organizational goal such as ensuring that legal standards are not violated. As Waldo put it 'one man's red tape is another's treasured procedural safeguard', which was later reiterated by Kaufman as: 'one person's red tape may be another's treasured safeguard'. Such procedural safeguards are more likely to be valued by managers that are able to oversee the larger organizational picture, as opposed to employees that find themselves confronted with (perceived) excessively burdensome procedures blocking their individual promotion or pay raise.

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2.2 Objectives

Red tape and procedural delays refer to formal rules and standards, which are claimed to be excessive, rigid or redundant, or to bureaucracy claimed to hinder or prevent action or decision-making. After reading this unit you will be able to:

- *define* red tape
- *know* the types and causes of red tape
- *understand* administrative and judicial delays
- *examine* the provisions for judicial delays in India

2.3 Red Tape

Red tape is a broad term that can be defined as procedures and rules imposed on public and private sector organizations that result in negative impact. Employees are the most valuable assets of organizations as their goals and objectives cannot be achieved without employees' input. Many organizations recognize their employees as the wheels of the vehicle; until or unless the wheels move, the vehicle cannot move. Neither can it begin the process of making or maximizing a profit.

2.3.1 Definition of Red Tape

Red tape is defined as rules, regulations, administrative, and management procedures and systems, which are not, or are no longer, effective in achieving their intended objectives, and which therefore produce sub-optimal and undesired social outcomes. In many cases, a perfectly sensible bureaucratic

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procedure can become clumsy through poor interfaces between people, or through poor communication on how the process works. Streamlining procedures and increasing the service orientation of administrative personnel can therefore play an important role in reducing inefficiency and thus reducing costs. Red tape shows up in and between all kinds of organisations, such as the different spheres of government, in the private sector and in civil society. Although much red tape is created elsewhere in the economic and social system, we specifically focus on red tape that occurs at the local governance sphere, or that shows up in the area of sector or value chains.

The term red tape expresses dissatisfaction. At a symbolic level, red tape is an all-encompassing symbol for the failures of government machinery. The use of the term may express dissatisfaction with particular elements in the functioning of organizations, for example- procedural delays, excessive reporting requirements, depersonalization of clients, and excessive rule boundedness. Empirical studies on red tape typically have used one of the aforementioned effects of red tape to operationalize the concept of red tape, typically focusing on internal administrative effects as opposed to its impact on service delivery.

Red tape influences organizational decision-making. Such decisions fall into two main types: centralized and decentralized. Most public organizations make centralized decisions partly because their employees have less experience, knowledge, and training as compared with those in the private sector. The performance of public sector employees deteriorates with time, rendering these organizations ineffective, and the mainly centralized decision-making process further reduces employee empowerment. Today, many high-level officials are considering privatizing these organizations because of their poor performance and dissatisfied customers.

SAQ:

Q. Define red tape and its influence on organizational decision making (80 words).

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2.3.2 Three kinds of red tape

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Within the definition given above, three kinds of red tape can be identified within or between organisations:

1. Red tape, which is created by rules and regulations that are designed to achieve a specific policy objective and that are thus policy related.
2. Red tape, which is created by procedures and systems that do not function in an efficient and effective way due to administrative and management issues.

Most red tape issues can be classified within these two broad categories, which exist within or between organisations.

Furthermore, whenever an organisational unit interacts with stakeholders, inefficiencies in communication and knowledge or information transfer may occur. These information and communication failures are a third kind of red tape, which emerges between stakeholders:

3 Red tape, which is created when stakeholders from different sub-systems exchange information or interact.

The interfaces between stakeholders include human and technology interfaces, customer service and transparency. In highly departmentalized organisations, this third kind of red tape may also be an issue between internal units.

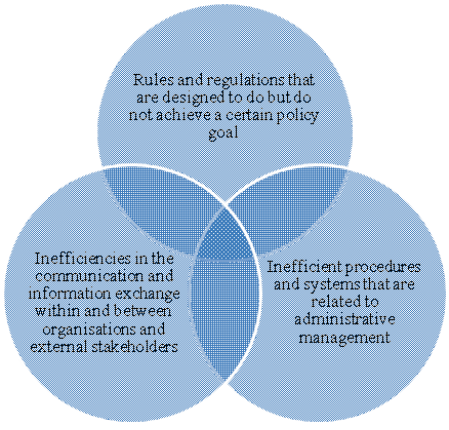

Fig.1

Each category of red tape has distinct symptoms and, more importantly, responds to different approaches of analysis and intervention. In many

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instances where there are symptoms of red tape, more than one kind of red tape is present.

- **Red tape caused by rules and regulations**

Senior decision makers in local municipalities or local firms must make decisions that affect the behaviour and performance of the resources and people under their control. In some cases, these managers have to respond to or interpret policies shaped higher up in the organisation or legislative environment, with little space for customization or flexibility. In other cases, managers at a local sphere can choose how to prioritise the use of resources and people, and how to develop the strategy of the organisation. All of these decisions or legislative requirements can be broadly described as policies that define how an organisation as a whole should behave or perform.

While policies are in most cases developed with good intentions, they often result in unintended consequences, or become ineffective as circumstances change. Perhaps a regulation made sense under a specific set of circumstances, which is no longer relevant. Alternatively, a rule was never properly defined, and people found all kinds of work-around, resulting in several changes or additions to the rule. This could lead to the rule becoming difficult to enforce or interpret in a consistent way.

Finally, when management decides not to make a decision about a given issue, either through ignorance or other more important priorities, this can also be interpreted as a policy decision.

- **Red tape caused by inefficient procedures and administrative systems**

Administrative and management procedures and systems are at the operational core of any organisation and therefore affect its performance. The procedures of organisations and their subsystems determine how decisions are made and how people can perform routine or standard operations. For instance, the accounting system may require certain procedures with regard to making or receiving payments, combined with a particular IT equipment and software configuration. Together, procedures, equipment and people are described as a system. It can be the entire system or the procedures involved that are poorly designed. Thus, only a holistic perspective of how a system is supposed to function and how it supports

the objectives of the organisation will make it possible to refine or enhance performance. All too often, the focus on efficiency improvement is on technological equipment, while the supporting procedures and the human elements are neglected. By definition, there are not too many or too few procedures, suitable or inappropriate equipment, or helpful or unhelpful people. It is the right mix of these elements that enables the system to reach a specific objective.

Typically, there is a close interaction between the procedures and systems and the regulations and rules of organisations. Organisations use procedures to enforce regulations and rules, and use regulations and rules to make procedures work better. Yet many procedures and systems are designed purely from a functional or transactional perspective.

Red tape in administrative and management procedures and systems is caused by a multitude of factors ranging from poor management skills, lack of formal procedures, poor design of procedures, little oversight of the performance of procedures, to staff simply not following procedures. Complicated forms, unnecessary steps, or poor IT systems also create problems at this level. With the broadening of municipal functions, and the increased size of municipalities, the procedural level of management is often under huge pressure because of pressures from the local community for the municipalities to address a wide range of policy issues. At the same time, many private sector actors are also under pressure at this level due to changes in the legal environment and increased international competition.

- **Red tape caused by poor communication and information exchange**

This kind of red tape is caused by the interaction between stakeholders, either within or between organisations, or between an organisation and external stakeholders. These interactions take place through:

- Human interfaces such as interpersonal communication between individuals, teams and organizations
- Technological interfaces that enable communication or automation such as websites, telephone systems and other media
- The usage or consumption of public and private services and goods by people or consumers, such as refuse removal or telephone lines.

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There is a close relationship between the procedural level and the interface level. Even carefully designed procedures and systems can become cumbersome if there is too little information available on how the procedure works, or if the staff behind the counters are unfriendly or unhelpful.

Many quick wins can be achieved at this level, because improving service levels can in fact be achieved without senior management involvement. That said, getting administrative staff to 'care' and be helpful can be extremely difficult in an organisation where management is unfriendly or where morale is low due to poor performance or unsatisfactory working conditions. Red tape on this level can be addressed by identifying the various ways the organizational units interface or interact with other units and organisations. With the increased use of information technology, the role of the traditional receptionist as the main interface between organisations is rapidly changing. In the private sector, several instruments have been developed to make sure that service standards and efficient interfaces are maintained.

STOP TO CONSIDER:

Punjab Anti Red Tape Act, 2021

Aimed at eliminating red tape and promoting efficient delivery of services, the Punjab Assembly has passed the Punjab Anti-Red Tape Act, 2021. The law will enable the government to impose a fine of up to Rs 50,000 on the official concerned for delay in service delivery. It also provides for disciplinary action, including dismissal from the service. The act contains provisions to reduce the cost and burdens of compliance on the citizens and business, through simplified, trust-based procedures that would expedite processes and make governance efficient.

SAQ:

Q. Mention some of the rules and regulations, which cause red tape. (80 words)

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2.3.3 Approaching Different Perspectives of Red Tape

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Service Delivery		Business Environment		
Infrastructure and Environment	Social Service	Laws, regulations and policies	Procedures and Systems	Interface
Roads	Residential quality	Taxes and levies	Management and structures	Public-private dialogue
Electricity, Energy	Education and research	Town planning	Decision making	Partnership, collaboration
Water and Sewage	Health	Environmental regulation	Reporting structures	Information and consultation
Built and Natural Environment	Recreation	Business sector regulations	Skills and capacities	Service interface
Property and Land	Culture	Licensing	Human resources	Private sector organization
ICTs	……	……..	…….	……

Fig.2

A first perspective on red tape is to consider its effects on Local Economic Development (LED). LED can be describe as an ongoing development process between the public, private and civil society stakeholders of a given territory to improve the local economy, in a competiveness-oriented, inclusive and sustainable manner. It further suggests using the available resources to create conditions, which stimulate and enable the general environment in which business is done.

Indeed, initiatives, which pursue LED are likely to show very limited and isolated effects on the local economy, if they are designed within a disadvantageous or even hostile local business environment (LBE). Firstly, this approach refers to the regulatory framework and the administrative systems, which provide, besides market forces, the rules of the game that

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shape the decisions and actions of all businesses. Hence, it is an approach with leverage, which has to be used responsibly, as it can change the situation of thousands of businesses almost at the stroke of a pen. Secondly, the approach refers to the relationship between the public and private sector, including their organisational arrangements. These allow the negotiation and implementation of the rules of the game. In a decentralised government system, there is an often-complex relationship between the spheres of government and the associated private sector organisations. Policies might be shaped at national sphere, translated into laws at the provincial sphere, and implemented at the local sphere where businesses are operating. Hence regular feedback mechanisms between spheres and across sectors are a necessity.

A second perspective on red tape is service delivery. Organisations such as local municipalities and other government and non-governmental organisations involved in the provision of public services have limited resources to perform a wide range of duties. Some services directly affect citizens and businesses. Other services have indirect effects on the ability of businesses to operate profitably, or citizens to enjoy a certain quality of life. Inefficient planning, poor resource management, vacant positions and service backlogs are often symptoms of red tape that affects service delivery. Inefficient or unclear bureaucratic processes waste valuable time, energy and resources. Furthermore, employees can easily become demoralized and may leave the organisation. In the worst case, red tape creates opportunities for corruption and bribery of officials, who wield power by being able to influence processes or decisions.

1. The rationale for reducing red tape

Not every rule, regulation, procedure or system is necessarily red tape. The purpose of reducing red tape is not to take away all the policies and administrative and management processes. Rather, the aim of cutting red tape is to focus rules, regulations, procedures and systems on achieving their objectives efficiently and effectively. Where this is not possible, it becomes necessary to make sure that people can interact with the policies and procedures in a more efficient and transparent way. In the previous section the different perspectives of reducing red tape were described. Two themes emerged that provide a rationale for red tape reduction:

- The LED perspective: reduce compliance costs for business and thereby improve the business environment, leading to economic growth.
- The service delivery perspective: reduce costs for service provision and increase the use of service.

Addressing red tape to save costs

The cost of red tape first of all affects the budget and resources within the organisation where the red tape originates. In the municipal context, for instance, rules and regulations, which are unnecessary or do not help to achieve their policy goals make it more difficult for officials to do their jobs, even when there is no enforcement. Unnecessary or complicated procedures and systems also create costs. There might be increased training costs, compliance enforcement costs and performance monitoring costs for management and staff to use the procedures and systems. Furthermore, there is also ever-increasing pressure on local municipalities to better utilize their financial, human and physical resources.

Second, the cost of red tape within an organisation does not only relate to its own budget and resources, but also creates costs for other stakeholders interacting with the organisation. In a municipal context, red tape increases the costs of doing business by the private sector directly through:

- Compliance costs: the costs of complying with regulations and procedures in terms of time and money ;
- Non-compliance costs: fines, bribery, harassment, appropriation of stock (specifically relevant for the informal sector) etc. ;
- Procurement costs: barriers created by procurement procedures, poor supply chain management or clumsy tender procedure and indirectly through:
- Ineffective service delivery
- Inefficient or ineffective allocation of public funds

New technologies and ICT create many opportunities to redesign or optimize the performance of procedures and systems in order to reduce costs. However, while reducing costs in the long term may be sensible, the immediate costs of redesigning a system or upgrading to a better technology

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may require short-term investments that may exceed the financial resources of a department or unit in an organization

2. Addressing red tape to improve the use of services and service delivery

Many symptoms of red tape in an organisation relate to the consumption of the services offered by the organisation. Red tape in the municipal context reduces the consumption of services in many cases, which in the end defeats the objective of government. In the worst case, inefficient service provision has a marginalisation effect. For instance, when a municipal licensing department responsible for vehicle registration and driver's licences is poorly configured, then long queues will develop and the throughput of the system will slow down. Mothers with children or small enterprise owners cannot afford be away from their homes and businesses to go through such a procedure. This result in fewer people using the service – they then either go to another municipality where the service is faster, or they find illegal means to obtain licences and register their vehicles. The problem may be that although enough resources have been allocated to the department, the procedures and interface have not been designed holistically for efficiency. This is likely to lead to frustrated staff and service users. A redesign of the 17 entire licensing system, including simplifying the rules, signage, forms and application procedure, may result in the ability to process more license applications and decreased frustration levels.

Again, technologies, such as websites or self-help counters, can greatly improve the delivery of certain services. The interface can be improved by providing forms on a website or by ensuring that people have all the required supporting documents before they start the application procedure. This will save valuable time, and can reduce the length of queues.

STOP TO CONSIDER:

Some of the important measures to reduce red tape

- Reforming Laws: Reducing administrative burdens should be a part of making good laws. This objective also contributes to making administrative cultures more responsible and service-oriented.

- Involving States: Governments also need to consider ways in which sub-national levels of government can be incorporated into the administrative simplification and regulatory quality process.
- Reduce the paperwork: Computers have already made many of the government services faster. It is a way forward to decrease the red tape. Capacity building in IT and communications is required at all the levels of the government, top to bottom.
- Skill development: There are officials who are not skilled enough to make government processing faster. It is important to train them properly on the subjects and appoint skilled people.
- Incentives: Many government employees at the lower level (Group C and Group D) are underpaid. They find no incentive to work efficiently. Efforts must be made to honour workers for their good work and punishing for not achieving timely efficiency.

Check Your Progress:

1. Explain how red tape affects procedural delays. Give an example of service delivery.
2. Discuss about the three main kinds of red tape. Explain in your own words how inefficient procedures and administrative systems caused red tape.
3. Discuss different approaches to reduce red tape.
4. Write a note on how technologies can reduce red tape.

2.4 Procedural Delays

The concept of 'delay' is itself an ambiguous one. Presumably, the complaint is that more time is necessary for a particular decision than the critic thinks is necessary. This, of course, presumes the existence of a norm or reasonable time for the handling of average cases. But, that yardstick has not been established as yet. "Delay" is a pejorative word. The term assumes that the time consumed for a particular decision is undue or unreasonable. The assumption is that a substantial saving of time is possible without impairing the quality of the decision, the rights of the participants or other social values involved.

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2.4.1 Administrative Delays

An administrative delay is another cause of corruption. In many countries, the administration moves very slowly. Administrative procedure and practices are cumbersome and dilatory. This added by the negative attitude of the bureaucracy and red tapism. The files move endlessly from one desk to another because everyone wants to avoid the responsibility of taking decisions. This results in delay in administration action whether it is responding to the request of an ordinary citizen or work of a big project. Projects are rarely competed in time, resulting in cost over-runs.

Administrative delay captures the amount of time required to complete core organizational tasks such as purchasing items, hiring and firing personnel, contracting services, and changing policies. Administrative delays are associated with organizational interest in information technology and affect organizational risk-taking culture. Delays may be caused by ineffective rules or by bad management, but delays may also be attributed to differences in norms and informal behavior or to uncontrollable events. Furthermore, delays can be derived from organizational centralization, or a lack of resources. Most important, the very notion of administrative delay is essentially a social construction. The concept of administrative delay has been studied in a variety of fields and to a variety of purposes. For example, legal scholars have focused on effects of delay on legal justice, economists have emphasized impacts on regulation and political scientists have attended to the use of administrative delay as a tool for political control. Delays may be caused by ineffective rules or by bad management, but delays may also be attributed to differences in norms and informal behavior or to uncontrollable events. Furthermore, delays can derive from organizational centralization, or a lack of resources.

Scott and Pandey (2005) use a different theoretical approach and draw on attribution theory to argue that individuals assign the causes of their circumstances to either an external force, or to factors internal to the individual. Individuals with an external attribution are more likely to perceive rules as unnecessary, illegitimate and something beyond their control as opposed to individuals with an internal attribution. In the context of administrative delay, individuals with an external attribution are likely to feel

more frustrated and vexed as a result of certain rules than individuals with an internal attribution. In turn, these feelings of frustration about delays will likely be associated with higher levels of red tape.

Administrative delay likely leads to higher levels of red tape, as administrative delay hinders the achievement of goals and objectives, both for the individual employee and the organization as a whole. Delays may be caused by ineffective rules or by bad management, but delays may also be attributed to differences in norms and informal behavior or to uncontrollable events. Furthermore, delays can derive from organizational centralization, or a lack of resources. Most important, the very notion of administrative delay is essentially a social construction.

Organizational performance is a very broad concept that has been studied in a multitude of contexts. While many existing studies focus on performance management and measurement in the public sector, there is little research on the detrimental effects of red tape on organizational performance. Here, we focus in particular on two dimensions of performance related to red tape, namely red tape complaints made to the organization by clients and employee perceptions that red tape hinders their service abilities. Linking the study of administrative delay to these red tape – related organizational performance dimensions is in line with the existing red tape literature, as well as a wealth of prior research in public administration that looks at the performance of public organizations in terms of serving their clients' needs.

The concept of administrative delay has been studied in a variety of fields and to a variety of purposes. For example, legal scholars have focused on effects of delay on legal justice, economists have emphasized impacts on regulation, and political scientists have attended to the use of administrative delay as a tool for political control. No field has been more active than public administration in conducting studies of administrative delay. Most often, however, the focus of studies of administrative delay has been as an operationalization of red tape, with researchers acknowledging that administrative delay is a surrogate indicator of red tape and not a perfect one.

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Since most previous research in public administration has used administrative delay as an operationalization of red tape, it stands to reason that there has been minimal focus on its causal effects on perceived red tape. The effects are not patent. For example, it is at least possible that administrative delay, if steady and unchanging, would have no effect at all on perceived red tape but rather would have an effect on shaping baseline perceptions and expectations. In this light, administrative delay can result in adverse effects on organizations' employees who may feel frustrated and discouraged when often-confronting delays viewed as unwarranted and we can expect that these feelings may in some instances spill over to reduced quality of service abilities.

Administrative delay and red tape may be caused by very different factors. Some of these factors may be administrative in nature (e.g., the number of days required to complete an organizational task), while others may be subjective (e.g., an individual's bureaucratic personality). When viewed in connection to organizational performance, performance may be improved by streamlining unnecessarily lengthy and time-consuming procedures in some cases, while in other cases clarification of such procedures may be a more effective approach. This line of reasoning reiterates the necessity for future research to carefully disentangle the objective and perceptual components of administrative delay and red tape.

SAQ:

Q. What do you understand by Administrative Delay? (80 words)

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2.4.2 Judicial Delays

The term delay denotes "a case that has been in the Court or judicial system for longer than the normal time that it should take for a case of that type to be disposed of." In an adjudicatory system, whether inquisitorial or

adversarial, an expected life span of a case is an inherent part of the system. No one expects a case to be decided overnight. However, difficulty arises when the actual time taken for disposal of the case far exceeds its expected life span.

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- **Judicial Delay in India**

Indian judiciary is last hope for citizens of India. Unfortunately, the judicial system in India is based on the Evidences and facts, not conscience or morals, so it should be easier, once having the facts at hand; all it needs is an argument and hearing and quicker pronouncement of Justice. A judicial system that cares only about evidences and facts should not worry about taming the souls of the plaintiff and the defendant with time rather give justice as quick as it can, this delay/denial of justice leads to increasing "Out of Court settlements," which are cheaper and quicker thereby leading to the loss of trust in our Judicial System.

The preamble to the Indian constitution, interalia, declares that, "We the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular, Democratic Republic and to secure to all its citizens - Justice, social, economic and political". However, six decades after Independence, we have endless laws, but not enough justice. The founding fathers of our constitution placed "Justice" at the highest pedestal and our preamble to the constitution placed justice higher that the other features like liberty, equality and fraternity. People use to go to the judiciary in quest of justice.

Indian judiciary is one of main pillars of democracy, it along with media is one to which people look up to while administrative system and police is accused of being highly corrupted. Indian politicians, bureaucrats and police are among least trusted people of India, while judiciary is seen as least corrupted and institute that does stand for people of India.

Various committees have been formed to investigate causes of pendency time and again. For instance, Rankin Committee was set up in the year 1924 on delay in civil cases in High Courts and subordinate Courts. Further, a High Court Arrears Committee under the chairmanship of Justice S.R. Das was appointed in 1949. In 1969, Hidayatulla, Chief Justice presided over a committee to look into the problem of arrears in all its aspects. Later

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on, Justice Shah was appointed the Chairman of the Committee. The Committee was known as High Courts Arrears Committee, 1972. The main stride was made by the committee formed under Justice Malimath. On the recommendations of Malimath Committee, amendments were made in 1999 and 2002. It aimed at speedy disposal of cases. The Amendments of 1999 and 2002 were made effective from July 1st, 2002. The suggestions of the committee and resulting amendments thereto are as follows:

- Time Limit for filing written statement, amendments of pleading, issuing summons etc., must be prescribed. It was withdrawn due to pressure from lawyers/advocates.
- So far as possible parties must try to decide or settle the cases outside the court. A new section, Section 89, was introduced.
- To record the evidences by issuing the commission instead by presence before the court of law. Commission for collecting evidences can be issued now under section 75 of CPC.
- Time frame need to be provided for oral argument before the court of law.
- Restriction on right to appeal.

SAQ:

Q. Write a short note on various committees formed to look into judicial delays in India. (80 words)

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- **Provision under Civil Procedure Code Relating to Speedy Trial**

It is considered to be a fact that any hold up in the court proceedings clearly leads to injustice. An unreasonable delay in providing the judgment is in itself unfair to the party that is accused and he should be discharged of his offence if there does not exist any genuine rationale for the happenings.

However, this may not happen in every scenario as such delay may be due to certain extra-ordinary allegations and the only option is the instruction by the court to make the process faster. To further this objective of expediting the legal process, the rights of parties to enter into a compromise or take back their suit is recognized.

- This is through Order XXII, Rule 3 that "parties either to abandon a claim, or to request the court, to record the compromise between the parties."
- Through the insertion of Rule 3A, the objective was further bettered, as a person cannot appeal from a compromise decree ensuring a trial that is faster and more justice-oriented.
- One of the cardinal inclusions into this system has been the Section 89 through the amendment of 1999, which provided greater efficiency to the system of Lok Adalats. These changes brought in newer elements that if it known to the court that if a settlement can be brought forward, it should make the conditions of such a settlement and pass on to both the camps for their analysis. After the court receives such comments, it shall either continue with the settlement or refer to other modes of settlement such as arbitration etc. The focus lies on the point that the courts must be faster in its justice delivery and unnecessary delays must be avoided at all costs. Another prime component of CPC is Summary Procedure.
- To make sure that the trial process is being done in a quick manner with cases being done with quickly Section 47 of the Code explains that the questions which arise between the two sides of the suit that was passed, or through their legal representatives and in relation to the summation of the decree, shall be pronounced by the court not though any other different suit.

  The Code of Civil Procedure has been amended different times and such amendments have brought forward certain changes to ensure that the trial procedure is shortened.
- The amendment regarding Section 148 was that courts had the authority to expand the required period for an act.

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- The amendment limited it to a month through Section 13 of the Amendment Act in 1999. In addition, there was a limit that was fixed towards numerous actions like the time-period for the statement to be made by the defendant and the application for summoning the witness being made.
- An amendment to Rule 9 and Rule 9A of Order V put into reality the responsibility of putting forward the summons to the defendant. In addition, this amendment expressly authorizes the use of newer means of communications like couriers etc.
- Another important amendment in this respect has been "Section 27 of the CPC (Amendment) Act, 1999 and Section 12 of the CPC (Amendment) Act, 2002": The amendment provided the commissioners with the power to record evidence and such power not to be restrained just to themselves. Prior to this amendment, the judge used to be over-burdened and it was a cause of delay but through such delegation, the process has become much faster.

SAQ:

Q. Write a short note on Lok Adalats. (80 words)

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2.4.3 Reasons for Delay

Many factors are responsible for delay in dispensation of justice. Some prominent causes of delay are following:

- **Vacancies in Judiciary**

This is the most important cause of delay. Now days, this is one of the most debatable issues. Huge number of vacancies poses a major setback for the speedy justice. Even in Supreme Court, sanctioned strength for the judges is 31 while working strength is just 25 that mean six posts of judges are still vacant. Perhaps, on this issue both judiciary and executive are at daggers

drawn. Few months back, Supreme Court lambasted the Centre and asked, "Whether the Centre intends to bring the entire judiciary to a grinding halt by sitting on recommendations of the collegiums for appointment and transfer of judges to High Courts across the country." Further, our country has witnessed a lot of hullabaloo over the issue of NJAC. NJAC i.e. National Judicial Appointment Commission was a proposed body established through Ninety-Ninth Amendment Act, 2015 for the appointment of judges in higher judiciary. But later, NJAC was struck down by Constitution Bench of Supreme Court as unconstitutional. Therefore, Apex Court again upheld the collegiums system for appointment of judges. The present NJAC row also crippled the appointment in judiciary.

- **Inadequate number of courts**

This is another matter of concern, which leads to pendency of cases. Inadequate number of courts proved a major setback for the justice delivery system. Law Commission of India in its Report No. 245 deals with the establishment of additional courts in elimination of delay and speedy clearance of matters. Similarly, Honorable Supreme Court in the matter of Imtiyaz Ahmad v. State of U.P. also directed Law Commission for creation of additional courts.

- **Judicial officers not able to tackle those cases involving specialized knowledge**

Lack of specialized knowledge on the part of judges directly lays an impact on the justice delivery system. With the advancement of science and technology, many new offences have been emerged e.g. cyber pornography, cyber stalking etc. For dealing with such kind of offences, many judicial officers are required to have specialized knowledge.

- **Abuse of Public Interest Litigation**

Now-a-days, courts are over-flooded with frivolous PILs. Frivolous PIL is not connected with the public interest. But, under the guise of PIL, petitioner wants to serve his personal motives and consequently it causes delay in deciding many important cases. Perhaps, for this reason Bhagwati J. cautioned against misuse of PIL in a landmark judgment of Janata Dal v. H. S. Chowdhari. Therefore, PIL should not be filed for personal and political motives.

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- **Lack of adequate arrangement to monitor, track and bunch cases for hearing**

There is a lack of proper mechanism to monitor, track and bunch cases for hearing as a result, it will waste the time of the court and contributes in the pendency of cases.

- **Frequent Transfer of judges**

This is another important reason, which retards the justice delivery system. Sometimes, the new judge orders for de novo trial, which delays the justice delivery process.

- **Role of administrative staff of the court**

Role of administrative staff is very significant in speedy disposal of cases. If they do not perform their duties properly that will hamper the speedy trial.

- **Large number of appeals**

Large number of appeals also impedes the speedy disposal of cases. Courts have to spend their precious time in disposal of the large number of appeals. As a result, courts cannot devote their time in the disposal of other important matters.

STOP TO CONSIDER:

Section 5 of the Indian Limitation Act, 1963 (Act 36 of 1963) is an enabling provision to assist the litigants who failed to do an act within the prescribed time period as originally fixed under the various enactments. For example, a litigant who failed to file an Appeal before the superior courts within the permissible time as originally fixed then he can file it after the expiry of the prescribed period provided he has to show "sufficient cause" for non-filing the Appeal within the time period. Likewise while running a case either before the subordinates' courts or any superior courts; the litigants have to file necessary applications under various enactments for smooth running of the case, but if such applications have not been filed in-time then he can file it later on provided he has shown "sufficient cause" for late filing of the same.

Check Your Progress:

1. Define Judicial Delays.
2. Discuss about Judicial delay in India. Mention few examples.
3. Discuss the reasons for judicial delay in India.
4. Write a note on Code of Civil Procedure and its various amendments.

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2.5 Summing Up

After going through this unit, you are now in a position to analyze the hazards of red tape and procedural delays in public administration. Red tape and procedural delays pose as the obstructions and impediment in the good governance. It is understandable that the anxiety to avoid delay has encouraged the growth of dishonest practices like the system of speed-money. In other words, we can say that red tape and procedural delays cause corruption. Red tape is the excessiveness of laws, procedures, and rules imposed by the government in which eventually delay organizational works. On the hand, procedural delays create stagnancy in goals and objectives of the organization. Procedural delays are related to actions such as legal decisions, financial practices, and operational actions and decisions. Although, various preventive measures are taken in India to reduce red tape and procedural delays yet India has been the victim of red tape and procedural delays. In order to eliminate red tape and procedural delays an effective administration of public affairs and reducing of the cost and burden of compliance on the citizens and business through trust-based procedures is necessary.

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UNIT- 3

RIGHT TO INFORMATION

Unit Structure:

3.1 Introduction

3.2 Objectives

3.3 Meaning of Right to Information

3.4 Significance and rationale of Right to information

3.5 Views of Administrative Thinkers on the Importance of Right to Information

3.6 Right to Information and Transparency

3.7 Right to Information: The Global Scenario

3.8 Right to Information in India: Genesis and Enactment

3.9 Right to Information Act, 2005

3.9.1 Important Provisions of RTI Act, 2005

3.10 State Information Acts

3.11 Right to Information: Issues and Concern

3.12 Some Relevant Cases

3.13 Summing Up

3.14 References and Suggested Readings

3.1 Introduction:

The time that we live in is known as the 'information age'. In this 'age of information,' information can be sent from one part of the world to another part very easily. For instance, we can send an electronic mail to any part of the globe within a second. This is because of the revolutionary scientific development that had taken place over the last few decades. Due to scientific development, there has been revolutionary change in the field of communication technology. However, it is unfortunate to note that the functioning of the government in many countries both democratic and non-democratic is still marred by the hangover of the permit 'licence raj' and there is an inherent unwillingness amongst government servants to part with information regarding the working of the government. Besides, there have

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been instances of high corruption in the government due to lack of transparency in the government functioning. Hence, there has been an increasing demand for greater accessibility to information, mostly in order to curb corruption and promote greater accountability of government agencies towards the citizens.

Moreover, in any democratic country to get information from the public authorities is the basic right of the citizens. This is because of two reasons, firstly a democratic government should be transparent in order to promote efficiency and accountability, and secondly, the citizens are the tax payers of the country. Hence, every citizen has the right to know how the government is functioning. The citizens should be informed about various socio-economic and political issues. It is the duty of the government to make the citizens informed about the activities of the government.

3.2 Objectives:

This unit is designed to help you understand the right to information, significance of right to information, right to information at global scenario and various other issues of right to information. After reading this unit you will be able to-

- *learn* the meaning, background and the significance of right to information.
- *understand* the right to information in global scenario and the position in India.
- *explain* the relationship between information and transparency.
- *understand* right to information and e-governance.

3.3 Meaning of Right to Information:

Right to information is fundamental for every citizen in a democratic country. Hence, there is an urgent need to understand the meaning of Right to information. In a common parlance, right to information means the freedom of people to have access to government information. It implies that the citizens and non-governmental organisations should enjoy a reasonable free access to all files and documents pertaining to government operations,

decisions, and performance. In other words, it means openness and transparency in the functioning of government. Thus, it is antithetical to society in public administration.

According to the Indian legislation (RTI Act, 2005), "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—

(i) inspection of work, documents, records;

(ii) taking notes, extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

As rightly observed by ***Paras Kuhad***, "secrecy as a component of executive privilege or transparency through right to information-which of the two be adopted as a paradigm for governance. Both offer public interest as their rationale. Which in fact serves public interest and can they be harmonised."

In 1992, the **World Bank** released a document entitled ***'Governance and Development'***. The document has mentioned eight aspects or elements of governance- one of them being transparency and information. The Asian Development Bank in its report released in 1995 entitled ***"Governance: Sound Development Management"*** has identified four basic elements of good governance where one of them is transparency. By transparency the report refers to the availability of information to the general public and clarity about government rules, regulations, and decisions.

SAQ:

Q. What do you mean by Right to Information? (50 words)

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3.4 Significance and rationale of Right to Information

As mentioned at the very outset that in a democratic country the citizens must be kept informed about the functioning of the democratically elected government. **S**ince **i**nformation is power hence, it is indispensable for the functioning of a true democracy. The right to information is necessary due to the following reasons:

i. ***RTI makes administration accountable***: Administrative accountability is imperative in any organization. Eminent Professor of Political Science and Public Administration, S. R. Maheshwari in his book ***Indian Administration*** (1996) says that accountability is a concomitant of administrative responsibility, being the obverse side of the coin, and thus construed, it is intrinsic to any organization: concepts like hierarchy, span of control, unity of command, supervision, etc, are all accountability-promoting and enforcing mechanism. To achieve the goals and objectives in any organization administrative accountability is very important. However, in a democratic country the administration should be accountable to the citizens. It is an essential aspect of public administration in a democratic government. Since the citizens are the tax payers of the country, the administration should be answerable to them in every issue. Right to information holds the administration accountable.

ii. ***RTI increases people's participation in administration***: Right to information increases people's participation in administration. Through right to information the people are getting access to the decision-making process of the government.

iii. ***RTI reduces corruption in public administration***: Administrative corruption has become a public concern for the first time during the Second World War (1939-45). There are different forms of administrative corruption. In India, the Central Vigilance Commission has identified twenty-seven modes of corruption. However, the magnitude of corruption is very high in the administrative system where there is lack of transparency. In such administrative system, the public have hardly any right to access the information of government policies, schemes, works, records etc. Due to lack of transparency, there is

extravagant expenditure of public funds by government servants. On the contrary, openness in public administration reduces the scope of corruption. The World Bank in its report entitled '***Enhancing Government Effectiveness and Transparency-The Fight Against Corruption', 2020*** says that openness can lead to a stronger relationship between government and citizens, increasing levels of trust and social capital.

iv. ***RTI reduces abuse of authority:*** Right to information enables the citizens to have access to government information such as government files, documents, records etc and the chance of abuse of authority by the public servants is very less.

v. ***RTI enhanced openness and transparency in public administration:*** Right to information enhances transparency and promote an environment that is less conducive for corrupt activity.

vi. ***RTI is a tool of good governance and inclusive democracy:*** Right to information is an instrument to curb the culture of secrecy and brings transparency in administration. And transparency is the cornerstone of good governance. Right to information is a tool to realize good governance. And good governance is a process to make democracy strong, effective and inclusive.

vii. ***Citizen empowerment:*** In a representative democracy, government is run by the representatives who are elected by the people. Hence, in a democracy all the citizens have the legitimate right to know the decisions of the government. Right to Information enables the citizens to inspect various government records, works, files, documents etc. They can seek information on various public matters. This right makes the people able to demand for information and makes it compulsory for the public authority to provide the information within a stipulated timeframe.

Moreover, the right to information reduces the gap between administration and people. It makes people aware of administrative decision-making. It facilitates better delivery of goods and services to people by civil servants. It also promotes public interest by discouraging arbitrariness in administrative decision-making.

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SAQ:

Q. What is good governance? How does right to information ensure good governance in a democratic country? (80 words)

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3.5 Views of administrative thinkers on the importance of Right to Information:

The importance of right to information has been highlighted by eminent administrative thinkers and practitioners from time to time. The following statement made by eminent administrative thinkers and practitioners highlight the importance of right to information:

Woodrow Wilson: "I for one have the conviction that the government ought to be all outside and not inside. I, for my part, believe that there ought to be no place where everything can be done that everyone does not know about. Everyone knows corruption thrives in secret places and avoids public places."

James Madison: "People who mean to be their governors must arm themselves with power which knowledge gives. A popular government without popular information or the means of acquiring it is but a prologue to a farce or tragedy or perhaps both."

Lord Action: "Nothing is safe that does not show that it can bear discussion and publicity."

Stop to Consider:

Supreme Court of India: In a series of verdicts the SC also recognised that the right to know is an intrinsic part of the right to freedom of speech and expression. The court has opined that the citizen has a fundamental right to information, that is, to 'know', in order to formulate and express his or her views. The fundamental right to know is also further strengthened by the right to life and personal liberty, and also by the right to equality, both of which are provided for by the

Constitution of India, since this implies that all stakeholders must have an access to the facts that affect their lives. **British Franks Committee (1972)** "A government which pursue secret aims , or which operates in greater secrecy than the effective conduct of its proper functions require, or which turns information services into propaganda agencies, will lose the trust of the people. It will be considered by ill-informed and destructive criticism."

Justice Douglas of USA "Secrecy in government is fundamentally antidemocratic, perpetuating bureaucratic errors. Open discussion based on full information and debate on public issues is vital to our national health."

Justice P.N.Bhagwati says "Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing."

Check Your Progress:

1. Define the right to information?
2. Discuss the significance and rationale of right to information.
3. Discuss the views of administrative thinkers on right to information.
4. Discuss the views of the Supreme Court of India on right to information.

3.6 Right to Information and Transparency:

How decisions are being taken in government? What contains in a government file? What is the status of Police Verification Report? Who got selected in an interview? Are the government officials working honestly? How money is being spent in a public agency etc is thousands of questions frequently come in the mind of common people. Since the government is run by the elite class these questions are very common for the citizens. The right to information is the answers to all these questions. This right makes the citizens to demand for information of various government schemes, policies, works,

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records, files, decision making process etc. The right to information act also imposes obligation on public agencies to disclose the information suo-moto. Right to information is against the culture of secrecy in administration and brings transparency in administration.

The right to information also improves efficiency in administration. It also improves the quality of decision making in public administration. This right increase citizen's participation in administration directly or indirectly which makes the democracy inclusive and strong.

The World Bank in its report of 1992 entitled ***"Governance and Development***" observed that "good governance is central to creating and sustaining an environment which fosters strong and equitable development and it is an essential complement to sound economic policies" (Bhattacharye, 2007). Apart from the World Bank, a number of multinational organizations have reflected on the concepts of good governance and transparency. Prominent among them are the United Nations Development Programme (UNDP), Organization for Economic Cooperation and Development (OECD), and Asian Development Bank etc. The Asian Development Bank in its report of 1995 entitled ***"Governance: Sound Development Management"*** has identified four basic elements of good governance: (1) accountability, (2) participation, (3) predictability, and (4) transparency. According to the report transparency refers to the availability of information to the general public and clarity about government rules, regulations, and decisions. The report also argues that access to accurate and timely information about the economy and government policies can be vital for economic decision making by the private sector.

It is worth mentioning that the acceptance of right to information is not a new trend. This right is supported by one of our *Vedas*. According to *Rig Veda " let noble thoughts come to us from direction*" as a citizen everyone needs to participate not only at the time of election but at the time when policies, laws and scheme are being made and are being implemented**(Yadav, 2018).**

3.7 Right to Information: The Global scenario

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Sweden is the first country in the world to enact the RTI law in 1766. The enactment of the RTI law in Sweden was motivated by the parliament's interest in access to information held by the king. In this Sweden, access to government documents is a right, and non-access an exception. After 185 years, Sweden was followed by other Scandinavian countries. Thus, Finland adopted Freedom of Information law in the year 1951. After Finland, Norway and Denmark have made similar legislations in the same year (1970).

So far as United States is concerned, the US passed its first RTI law in 1966 and the act was amended in 1974. There were basically two reasons for the amendment, firstly, to limit the exceptions (the documents which the government may keep in secret), and secondly, to provide for penalties for withholding the information or acting in an arbitrary manner (Laxmikanth, 2013). The interest in RTI took a leap forward when the United States, reeling from the 1974 Watergate scandal, passed a tough FOI law in 1976, followed by passage by several western democracies of their own laws (France and Netherlands 1978, Australia and New Zealand 1982, Canada 1983, Columbia and Denmark 1985, Greece 1986, Austria 1987, Italy 1990). By 1990, the number of countries with RTI/FOI laws had climbed to 14.

As of September 2013, at least 95 countries had nationwide laws establishing the right of and procedures for, the public to request and receive government-held information including big powers like India, China, and Russia. The continents with highest numbers of RTI law is Europe. As many as 46 countries have RTI laws or regulations in force. In Europe countries like Luxemburg, Andorra, Cyprus, Kazakhstan, Spain, Turkmenistan etc do not have RTI laws.

Fifteen countries in the America and six in the Caribbean had access to information laws as of September 2013. Sixteen countries in Asia and the Pacific have access to information laws.

So far as Africa is concerned, only nine countries namely Angola, Ethiopia, Guinea Conakry, Liberia, Nigeria, Rwanda, South Africa, Uganda, Zimbabwe) have access to information laws, and two have actionable ATI regulations (Niger and Tunisia). In South Africa, the right to information is

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guaranteed by the constitution itself. The right of the citizens have been further reinforced by enacting legislation in 2000 (Laxmikanth, 2013)

It is noteworthy that only three countries in the Middle East have information laws namely Israel, Jordan and Yemen.

To sum up, till September 2013, at least 95 countries of Asia, Africa, Europe, Americas, Middle-east, Asia-pacific have enacted RTI laws. However, there are many countries which have not enacted right to information laws.

Check Your Progress:

1. What do you mean by transparency?
2. How does right to information bring transparency in administration? Discuss.
3. Discuss the position of right to information at global level.

3.8 Right to Information in India: genesis and enactment:

India enacts information law much later than the Scandinavian countries. However, the enactment of information law in India was not an automatic process. The law was enacted by conceding to peoples demands for transparency. It needs special mention here that India inherited a culture of secrecy from the colonial rulers. The colonial rulers always maintained a distance from the people. Although the British Parliament passed the Indian Evidence Act in 1872 which allowed the citizen a right to inspect public documents but their administration was largely relied on the culture of secrecy. This culture of secrecy creates distrust among the people. As a result, people's faith in government also reduced. This culture of secrecy continued even after independence. Ranbir Singh argued that "the culture of secrecy continued even after independence, and even after India became a republic. It has continued for the last fifty-six years. It is unfortunately true that the government of independent India functioned in the same milieu as that of the colonial government until recently. Secrecy had been the rule and transparency an exception".

Stop to Consider:

Laws and rules that favour secrecy in administration:

(i) Indian Evidence Act, 1872.

(ii) Official Secrets Act, 1923

(iii) Commission of Inquiry Act, 1952.

(iv) All-India Services (Conduct) Rules, 1954.

(v) Central Civil Services (Conduct) Rules, 1954.

(vi) Railway Services (Conduct) Rules, 1956.

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However, the democratic political set-up of India had put a big challenge to this colonial culture of secrecy. In post independence India, the democratic political set-up led to the growth of the demands for transparency in government. However, there are various issues and events that led to the demand for transparency. Issues like rampant corruption in government establishments, licence raj, culture of secrecy, lack of transparency in government offices, bureaucratic red tapism, failure of representative democracy, nepotism, triggered the people to put pressure the government for transparency. Besides, tragic disasters like train accidents inspired the people and the people's representative in parliament and state legislative assemblies to make public the findings of inquiry committees which were set up to enquire those events.

Shekhar Singh in his article "**The Genesis and Evolution of the Right to Information Regime in India" observed** that:

"Perhaps the humiliating war with China, in 1962, more than any other single event, marked the end of the public's honeymoon with the Indian Government. The poor performance of the Indian army in the face of Chinese attacks, and the rapid loss of territory to China, shook public confidence in the government as nothing had done before. The euphoria of the freedom movement and independence had finally faded. People started questioning government action and inaction like never before and suddenly there were more persistent and strident demands for information and justification."

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The Right to Information movement got impetus in 1970s when the Supreme Court of India rule that Right to Information was a fundamental (human) right.

Stop to Consider:

Supreme Court of India and RTI:

In 1975, the Supreme Court, in State of UP vs Raj Narain, ruled that: "In a government of responsibility like ours where the agents of the public must be responsible for their conduct there can be but a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries.

They are entitled to know the particulars of every public transaction in all its bearings. Their right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion on public security" (**Justice Mathew ruled in the Raj Narain case**).

Another significant development with regard to the enactment of the information law was the SP Gupta & others vs The President of India and others, 1982, AIR (SC) 149 case. In that case, the court held that right to information was a fundamental right under the Indian Constitution. The judges stated that: "The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1) (a). Therefore, disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the Court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest" (SP Gupta & others vs The President of India and others, 1982, AIR (SC) 149, p. 234).

Stop to Consider:

Constitution of India and RTI: The Constitution of India has no direct provision expressly conferring right to information to the citizens; however, the apex court has been stating since 1975 that right to information is an intrinsic part of the following fundamental rights granted by the Constitution of India:

(i) Right to freedom of speech and expression (Article 19).

(ii) Right to life and personal liberty (Article 21).

Although the Supreme Court ruled several times that right to information is a fundamental rights, however, it is noteworthy that there was little effort from the Government to enact and institutionalise the information law. After the Bhopal gas tragedy of 1984, again the demand of transparency in environmental matters raised by different environmental activists and organisation.

Stop to Consider:

Bhopal Gas Tragedy:

The Bhopal Gas tragedy occurred in 1984 where more than 40 tons of methyl isocyanate gas leaked from a pesticide plant in Bhopal, India, immediately killing at least 3,800 people and causing significant morbidity and premature death for many thousands more. After the disaster various environmental groups petitioned the apex court asking transparency in environmental matters. Despite all this, the information law was not institutionalised.

In 1990s, there was a significant development towards the institutionalisation of right to information act. There were several people's resistance emerged in 1990s such as Anti-Arrack Movement, National Fish Workers' Movement, etc. And one of the important people's resistances was the Right to Information movement. With the birth of the Right to Information movement, various people's organisation come together to put sustained pressure on the government towards institutionalisation of information law.

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The movement started in 1990 by a mass based organisation called the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan under the leadership of Aruna Roy, Nikhil Dey, Shankar Singh and others.

Stop to Consider:

Movement for Right to Information: One of the important movements of 1990s was the movement for Right to Information. The movement was initiated by Mazdoor Kisan Shakti Sangathan (MKSS) which was established in 1987 in Rajasthan under the leadership of Aruna Roy, Nikhil Dey, Shankar Singh and others. MKSS took the initiative in demanding records of famine relief work and accounts of labourers. The MKSS started movements at the grassroots level and transformed the whole RTI movement in India into a mass based movement. It's noteworthy that earlier the Right to Information movement was basically an urban movement. Unlike the MKSS movement, it did not achieve the mass based character. This is because of the fact that the earlier movement was pushed by a few urban activists and academics.The demand of the MKSS "was first raised in Bhim Tehsil in a very backward region of Rajasthan. The villagers asserted their right to information by asking for copies of bills and vouchers and names of persons on the muster rolls who have been paid wages on the construction of schools, dispensaries, small dams and community centres. On paper such development projects were all completed, but it was common knowledge of the villagers that there was gross misappropriation of funds. In 1994 and 1996, the MKSS organised Jan Sunwais or Public Hearings, where the administration was asked to explain its stand in public" (***Politics in India since Independence, NCERT, 2006***).

The movement of MKSS had a small success when they could force an amendment in the Rajasthan Panchayati Raj Act to permit the public to procure certified copies of documents held by the Panchayats. The Panchayats were also required to publish on a board and in newspapers the budget, accounts, expenditure, policies and beneficiaries".

In August 1996, MKSS formed National Council for People's Right to Information (NCPRI) in Delhi (Gandhi Peace Foundation) to raise RTI to the status of a national campaign. It had, among its founding members, activists, journalists, lawyers, retired civil servants and academics. In order to ensure the fundamental right to information the NCPRI was in a view to enact to get an information law enacted by the government. Accordingly, after much debate and discussion the NCPRI drafted a bill of the information law, which was later on sent to the Press Council of India. The Press Council of India was chaired by Justice S.B Sawant, who was a retired judge of the Supreme Court of India. After examining the draft bill by the Press Council of India a few suggestion and modifications were suggested by the council. The draft bill was then presented in a large gathering in Delhi which was attended by several participants and political parties. The draft bill was discussed at length and breadth by the participants and finally endorsed by the participants including the representatives of the political parties attended **(Singh, N.D).**

After that the NCPRI sent the draft bill to the Government of India which a request to convert it into a law. As a response to this the Government set up the Shourie Committee headed by Mr. H.D. Shourie with a mandate to examine the draft bill crafted by the civil society groups and prepare draft legislation on the freedom of information. The committee had submitted its report to the government in 1997. The report of the Shourie committee was criticised severely for not adopting a high enough standard of disclosure. However, the government didn't pay much attention to introduce the Right to Information Bill in the Parliament as it was opposed to such move. However, the government as a delaying tactics referred the Shourie Committee draft legislation to a Parliamentary Committee.

In the interim, in 1999 Mr Ram Jethmalani, then Union Minister for Urban Development, issued an administrative order enabling citizens to inspect and receive photocopies of files in his Ministry. Disappointingly, the Cabinet Secretary did not permit this order to come into effect.

It is worthwhile to mention here that in 1993 the Consumer Education and Research Council, Ahmadabad (CERC) proposed a draft RTI law. Besides, the Fifth Pay Commission (1994-1997) recommended for the abolition of the Official Secrets Act and introduction of Right to Information Act.

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Despite sustained pressure from different quarters the Right to Information Act was not enacted by the Union government due to the opposition from several quarters within the government. Although the government didn't pay much attention towards the enactment of the information law but the government was alarmed with the growing demand for transparency. It is noteworthy that, there are several corrupt bureaucrats and politicians within the government opposed to opening of government process to the people. They saw the right to information bill as a threat to their corrupt practices. On the contrary many other bureaucrats and politician were enthusiastic about the passage of the bill. However, there are several other civil servants who feared that the enactment of such law would be misused by vested interest to harass and even to blackmail the civil servants.

It is interesting that while a segment of bureaucrats and political leaders were opposed to the enactment of the freedom of information law, on the contrary the judiciary time and again held that the right to information is a fundamental right and hinted that the government should ensure that the public could effectively exercise this right.

Meanwhile, in 2000 a case had been filed in the Supreme Court questioning the unwillingness of the government to facilitate the exercise of the fundamental right to information. This case continued till 2002. The government uses all its resources to postpone any decision towards the enactment of the right to information law. However, the court lost its patience and gave an ultimatum to the government. Consequently, in 2002, a weak Freedom of Information Act was legislated but never came into force. In 2004, RTI Bill was tabled and received presidential assent in June 2005.

SAQ:

Q. Briefly discuss the role and contribution of judiciary towards the enactment of Right to Information Act in India. (80 words)

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3.9 Right to Information Act, 2005:

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After a long struggle, agitation, debate and controversies, in 2005, finally the Information Act saw the light of the day when the parliament enacted a new legislation-the Right to information Act in 15 June 2005. The Act received presidential assent on 22 June, 2005. The Act came into force from 12 October, 2005. This new act replaced the old Freedom of Information Act, 2002. The RTI Act, 2005 extends to the whole of India except to the state of Jammu and Kashmir (***Section-1 sub-section-2 of RTI Act, 2005***).

Although Right to Information is not included as a Fundamental Right in the Constitution of India, it protects the fundamental rights to Freedom of Expression and Speech under Article 19(1)(a) and Right to Life and Personal Liberty under Article 21 guaranteed by the Constitution.

The Right to Information Act, 2005 provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority(***RTI Act, 2005, Ministry of Law and Justice, Govt. of India***).

According to RTI Act, 2005, information includes records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in electronic form and information about private bodies can be accessed under existing laws by a public authority. By "public authority" the act means any authority or body or institution of self- government established or constituted—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government (Section 1 (h) of the Act).

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Stop to Consider:

Central Information Commission: Section 12 of the RTI Act, 2005 provides for Central Information Commission.It was constituted by the Central Government by notification in the official gazette.The Chief Information Commissioner and number of Central Information Commissioners (not exceeding 10) are appointed by the President on the recommendations of a committee. The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. The committee consisting of:1) Prime Minister as Chairperson;2) Leader of the Opposition in Lok Sabha; and3) A Union Cabinet Minister to be nominated by the Prime Minister.

State Information Commission: It is constituted by State Government by notification in official gazette undersection 15 of the RTI Act, 2005. The State Commission consists of the State Chief Information Commissioner and number of State Information Commissioners (not exceeding 10). These Commissioners shall be appointed by the Governor on the recommendations of a committee consisting of:1) The Chief Minister as the Chairperson;2) The Leader of opposition in the Legislative Assembly; and3) A Cabinet Minister to be nominated by the Chief Minister.

3.9.1 Important Provisions of RTI Act, 2005:

Some of the important provisions of the act are mentioned below:

1. It provide for the appointment of an information officer in each department to provide information to the public on request.
2. It fixes a 30-day deadline for providing information; deadline is 48 hours if information concerns life or liberty of a person.
3. Information will be free for people below poverty line and for other, fee will be reasonable.
4. The Act imposes obligation on public agencies to disclose information suo-moto to reduce request for an information.

5. Government bodies have to publish details of staff payments and budgets.
6. It provides for the constitution of a Central Information Commission and State Information Commissions to implement the provisions of the Act. They will be independent high-level bodies to act as appellate authorities and vested with the power of a civil court.
7. The President will appoint a Chief Information Commissioner and governors of states will appoint state information commissioners for a period of five years.
8. The Chief Information Commissioner (on par with the status currently accorded to the chief election commissioner) will be selected by an empowered panel comprising the Prime Minister, leader of Opposition in the Lok Sabha, and a Cabinet Minister nominated by the prime minister.
9. The Chief Information Commissioner and the State Information Commissioner will publish an annual report on the implementation of the Act. These reports will be tabled before Parliament and state legislature.
10. The Act overrides the Official Secrets Act, 1923. The information commissions can allow access to the information if public interest outweighs harm to protected persons.
11. The Act carries strict penalties for failing to provide information or affecting its flow. The erring officials will be subject to departmental proceedings.
12. The information commission shall fine an official Rs. 250 per day (subject to maximum of Rs. 25,000) if information is delayed without reasonable cause beyond the stipulated 30 days.
13. The Procedure of appeal in case the information is denied like this- first appeal to superior of public information officer, second appeal to information commission, and third appeal to a high court.
14. Section 8 (1) of the Act lists all the exemptions. Some of the important exemptions are- information, disclosure of which would prejudicially affect sovereignty and integrity of India, the security,

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strategic, scientific, or economic interests of the State, relation with foreign State or lead to incitement of an offence. Besides, Intelligence and security organization like the Intelligence Bureau (IB), Research & Analysis Wing (R&AW), BSF, CISF, NSG and so on are out of the purview of the Act. However, information pertaining to allegations of corruption or violation of human rights by these organizations will not be excluded. Moreover, information which could constitute the contempt of court, breach of privileges of Parliament or the State legislature; Cabinet papers including record of deliberations; information which would endanger the life or physical safety of any person; information available to a person in his fiduciary relationship; information received in confidence from foreign government are out of the purview of the Act.

15. All categories of exempted information to be disclosed after 20 years except cabinet deliberations and information that affects security, strategic, scientific, or economic interests, relation with foreign states or leads to incitement of offence.

(Source: Laxmikant, 2013, and RTI Act, 2005)

Stop to Consider:

File notings not exempt from disclosure-

Applicants have a right to access a file and file notings are an integral part of any file which cannot be exempted from disclosures-Satyapal v. T.C.I, Appeal No. ICPB/-1/CIC/2006 decided on 31.1.2006 (CIC); Payere Lal Verma v. Ministry of Railways, Appeal No. CIC/Ok/A/2006/00154, decided on 29.1.2007 (CIC); S.R. Goyal v. Department of Personnel and Training, No. CIC/WB/A/2008/00883, decided on 24.09.2009 (CIC).

3.10 State Information Acts:

As mentioned earlier that the RTI Act, 2005 extends to all the states and union territories except the erstwhile state of Jammu and Kashmir**.** However, it is worth mentioning that, there are at least nine states that passed their

own state information act even before the enactment of the central legislation i.e. the RTI Act, 2005 due to the growing demands for right to information. The first state to enact its own state information law is Tamil Nadu in 1997 followed by Goa in 1998. Three years later Rajasthan and Karnataka passed their state information act in 2000. In Rajasthan, the Right to Information movement was initiated by social activist Aruna Roy who founded the Mazdoor Kisan Shakti Sangathan (MKSS) along with Shankar Singh, Nikhil Dey and many others in 1987. After Rajasthan and Karnataka, few more states namely, Delhi (2001), Maharashtra (2002), Assam (2002), Madhya Pradesh (2003), and Jammu and Kashmir (2004) passed their state information act. It is noteworthy that Maharashtra repealed its earlier Right to Information Act of 2000 to bring out an improved one in 2002. Campaign efforts in other States have also had some success. Uttar Pradesh framed an executive code on access to information in 2000.

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3.11 Right to Information: Issues and Concern:

The enactment of the freedom of information or right to information legislation is a very noble step towards bringing transparency and good governance. However, there are various issues associated with the information laws. It has been observed that the right to information act has been misused by various unscrupulous people for their vested interests. In many cases it has became an instrument of earning money rather curbing corruption. For instance, there are many fake RTI activists who file petition for seeking information of various government schemes and if they sense any anomalies in the work or smell corruption, they don't report the matter to competent authority. Rather they demand for money from the contractors/engineers and the projects heads. Another important concern is lack of public information officer having legal knowledge in many government agencies and organisations. As a result, it becomes difficult for the organisations to supply information on stipulated period.

Lack of political will by the government in making timely appointment of the State Information Commissioner after the superannuation of the incumbent. According to Transparency International India (TII) reports 24% of the information commissioner posts in 28 states were lying vacant despite a

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Supreme Court order on February15, 2019. As a result, huge cases are pending in various government offices. According to a report till July 31, 2020 as many as 220,000 cases are pending in various offices, agencies and organizations. According to Anjali Bhardwaj of Satark Nagarik Sangathan today, one of the most significant challenge the transparency regime faces is the attack on the transparency watchdogs **(Chauhan, 2020).**

Another important issue with the information legislation is the delay in supplying information by the public authorities on various technical grounds. This has been observed by the author who is also an RTI activist. It many cases it has been observed that the public authorities are not proactive is disclosing information. Moreover, there are several critical gaps in the existing information law raised by various civil society groups. There have been controversies regarding the process of appointment of Chief Information Commissioner, list of exemptions, issue of exempting file noting for the purview of RTI Act, 2005.

Another growing concern associated with the information legislation is the attacks of RTI activists. The RTI activists are the most vulnerable human rights defenders. In many cases their attacks go unreported by the police. There are many cases where RTI activists were murdered and killed. According to National Campaign for People' Right to Information reports, more than 211 people was harassed, 163 were physically harmed and 95 were killed. Report shows that Maharashtra followed by Gujarat tops the list for states with the most attacks on RTI users.

3.12 Some Relevant Cases:

In 2007, Vaishnavi Kasturi a visually-impaired student was denied a seat in the Indian Institute of Management in Bangalore despite her impressive score at the entrance examination. Ms. Kasturi wanted to know why, and wondered whether it was because of her physical disability. She filed an RTI application to request the institute to disclose their selection process. Although she failed to gain admission to the institute, her RTI application meant that IIM had to make its admission criteria public.

In 2008, during the tenure of Dr. Manmohan Singh, an RTI based investigation revealed the extravagant expenditure of union ministers' foreign trips. As an impact of the RTI, Prime Minister Manmohan Singh wrote a letter to all the ministers asking them to cut expenses on foreign travel. In a later RTI investigation it has been found that minister expenditure on overseas trips had come down**(Indian Express, January 5, 2021).**

Until 2009, the practise to disclose ministers', spouses and dependents assets and liabilities to the PMO was hardly followed. After people started filing RTI on this matter to the PMO and Cabinet Secretariat, the CIC directed that proper answers be given. As a result, all UPA-II ministers submitted details of their assets. This practise has since become a norm (Indian Express, January 5, 2021**.**

Over the last 15 years RTI has exposed several major scams and anomalies in India. Some of the important scams are Adarsh Housing Society scam (2011), 2G scam, Commonwealth Games scam, Indian Red Cross Society scam, Public Distribution Scam in various states, 23000 bank fraud scam (last five years) etc.

According to information provided by the Agriculture Ministry in response to an RTI request from activist Venkatesh Nayak PM-KISAN payment worth Rs. 1363 crore have been wrongly made to more than 20 lakh ineligible beneficiaries **(The Hindu, January 11, 2021).**

Check Your Progress:

1. Discuss the genesis and enactment of the Right to Information Act, 2005.
2. Discuss the role of MKSS for the enactment of Right to information in India.
3. Discuss the various provisions of RTI, Act 2005?
4. Define Right to Information as per RTI Act, 2005.
5. What do you mean by public authority?
6. How does RTI check corruption?
7. Discuss the impact of RTI in administration and politics.

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8. Critically discuss the various issues and concerns associated with Right to Information Act, 2005.
9. What are the exemptions of Right to Information Act, 2005? Do you think that the exemptions are justified?

3.13 Summing Up:

We have presented you Right to Information, its meaning, rationale and significance, and right to information and transparency. Focus has also been given on right to information at global scenario. Besides, the position of right to information in India, various key provisions of RTI, Act 2005 and some key cases of RTI have also been highlighted here. After going through this unit, you must have gathered critical and comprehensive knowledge on right to information.

We believe that the knowledge and understanding that you have gained here will enable you to become a socially and politically empowered citizen. You will be able to play your role effectively to the make the democracy strong and effective and will be able to protect the democratic values and ethos of our country. You will also be able to check corruption in administration and will be able to hold the government officers accountable to make the administration transparent and people friendly.

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UNIT -4

MINISTER CIVIL SERVANT RELATIONSHIP

Unit Structure:

4.1 Introduction

4.2 Objectives

4.3 Relationship in the course of Policy Formulation

4.4 Relationship in the course of Implementation

4.5 Problems in the Relationship between Minister-Civil Servant

4.6 Summing Up

4.7 References and Suggested Books

4.1 Introduction

In this unit we shall study the relationship between politicians and permanent officials. Their relationship is important because they together constitute the executive branch of the government. If there are problems in their relationship the administration does not run smoothly. Problems are likely to be there mainly because of their different roles. Politicians represent the people and take care of their interests; permanent officials, on the other hand, provide expertise and experience. Hence their modes of recruitment are different: politicians are elected while members of the bureaucracy are appointed. This makes for differences in their social background. While most members of the bureaucracy in underdeveloped countries like India are drawn from the salaried or professional, urban middle class, many of the politicians have a rural, agricultural background. These differences in their roles and social background lead to differences in their attitudes also. Hence, they sometimes find it difficult to cooperate with each other.

We propose to examine the relationship of politicians and permanent officials under three heads:

1. Relationship in the Course of Policy Formulation,
2. Relationship in the Course of Policy Implementation,
3. Problems in the Relationship.

Relationship in the Course of Policy Formulation is further proposed to be studied under five heads:

(i) Communication with the People,

(ii) Provision of Information,

(iii) Technical Consideration,

(iv) Co-ordination, and

(v) Authorisation.

Relationship in the Course of Implementation is proposed to be studied under three heads:

(i) Rule-making,

(ii) Supervision, Monitoring and Evaluation, and

(iii) Administrative Management.

Finally, **Problems in the Relationship** are proposed to be discussed under four heads:

(i) Interference Complex,

(ii) Bureaucratic Power,

(iii) Loyalty, and

(iv) Collusion.

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4.2 Objectives

After reading this unit, you will be able to:

- *understand* the Minister-Civil Servant relationship.
- *evaluate* the trend of relationship during Policy Formulation and aslo during the course of Implementation.
- *discuss* the various problems in the relationship between the Minister-Civil Servant.

4.3 Relationship in the Course of Policy Formulation:

It was earlier believed that while politicians formulated policy, there was no such separation of functions between politicians and Civil Servants. This is

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so in all countries, politicians and the bureaucracy cooperate in the course of both policy formulation and implementation. In developing countries, particularly, it has been found that the bureaucracy plays an important role in policy formulation also. In the following paragraphs we shall consider the relationship of politicians and permanent officials in the course of policy formulation in some detail.

I. **Communication with the People:**

Public policy results from the interaction between the people, functioning individually and in groups, and the politicians and the bureaucracy on the other. In the course of their interaction, all the three seek to influence each other and communicate for this purpose. Thus, the various sections of the people try to articulate their particular interests through interest groups, such as trade unions and associations of farmers, lawyers, doctors. Engineers and others. Political parties take note of these various interests and try to satisfy all of them as far as justifiably possible. This is known as **interest aggregation.** For this purpose, politicians remain in close touch with the people. Thus, Jawaharlal Nehru worked among the farmers of the Allahabad district. He not only listened to their problems but also helped them to organise for the freedom movement. Similarly, V.V. Giri was a leader of industrial labour. It is notable that in developing countries, where associations of the poor often do not exist, politicians generally have to take the initiative in organising them. Generally political parties depute their important members to organise particular sections of the people. Thus every important political party in India tries to set up its **own trade union, farmers' association, women's wing, youth wing**, and so. Hence, in developing countries, the role of politicians consists of both **interest articulation and aggregation**; they become both spokesmen and arbiters. Their leadership function requires that they rouse the consciousness of the people, set collective goals for them and unite them in the pursuit of these goals.

In practice, there are many hindrances,

- such as lack of education among the people,
- factionalism within political parties,
- lack of internal democracy within parties,

- division of the people,
- and factionalism within parties on the basis of caste, religion, language, and so on.

Still, the fact remains that they play an important role in organising the people and ventilating their demands and grievances. Hence politicians come to be seen as being aligned with particular sections and therefore, partisan to some extent.

The bureaucracy, on the other hand, is generally seen as being neutral. Also, due to the weakness of interest groups and municipal and Panchayati Raj bodies, the bureaucracy has been the main channel of communicating the felt needs of the people to the government. Hence, while both Politicians and civil servants functions as links in the chains of communication between the people and the government, civil servants sometimes tend to look upon politicians as mere rabble rousers. On the other hand, politicians tend to believe that bureaucrat are unresponsive and insensitive to the problems and needs of the people. This perception is heightened by the cultural and status differences between the higher bureaucracy and the common people. At the same time the political and bureaucratic channels of communication have to meet at various points. Hence politicians and civil servants have to cooperate at all levels, despite their somewhat different roles and viewpoints.

ii) **Provision of Information**: Politicians and civil servants are repositories of different types of information, and both these are needed in the course of policy formulation. Civil servants generally have the advantage of

- longer experience;
- they also keep their command on organisational memory in the shape of files and other records.

Hence, they can provide valuable feedback-information about the results of earlier efforts as well as ongoing programmes. Now policy can then be formulated in the light of these results: modifications can be introduced to avoid past mistakes or problems faced earlier.

Politicians on the other hand, are more

- likely to successfully assess the mood of the people. Particularly, they are expected to be able to tell what the people will not stand.

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- Thus more, or better, social services such as education and health, would cost money which must come from the people in the shape of taxes.
- The politician is expected to provide information as to whether the people would prefer better service or less taxes.

Once the ruling politicians have given their assessment, civil servants can proceed to give concrete shape to policy proposals in the shape of new programmes or budget proposals. If the assessment of politicians is faulty, they may be punished by the people at the next election. Politicians are also answerable for mistakes committed by civil servants working under them. Hence it is also their duty to exercise proper control over the bureaucracy.

iii) **Technical Consideration**: Technical examination of policies and programmes is of utmost importance for ensuring that they fulfil the desired goals at the minimum cost. There are several aspects of technical consideration.

- The first is the substantive aspect. Thus, health policy must be examined by doctors, educational policy by educationists, and so on. That is why specialists of all kinds are nowadays employed by governments. They function in the various departments at almost all levels. Thus in the Health Department not only the Director is a doctor, but doctors are to be found in the primary health centres in the remotest villages. Problems and suggestions of specialists at various levels are considered and lead to new policies and programmes.
- Another type of technical examination may be related to feasibility. Thus, there may be a question whether a certain policy or programme is feasible or practicable. For example, if the proposal is to teach sewing to destitute women for providing them with employment in a city, it is first necessary to find out whether there is a market for clothes produced by them. If a feasibility study shows that such clothes are not likely to sell, the policy must be modified. Hence administrators must ensure the practicability of policies and programmes through feasibility studies.

- Techno-economic analysis constitutes another type of technical examination. Here the attempt basically is to find out whether the technology proposed to be used is economically viable. Technology is related to the requirements of raw materials, personnel, the size of the undertaking, the nature and quantity of the output, and the financial outlay. All these factors have to be taken into account while taking decisions relating to policy and programmes.
- Finally, it is important to make a social cost-benefit analysis of every policy, programme and project. This analysis has to include consideration of hidden costs and benefits also. Thus, the building of a dam may involve hidden costs in terms of destruction of the environment and the uprooting of people. Similarly, there may be hidden benefits. For example, a road connecting a village with a city may help in changing the attitudes of the village people, apart from leading to economic gain.

The various types of technical examination mentioned above indicate the great contribution of specialists in policy formulation. It is important, therefore, that specialists should be allowed to influence decision-making in the interests of effectiveness and efficiency. In practice, however, political considerations are sometimes allowed to outweigh technical ones. Thus, decisions about where industries, roads, hospitals and schools should be located are often taken, not on technical bases, but in the interest of powerful politicians. For example, it may be technically more feasible to locate an industry close to its source of raw materials. However, a powerful chief minister may insist upon its location in his state. Similarly, a powerful legislator may insist upon having a road in his constituency rather than where it is more needed for economic reasons. Powerful politicians often over-rule members of the bureaucracy in their narrow interests. Sometimes members of the bureaucracy also give recommendations which are not justified technically, but which please ministers or powerful legislators. Such deviations from norms hurt the public interest.

iv) **Coordination:** All policies and programmes are to a varying extent interrelated. Thus, agricultural development also requires industrial development for the provision of fertiliser, pesticides, and mechanical

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implements; it requires educational development so that farmers may be able to read and benefit from new scientific knowledge; it also requires development of farmers' health so that they may be able to work properly. Hence policies of agricultural development have to be drawn up so that they harmonise with other policies. Hence coordination of a high order is necessary**. Coordination is needed at all levels and all stages, as Mary Parker Follett has stressed.**

- At the top level it is sought to be brought about through **the cabinet**. All important policies are reviewed by the cabinet. Here the ministers have an opportunity to examine the implications of other policies for those of their own department. Any inconsistency, gap or duplication is ironed out.
- Below the cabinet, there are certain agencies which function on behalf of the government and help in achieving coordination. Staff agencies, such as those for Bureaucrats and Politicians and their Relationship - planning, financial administration, personnel administration, administrative reforms, law and public works help in coordinating both policy-making and implementation. **Thus, the Planning Commission (Now NITI AYOG)** examines the policies and plans of all Ministries and all State Governments. Here specialist and generalist members of the bureaucracy make important contributions to policies and programmes. While detailed examination of a certain policy is made in the concerned Ministry, the Planning Commission takes a government-wide view and suggests modifications. Similarly other staff agencies participate in policy-making. The contribution of the higher bureaucracy is here of paramount importance. However, the bureaucracy necessarily functions under the over-all control of politicians.
- Final decisions necessarily rest with politicians; civil servants help them to reach these by providing a comprehensive view based upon a mass of data, analytical studies, and expert advice.

Politicians and civil servants have to cooperate at the field level also. Thus, one Deputy Commissioner and M.L.A. are both concerned with the various policies related to the development of a certain area. Although district planning

has yet to become a reality, district politicians and civil servants do make suggestions which are taken into account by authorities at higher levels. Joint efforts of politicians and civil servants bear more fruit. Cooperation between politicians and civil servants is essential for the proper functioning of local self-government, like municipalities, and Panchayati Raj bodies. In developing countries like India, however, these bodies are often so weak that they have to depend upon civil servants who are employees of the state government. Hence local politicians often have little control over the permanent officials serving the local bodies. *If different parties happen to be in power at the state and local levels, state politicians tend to use the bureaucracy in the field in their party interest.* Solution to such problems lies, ultimately, in the strengthening of local-government. This is an important aspect of the required political development.

v) **Authorisation**: The final stage of policy-making is its authorisation. The legislature authorises or approves policies and programmes usually in the shape of laws. Laws are necessary because without their sanction the government cannot allocate social resources. Thus, taxation is the prime method for making resources available to the government. Imposition of taxes requires laws. Therefore, a law for the imposition of a certain tax may imply a policy for the redistribution of wealth. Approval by the legislature is taken to mean approval by the people, since the legislature consists of representatives of the people. Hence the passage of a law puts the stamp of approval by the people's representatives on the policy contained in it and also empowers the executive to enforce it. The function of giving legal shape to a policy is mainly performed by the bureaucracy. After a certain policy has been approved by the cabinet a draft of the bill is prepared by the Law Ministry. It is then examined by the civil servants and the minister from whom the proposal emanated. Thus while cooperation between politicians and civil servants are necessary, it is important to appreciate the contribution of those who draft the bill. The details of the policy as it is enforced are determined by the legal terminology of the bill. The minister is generally unaware of legal niceties. The result is that the bureaucracy determines the details, some of which can be highly significant. The significance of the bureaucracy's contribution can be gauged from the fact that sometimes the

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very success or failure of the policy may depend upon the legal terminology used in the law. Thus, the widespread failure of land reforms in India was to some extent due to the loopholes in the laws, which sought to enforce the policy. **The National Commission on Agriculture** noted that, "These legislative measures were full of loopholes which were taken advantage of by the bigger landed interests to circumvent the laws".

Thus while a policy needs the approval of the minister and the cabinet, and it is enforced through a law passed by the legislature, the bureaucracy plays an important part by giving it the shape of laws. Cooperation between politicians and civil servants is, therefore, again a must.

4.4 Relationship in the Course of Implementation

While in policy-making politicians have the dominant role, in implementation the bureaucracy has a greater role. While a politician only heads a department as a minister, civil servants function at all levels. Members of the bureaucracy at the top level

- advice ministers and manager of the departments,
- those at the middle level supervise field officials and keep the top informed of the progress,
- and field officials like policemen, tax collectors and factory inspectors enforce the law.

It would, however be a mistake to think that politicians have no role in implementation. The minister is the political head of the department and bears responsibility for both, its policies and their implementation.

- He is questioned in the legislature even on the details of implementation if anything goes wrong.
- It is the duty of the minister to ensure that civil servants in their department function according to the law and that no injustice is done either to a member of the clientele or the bureaucracy.
- The minister has to ensure that implementation of policies is done lawfully, effectively and efficiently.
- The minister deserves criticism if he/she tries to impose his or her will on officials in the performance of quasi-judicial functions, for

example as members of a tribunal; if he/she withdraws delegated powers from officials in particular cases; and if he/she acts in a partisan or selfish manner.

Hence responsibility for proper implementation of policies is borne by politicians as well as members of the bureaucracy, the role of the politicians as ministers being to exercise control over the bureaucracy on behalf of the people.

i) **Rule-Making**: A law as passed by the legislature is in general terms. It does not go into details. Thus, a law may prohibit trade in harmful drugs. However, it would not list the drugs, leaving this to be done by the executive. There are several reasons why laws are stated in such general, rather than specific terms. One reason is that the legislature is busy with a large amount of business having to do with control over the administration, discussion of Bureaucrats and Politicians and policies, and legislation. It does not have the time to go into the details. Another reason of their Relationship is that the legislature consists of representatives of the people rather than experts: their proper role is to protect the interests of the various sections of the society and not to get involved in the intricacies of particular pieces of legislation. Members of the bureaucracy are employed as experts to deal with the details falling within their area of specialisation. Finally, situations keep changing but the law cannot be changed so frequently. So, new harmful drugs may make their appearance in the market. If the law were to give their names, it would have to be amended every time a new drug appeared. For these reasons the law is stated in general terms. The function of filling-in details is left to the executive. The executive performs it through the making of rules and regulations. **The making of rules and regulations under authority given by the legislature is called delegated legislation.** The term legislation is to be used for the making of rules because they come to have the force of law. After all, rules give effect to the will of the legislature by filling in the details. While the legislature gives the authority to make rules and regulations to the government, this authority is mainly exercised by civil servants. The reason is that civil servants possess the specialised knowledge, the experience and the detailed information necessary for drawing up the rules. The minister is generally not likely to have either the specialised

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knowledge or the time for doing this himself; he is busy with his political duties of meeting delegations of the people, looking into complaints, and so on. The function of drawing up rules and regulations under delegated authority tends to confer a lot of power on the bureaucracy. This is specially so in developing countries where the bureaucracy is very powerful otherwise also. The role of delegated legislation in conferring power on the bureaucracy has been discussed for more than half a century. In England the Committee on Ministers' Powers considered this issue in 1932. The consensus now is that while there is the risk of giving too much power to the bureaucracy, there is no alternative to giving this function to it. Hence it is considered to be important that the rules be laid on the table of the house of the legislature, and that they be scrutinised by members of the legislature.

The minister's role in exercising check over the bureaucracy in the drawing up of the rules goes without saying. In short, in this respect as in others, democratic theory emphasises the need for effective political control over the bureaucracy.

ii) **Supervision, Monitoring and Evaluation**: After the notification of rules, implementation becomes mainly the responsibility of field officials like tax collectors, factory inspectors, and doctors in government hospitals, and police officers. Supervision over them is exercised by superiors of the department. This supervision generally remains lax in Indian administration.

- The main reason is that superior officials have very little real authority for rewarding or punishing the subordinates.
- Promotion, particularly at lower levels, is based mostly on seniority, nor can a superior give any other rewards.
- So far as punishment is concerned, the procedure for taking disciplinary action is very cumbersome and it takes a lot of time, sometimes years, before the final decision in regard to punishment is taken.
- However, another, and more important reason for laxity of supervision nowadays is the protection often given by politicians to civil servants over the heads of their superior. The politicians generally extend such support to civil servants in the hope of getting their help at election time.

The patronage of politicians which civil servants thus enjoy results in widespread loss of efficiency, effectiveness, and probity in administration. We shall consider the solution to this problem later. Here we only note that instead of exercising control over the bureaucracy, politicians often are instrumental in eroding even the authority of bureaucratic superiors in our developing society. The progress achieved in the fulfilment of targets is regularly monitored at higher levels. Various forms are prescribed for submitting periodic reports. Such reports can be of great value if they are properly used. However, they can also come in the way of achievement.

- Research work has shown that officials who are responsible for achievement have to fill too many returns; this takes away much of the time which should have been spent on the work itself.
- What is more, the returns and reports are often not even read by superior officials but merely tied up in files to gather dust and occupy valuable space. The responsibility for this state of affairs belongs to both senior bureaucrats and politicians.

There is a need in every organisation for constant examination of structures and procedures. Thus, returns, which were prescribed long ago, may no longer be needed. Some, perhaps, can be cut down in their length. The initiative for such changes must come from the top through cooperation between high level politicians and civil servants. Every programme should be evaluated after its completion for ensuring that the objectives have been fulfilled, that the work has been done at minimum cost, and that there has been no dishonesty. Evaluation is made, first and foremost, by superior officials in the department. The evaluation is likely to be more effective if the minister takes interest in it, finds time for seeing evaluation reports, and demands explanation for non-performance. Overhead (or staff) agencies, like the Planning Commission, also make evaluation of policies and programmes.

- Thus, the Planning Commission prepares a **"mid-term appraisal"** in the middle of every plan period; it also makes an evaluation of past policies at the beginning of every plan period in the document containing the new plan. The Planning Commission consists of politicians and experts and is assisted by high level members of the

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bureaucracy. It sometimes uses a special agency, such as the **Programme Evaluation Organisation**, for making in-depth studies. Evaluation by the Planning Commission carries great weight because of its pre-eminent position. This also provides an idea of the achievement possible through cooperation between politicians, civil servants, and experts who belong fully to neither of these two categories.

- Evaluation is also made by **the Comptroller and Auditor General** who is an independent authority under the Constitution. He examines not only whether funds have been spent only for purposes for which they were provided by the legislature, but also whether the work has been done efficiently and wisely. His organisation provides a good example of how the bureaucracy itself can be an effective instrument of exercising check over administration as a whole—civil servants and also ministers.

However, the Comptroller and Auditor General also functions jointly with the legislature, which is a political body. His report is presented to Parliament and State Legislatures where it is considered in detail by **the Public Accounts Committee.** The members of the bureaucracy working with the Comptroller and Auditor General, and the politicians in the Public Accounts Committee provide support to each other for evaluation at the highest level. Cooperation between politicians and bureaucrats can take many forms and for diverse purposes. The Estimates Committee of Parliament and of State Legislatures, makes an in-depth evaluation of the performance of a few departments every year. The Committee on Public Enterprises of Parliament and State Legislatures, evaluates the performance of public enterprises. These committees of legislatures, consisting of elected politicians, provide an opportunity to politicians who are not members of the executive to exercise check over the bureaucracy.

The above discussion of supervision, monitoring and evaluation shows that while politicians and members of the bureaucracy must cooperate, politicians are also duty bound to keep the bureaucracy under control. If the bureaucracy were not kept under control, the government would cease to be democratic. It is true that there may be more knowledgeable people in the bureaucracy

than among politicians; however, that does not entitle the bureaucracy to rule over the people, for in a democracy the people wish to rule over themselves through their elected representatives. If politicians allow the bureaucracy to become, too powerful they fail in their duty towards the people.

ii) **Administrative Management**:

Administrative management refers to the management of the organisation as a whole. In India the principal agencies for this purpose are the ministries or departments (in the Union and State Governments respectively) of finance, planning, personnel and administrative reform or reorganisation. The Planning Commission, and planning boards in the States, and Public Service Commissions also participate in the function of managing the governmental organisation as a whole. While the management of programmes or projects for fulfilling the substantive purposes of the government are the responsibility of line agencies like the Ministries of Defence, Industries and Health, Bureaucrats and Politicians and administrative management relates to organising, financing, planning and staffing in all their Relationship the ministries or departments. Effective implementation of policies and programme requires effective administrative management. The importance of administrative management has not yet been sufficiently recognised, particularly in developing countries. Substantive concerns, such as those for defence, provision of employment and the maintenance of law and order are so pressing that administrative management tends to be ignored. Administrative management does not receive the attention at the political level which it deserves. Thus, many of the recommendations of the Administrative Reforms Commission have yet to be attended to. It is a mistake to think that substantive programmes can be successfully implemented without providing proper groundwork of administrative management. Thus, maintenance of law and order and dealing with terrorism require a well-managed police force. Unless more attention to personnel administration in regard to the police is paid, it is idle to expect that terrorism can be wiped out. There is obviously need for more attention at the highest political level to administrative management. Ministers must become more conscious of their managerial role. They must provide for more support to administrative reform; there is need for a new relationship between politicians

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and the bureaucracy in which politicians accept more responsibility for management of organisation and procedures.

4.5 Problems in the Relationship between Minister-Civil Servant

So far, we have described the relationship that develops between politicians and the bureaucracy in the course of policy-making and implementation. Now we shall try to examine somewhat more closely the problems of this relationship. It is important to realise that most of the problems that arise in countries like India are basically related to underdevelopment. The various aspects of underdevelopment are interrelated. Economic, social, political and administrative underdevelopment- influence, and sometimes cause, each other. Hence the solution of administrative problems ultimately lies in development they can rarely be solved in isolation.

i) Interference Complex: The term "interference complex" has been coined by **Fred Riggs** to refer to complaints by politicians against what they call "bureaucratic interference" and counter charges by administrators against what they call "political interference". These politicians often complain that the bureaucracy sabotages policies and programmes of progressive social change. The National Commission on Agriculture expressed agreement with this view while dealing with the failure of land reforms. It said, "The question is, who has failed? Is it the legislator or the administrator? In a measure both have failed. However, the major responsibility lies on the shoulders of the enforcement agencies, that is to say, the administrative set up entrusted with the task of implementation." The. Commission went on to give the reason that the bureaucracy had been "trained and conditioned to function as the guardian of status quo and the defender of existing property relation." On the other hand, civil servants often say that legislators and ministers exercise patronage through interference with recruitment, selection, transfer and promotion of government employees for obtaining support at election time. There may be some truth in both these complaints. Most of our higher bureaucracy is drawn from the urban professional middle class. Hence the majority of the population consisting of farmers and workers finds very little representation on it. The attitudes of the bureaucracy may, therefore, not be in consonance with the aspirations of the majority of the

people. The solution to this problem, to some extent, lies in the introduction of tests for testing various physical and psychological attributes of the personality of the candidates at the time of initial selection. Hopefully, this will help to recruit a more representative and also more capable bureaucracy. Changes in education and training can also help to better inculcate in the bureaucracy human and constitutional values such as justice, liberty, equality, fraternity, nationalism, democracy, socialism and secularism. Such a bureaucracy is likely to cooperate better in bringing about desirable economic, social and political change, or development.

ii) Strengthening interest groups and political parties: Bureaucracy and the problem of political patronage can, to some extent, be solved by strengthening interest groups and political parties. At present some of our best parties also have a substantial non-genuine membership, elections within the parties are sometimes not held for decades, there is a high degree of centralisation in the functioning of parties, they are overly dependent upon a few rich capitalists or big farmers for election funds. There are within them factions owing allegiance to different leaders, there are divisions based on caste, religion and language, and sometimes criminals manage to get important positions in them. Removal of these deficiencies is likely to reduce their dependence upon patronage, as happened in the West.

Improvements in both, political parties and the bureaucracy, are likely to help in bringing about a better relationship between them and in doing away with the "interference complex". Bureaucratic Power Writers like Riggs, Weidner and Heady pointed out long ago that the bureaucracy tended to be more powerful in developing countries than in developed ones. The greater the power of the bureaucracy, the more difficult it is for politicians to control it. Hence there is a tendency for dictatorship by the civil and military bureaucracy in developing countries. Democratic administration requires that the bureaucracy should be properly controlled by the elected representatives of the people. The great power of the bureaucracy is part of our colonial heritage. Indian bureaucracy appears to have the attitudes and behaviour of the colonial bureaucracy but do not seek to have identified themselves with democratic norms of a political system. S.N. Eisenstadt has pointed out that colonial powers strengthened central institutions of the

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society but left local ones unchanged. Thus, they developed central services but not local self-government. Fred Riggs has pointed out in his book entitled **The Ecology of Public Administration** that the bureaucracy in India has become very powerful also because members of All-India Services hold the highest posts at Central, State and local levels. Thus, the highest official in a district has been a member of an All-India Service like the ICS or the IAS and not an elected politician. In developed countries like the U.K. and the USA local self-government is very powerful. Thus, a country is ruled by an elected government headed by a representative of the people as a mayor. The bureaucracy at the local level is employed and controlled by the local authority. In India, by contrast, the Deputy Commissioner is not employed and controlled by the Zila Parishad; the Deputy Commissioner functions mainly as the agent of the State Government and regulates and controls the Zila Parishad and the municipalities in the district on behalf of the State Government. The bureaucracy at the district and block levels is mostly employed by the State Government, and hence is not under the control of local politicians. This relationship between politicians and the bureaucracy at the local level constitutes a continuation of the colonial practice. Development involves doing away with colonial practices and introducing in their place democratic ones. This requires strengthening local self-government. People in the villages need to be educated and organised, political parties at the grass-root levels activated, and more resources provided to local governments. Once local governments become powerful, they can employ their own bureaucracy instead of depending upon the State bureaucracy. Only after local representatives of the people begin to exercise power on their behalf can the felt needs and aspirations of the people be fulfilled through local (village, block and district) planning. Implementation of policies and programmes can also be much more effective if the bureaucracy strictly controlled by local politicians who are on the spot, instead of by those who are far away at the State headquarters. **In other words, democratic decentralisation constitutes an important aspect of development.** Democratic decentralisation, however, can succeed only if other types of development also take place. For example, the spread of corruption at the local level can be prevented by strengthening associations

of the people (or interest groups) and political parties. Experience has shown that corruption has been curbed in villages where the .people organised themselves. Local political leaders can take the initiative in organising the people. The functioning of political leaders is related to that of political parties generally. The functioning of political parties can be improved by removing their bureaucracy is merely an aspect of the political system: improvement in it requires Bureaucrats and Politicians and development in all aspects of the society, since they are all interrelated.

iii) **Loyalty:** Members of the bureaucracy are expected to be committed to human and constitutional values and nationals objectives. They are expected to be neutral between political parties. In the recent past, however, there have been complaints that some politicians in power have demanded from the bureaucracy loyalty for their party and themselves. For example, members of the bureaucracy have stated that they could not express their disagreements with ruling politicians freely during the Emergency. Some civil servants were perceived to have lost their neutrality. The Shah Commission noted, "**In some cases the administration and administrators ceased to be insulated from politics with disastrous consequences**". The Shah Commission recommended institutional safeguards to protect civil servants from politicians who make unjustified demands, as follows: "It is necessary to point out the need to provide certain institutional safeguards to look after the interests of the entire run of officials, and particularly those who are involved at the decision-making levels in the various departments of the Government in the States and at the Centre. When unscrupulous and unprincipled politicians and their associates are in a position to harm the public servants refusing to fall in line with wrong and illegal orders, it becomes necessary in the interest of the basic unity and integrity of the country, as also of the fundamentals of the Constitution and the rule of law, to protect the officials who are called upon to function at different administrative levels." **Since the Shah Commission reported, administrative tribunals have been established to which members of the bureaucracy can take their complaints**. There have been complaints that some ministers obtain the help of civil servants at election time. While solution to this problem in the short-run lies in strengthening the election

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law, in the long-run it can be solved by strengthening political parties so that they become capable of providing all the help and support which their candidates need at election time.

iv) **Collusion:** Sometimes politicians and civil servants cooperate in wrongdoing. The Shah Commission noted that, "It is necessary to face the situation squarely that not all the excesses and improprieties committed during the emergency originated at the political level. In a large number of cases it appears that unscrupulous and over-ambitious officers were prepared to curry favour with the seats of power and position by doing what they thought the people in authority desired". After the Emergency also, cases have come before courts showing wrong doing jointly by politicians and civil servants. It is an accepted fact today that the Indian bureaucracy has a vested interest in the industrialisation of India. This explains the easy adjustment between bureaucracy and business and industrial pressure groups in the country.

SAQ:

'democratic decentralisation constitutes an important aspect of development'– Explain this statement in the context of Minister-Civil Servant relationship. (80 words)

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STOP TO CONSIDER

There has for long been widespread public concern with corruption in administration arising mainly from such collusion. Apart from ordinary courts of law, there is now the institution of the Lok Ayukta in some states. This is the most appropriate institution for looking into complaints of this kind. If wrong doing is found by the Lok Ayukta, prosecution can be launched in courts of law. With the institution of the Lok Pal at the Centre, as now proposed, complaints against Central ministers will also be similarly attended to. The ultimate check upon both

politicians and civil servants lies in a vigilant public opinion. The public is aided by a free press. Cooperation between politicians and the bureaucracy is essential for effective and efficient administration. Both of them function as channels of communication between the government and the people. While politicians assess the mood of the people, civil servants obtain valuable feedback. Civil servants make several kinds of technical examination of proposed programmes. Coordination of policies and programmes is made by politicians mainly in the cabinet, and by civil servants through staff agencies. Laws are drafted mainly by civil servants, but passed by politicians in the legislature. Implementation is done mainly by civil servants, but under the control of ministers. Problems in their relationship can be solved, ultimately by strengthening local self-government, interest groups and political parties, or in other words through development.

Check Your Progress:

1. What is the relationship between the politicians and the bureaucrats in the course of implementation of policies ?
2. What are the problems of the relationship between politicians and bureaucrats?

4.6 Summing Up:

Political executive and bureaucracy are the two pillars of the government. Whereas political executive is temporary and usually represent the party in power, bureaucracy is a permanent fixture. Theoretically they play different roles, for instance, politicians make policies and administrators implement them. But, in practice their roles often conflict and overlap because the line separating development of policy and its implementation is quite blurred and hazy.

Bureaucracy is a body of permanent, paid and skilled officials. It aids and advises the government to make plans and carry them out. The role of bureaucracy has changed. It no longer performs only the regulatory functions but actively engages in development and welfare activities. Conventional image of civil servant has been that of an anonymous servant of the minister

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who is committed to efficient discharge of his duties and who offers his sincere advice to his master, irrespective of his political ideology. This advice may or may not be accepted by the minister, but once the decision is made, he is duty bound to implement it effectively.

This concept of anonymous and neutral bureaucracy was considered impractical and unsuited to meet the goals of social justice. Therefore, Mrs. Gandhi sought a 'Committed Bureaucracy'. But commitment has degenerated into politicization of bureaucracy and the relationship between political executive and bureaucracy has deteriorated.

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UNIT-5

BRIDGING THE GAP: PEOPLE AND ADMINISTRATION

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Unit Structure:

5.1 Introduction

5.2 Objectives

5.3 Role of Administration

5.4 People's Participation in the Administrative Process

5.5 Bridging the Gap

5.5.1 Promoting administrative simplification strategies

5.5.2 Social Participation

5.6 Summing Up

5.7 References and Suggested Readings

5.1 Introduction

Administration is the implementation of government policies. Today public administration is often regarded as some responsibility for determining the policies and programs of governments. Specifically, it is the planning, organizing, directing, coordinating, and controlling of government operations. Public administration is a feature of all nations, whatever their system of government. Within nations, public administration is practiced at the central, intermediate, and local levels. Indeed, the relationships between different levels of government within a single nation constitute a growing problem of public administration.

No system of governance can survive for a long time without the support of the citizens. It is evident from the history of the nations that longevity of their governments largely depended on the cooperation and support rendered to them by their citizens. Wherever this support was missing, the nation has found them in deep trouble that made their future uncertain. The administration-citizen relations are significant because the support and consent of the governed is a prerequisite for the sustenance of a representative government like the one in India. The traditional theories of relationship between the State and society or government and the citizens, in different

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political systems, be it laissez- faire or democracy or military dictatorship are now inadequate to cope with the new and difficult dimensions of administration that are gradually emerging. Position of the public or citizens from being mere recipients of the administrative help has now shifted to their being the prime movers in the affairs of governance - a change from local 'beneficiary' status to active 'participant statuses'.

5.2 Objectives:

As stated above, the relationships between different levels of government within a single nation constitute a growing problem of public administration. No system of governance can survive for a long time without the support of the citizens. The governance of India is a democratic, which means it is a government by the people, for the people and of the people. After reading, this unit you will be able to:

- *understand* the perspectives of administration
- *asses* the shortcomings of administration and its failure to be inclusive
- *examine* the way to bridge the gap between people and administration.
- *understand* the challenges of Public Administration
- *define* the various modes of interaction between citizens and administration.
- *discuss* the changing norms of their interaction and institutional strategies and devices that try to build a theoretical conceptual base for the interface.
- *discuss* the Indian scenario in order to understand the different dimensions of the interaction between citizens and administration.

5.3 Role of Administration:

Today, governance is all about efficient and effective provision of goods and services. Public Administration exists for the betterment of the public by providing services such as health, education, economic security, maintenance of law and order, national defence, etc. The public interacts more intimately with public agencies at the innovative level. Good Governance affects people's lives in various ways.

1. Provides administration a wealth of information on local socio-cultural, economic, ecological and technical conditions. This information is highly useful in the process of planning, programming and implementation of development programmes.
2. Leads to the selection of those projects, which are of direct relevance to the people.
3. Facilitates mobilization of local resources in the form of cash, labour, materials and so on which are very essential for the programme's success.
4. Acts as a safeguard against the abuse of administrative authority and thus reduces the scope for corruption in the operation of programmes.
5. Prevents the hijacking of programme benefits by richer and powerful sections due to the involvement of poorer and weaker sections of the society. Thus, it leads to the equitable distribution of benefits.
6. Makes the local community easily accept the developmental change and more tolerable to mistakes and failures.
7. Reduces the financial burden on government by sustaining the programmes even after the withdrawal of its support. They can be managed by the volunteers or community-based workers.
8. Enhances the ability and competence of the people to assume responsibility and solve their own problems. It develops a spirit of self-reliance, initiative and leadership among the people.

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5.4 People's Participation in the Administrative Process

People's participation in development administration is beneficial in various respects. It promotes spirit de corps in the community and thus strengthens democracy at the grassroots level. There are different ways in which the public interacts with the public administrative agencies in real life situations. These interactions could be in the form of:

i) Clients: This is the most common form of interaction with the administrative agencies. In this form, citizens seek to obtain benefits or

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services from governmental agencies. For example, a patient visits a government hospital for health check-up or medical treatment.

ii) Regulatees: As a regulatee, the public interacts with many public agencies viz., police, income tax authorities, licensing authorities, etc

iii) Litigants: The harassed citizens turn litigants when they seek redressal of their grievances from the courts, tribunals and Lok Adalats. As litigants, public can hope to get justice for their complaints.

iv) Participants: Democracy entails increased people's participation in governance. This is institutionalised through various means like community policing, guardian committee, beneficiary associations etc. In almost all programmes/projects, the people participate at the levels of planning, implementing and monitoring. People's participation democratises both administration and public, and brings in new inputs that help sound project designing, implementation, and facilitation of assets maintenance.

v) Protesters and those engaged in struggles and people's movements: People often interact with government agencies on public policy as protesters, critically opposing the injustice in government policy and action. People's struggles like the one over Narmada Dam or forests in Uttar Pradesh (Now Uttarchanal), symbolise articulation of genuine grievance and demands and not just questioning of grievous faults in public policies faults.

State's government in practice, responses to the varied interactions would be dependent on three crucial factors: (a) The overall politico-administrative culture which may be formally democratic but actually authoritarian or patriarchal (b) The capacity of the people evolved through democratic learning processes to articulate demands and put pressure for just administrative functioning and (c) The status-fairly independent and impartial of other cognate institutions like the judiciary and the media.

In this connection James Midgley's typology of State's responses towards citizens' participation are worth mentioning. The four ideal typical responses suggested by him are 'anti-participation', 'manipulative', 'incremental' and 'participatory'.

These interactions take place daily and the ordinary citizens form an opinion about public administration out of these happy/unhappy encounters with public officials:

i) The 'anti-participatory' mode explains that State in the capitalist system is not interested in ameliorating the conditions of the downtrodden. Power is concentrated and not dispersed to facilitate accumulation of wealth. People's participation is, thus, not politically acceptable.

ii) The 'manipulative mode' seeks to neutralise political opposition by co-opting autonomous movements with the ulterior motive of gaining control over them. There is the rhetoric of participation but not its reality, as the State's motive is to prove to the people that the regime is accommodative merely to give legitimacy to the regime in power.

iii) The 'incremental mode' has an ambivalent approach to community participation. There is no lack of government support to participation, but the policy is unclear and the general tendency is to muddle through. In theory, participation is not rejected but what actually takes place is bureaucratically managed development in the name of efficiency.

iv) The 'participatory mode' is characterised by State's own initiative to create institutions of community participation to ensure effective involvement of the people in grass roots development. But, this mode works on the assumptions that there is a presence of a positive political will and the bureaucracy is also positively inclined towards development and participation (C.F. Bhattacharya, 2002).

v) Yet another response not included in Midgley's list, but which is important in the Third World context, is the 'repressive mode'. Very often, what is noticed is that the State reacts negatively and ruthlessly to people's movements and struggles. Instances are not rare when the people's genuine demands for basic needs like water, forest, cheap food have been construed as anti-state and the regime in power has sought to unleash brutal force to suppress these demands.

In India where because of social and economic causes 'women' and the 'poor' are often discriminated against, the concept of citizen having 'rights' and enjoying political equality does not in reality prevail.

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SAQ:

Q. Explain the different ways in which the public interacts with the public administrative agencies in real life situations.(100 words)

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5.5 Bridging the Gap

Citizen-administration relations were conditioned by the basic nature and operational peculiarities of administration during colonial rule. After winning freedom, the imbalance of a bureaucratic State was sought to be corrected by (a) Expanding the scope of government functions (b) Creating institutional infrastructure through Panchayati Raj to promote popular participation, (c) Encouraging political interventions in administration to modify the rigour of formalism, and (d) Instituting organisational and procedural changes in the interest of speed and public understanding of administrative action.

"The relational aspect of bureaucracy- its interaction with the public and its subservience to the public interest-is not properly articulated in Weber's theoretical construct. As James D. Thompson (1962) has put it "Classic bureaucratic theory is preoccupied with behavioural relations ordered by a single unified authority structure from which client is excluded...." The bureaucratic organisation is a fixed monolith, which approximates a steady and depersonalised machine. An automaton works uniformly and with unfaltering regularity. The underlying assumption seems to be that the client for whom the machine exists has to be adjustable, as the machine, itself is inflexible. The inevitable result that follows is what Robert Merton has called the 'unintended consequences of the bureaucratic structure'. Even if the client would not be served due to procedural rigidity, the organisation would not shed its procrustean character. The Weberian theory is an inward – looking structural construct par excellence. Its face is toward the organisation and not the client (Bhattacharya, 1987).

There have been some important studies on the relationship between the bureaucracy and the client. Of these, special mention could be made of Peter Blau's study (1973) of a public welfare agency, William Foote Whyte's study of human relations in the restaurant industry, and the research on new Israeli immigrants by Elihu Katz and S. N. Eisenstadt concentrating on the orientation of caseworkers serving clients in a public welfare agency. Blau points out the rigidities that are produced by administrative procedures, the 'rigidities shock' which young caseworkers experience on their joining the organisation, the kind of peer group support that develops in the organisation, and how all these influence the relationship between the caseworkers and the clients.

Whyte's study is much more illuminating as it delves deep into the delicate human relation problems in a restaurant considered as a combination of production and service unit, which draws attention to a "high degree of social adaptability" of the worker and the need for client orientation of the whole organisation. The supervision in such a situation has to shed the laissez-faire attitude and look upon a restaurant or factory as an organisation of human relations, and as a system of inter-personal communication in order to improve client-organisation relationship.

Janowitz and others (1958) refer to the term 'balance' in public administration, which has significance for citizen-administration relations. Public administration will be in a state of imbalance if it becomes too overbearing or subservient. As it has been observed, "A bureaucracy is in imbalance when in fails to operate on the basis of democratic consent. Bureaucratic imbalance may be either despotic or subservient. 'Despotic' implies that the bureaucracy is too much the master; while subservient implies that it is too much the servant. The despotic bureaucracy disregards public preference and demands. It is likely to resort to coercion and manipulation to maintain its power. The subservient bureaucracy finds itself so concerned with the demands of special interest groups that it compromises its essential organisational goals and essentially sacrifices authority."

Bureaucratic dominance has been a constant theme in the literature on administration in the developing countries due to the legacy of imperial rule in most countries. Public administration in the ex-colonial countries like India

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used to have a private character because of its limited scope, insularity, inequity, and methods of operation. Maintenance of law and order with revenue rising were the prime considerations of administration. The administrative operations were undertaken autonomously in the absence of public participation and accountability. The incidence of administration was iniquitous as the benefits accrued mostly to the influential and the powerful elite. In terms of methods of operation, administration was essentially coercive, formal and apparently, procedure- oriented.

Stop to Consider:

Research findings on citizen-administration relations in India reveal interesting trends. Based on extensive field survey, the findings of the study by Eldersveld, Jagannadham and Barnabas (1968) indicate: "The attitude of Indian citizens towards their government and its administrative officials is particularly a complex and paradoxical mosaic of support and hostility, of consensus and critique. From 75 per cent to 90 per cent view governmental jobs as prestigious, 90 per cent feel that health and community development programmes are worthwhile, and less than 50 per cent (20 per cent rural) are critical of the job performance of Central government officials. On the other hand, the majority feel that 50 per cent or more of the officials are corrupt, large proportions (60 per cent urban, 32 per cent rural) say their dealings with officials are unsatisfactory and majority sense that their probabilities of gaining access to officials and being successful in processing their complaints with them are low. Over 50 per cent feel officials in certain agencies are not fair and the citizen can do little by himself, and from 60 per cent to 75 per cent feel that political pull is important in getting administrative action."

Certain loopholes that emerge from Citizen-administration relations are:

- Citizens' ignorance about procedures involved in getting things done.
- Unhelpful attitude of government officials, especially the lower level functionaries.
- Inordinate delay and waiting period.

- Prevalence of favouritism in administration.
- Rampant corruption among officials.
- Dependence on middlemen (brokers) to get things done.
- Urban dwellers being more critical about Public Administration than rural counterparts.
- The rich having easy access to administration. Officials generally avoiding the poor and underplaying their needs and interests.

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5.5.1 Promoting Administrative Simplification Strategies:

The need for institutional innovation to deal with corruption and citizens' grievances has always been felt in India. Various committees and commissions to bring about administrative changes and create new controlling agencies have made many worthwhile suggestions from time to time. The Law Commission in its 14th Report drew attention to the wide field of administrative discretion in India where administrative authority may act outside the strict limits of law and propriety without the affected citizens being in a position to get effective redressal. The Santhanam Committee on Prevention of Corruption thought that it was necessary to devise adequate methods of control over exercise of discretion by different categories of government servants.

As the Committee observed, "In the more advanced countries various methods of such control have been devised. We recommend that this should be studied and a system of control should be devised keeping in mind the vastness of our country and the basic principles which are enshrined in our Constitution and jurisprudence." As a sequel to the Santhanam Committee Report, Vigilance Commissions were set up at the Centre in 1964 and in the various states later. Vigilance cells have been created in several government departments and public sector undertakings.

The Commission receives complaints directly from aggrieved persons. Other sources of information about corruption and malpractices are the press reports, audit reports, allegations made by members of Parliament etc. On receiving complaints, the Commission may ask the:

i) Ministry/department concerned to inquire into it

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ii) Central Bureau of Investigation to make an inquiry

iii) CBI Director to register a case and do the investigation

The nature of prosecution depends on the approval of the appropriate sanctioning authority. The jurisdiction of the Commission is presently limited to complaints against gazetted officers of equivalent status. The Administrative Reforms Commission set up in 1966 took up on priority basis the matter of redressal of citizens' grievances. The Commission felt that the existing institutions to deal with this problem were inadequate and found the Ombudsman to be a sine qua non of democratic functioning; and as an essential prerequisite of the progress and prosperity on which the fulfilment of our democracy depends.

The Commission recommended a two-tier machinery of Lokpal and Lokayukta for redressal of citizens' grievances. Lokpal would deal with complaints against ministers and secretaries to the government at the Central as well as state levels. The Lokayukta, one at the Centre and one in each state, would attend to complaints against the rest of the bureaucracy. The Lokpal would be appointed by the President after consultation with the Chief Justice of India, the chairperson of the Rajya Sabha and the speaker of the Lok Sabha. The legislations for the institution of Lokpal and Lokayukta were introduced in parliament in 1968 and again in 1971 and 1977. All of them lapsed with the dissolution of respective parliaments. The ill-fated Lokpal Bill has so far not been able to pass through the drill of parliamentary procedures. Lokayuktas in the states have also not been able to live up to the objectives for which they came into being. The Seventh All India Conference of Lokayuktas and Up-Lokayuktas held in 2003 suggested that Constitutional status be conferred on this institution to give it more teeth to fight corruption.

The institutional devices available in the world to redress the citizens' grievances are many and varied. In India, several institutional experimentations have been made at the different levels- Centre, state and local, but the problem still remains largely unresolved. Dissatisfaction with governmental operations, especially at the cutting-edge levels where government meets the people directly, namely post office, bank counter, railway booking office etc. is widespread. The issue of corruption in public

administration has repeatedly come up for discussion at different levels and in different forms. Keeping in view the endemic inefficiency in the government and its general insensitivity to the clientele, the usefulness of Ombudsman or any other grievance-handling machinery would be of great help if implemented with sincerity. Already an Ombudsman has been created for the banking sector, and in Kerala, the institution of local government Ombudsman has recently been set up.

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Stop to Consider

Citizens' Charters Initiative

The Citizens' Charter initiative is the latest mechanism to define the relationship between citizens and administration. It demands from the government and other service providers that a certain degree of accountability, transparency, quality and choice of services be made available to the people. The concept of Citizens' Charter was initiated following the Common Cause Initiative in U.K in 1994 during the regime of John Major. The Citizens' Charter is no doubt an innovative mechanism. However, its formulation and enforcement is no easy task. Precise standards of performance have to be set. There has to be somebody or an authority to monitor performance and watch violations and maintenance. The citizens have to play an active role in giving timely and necessary feedback about services rendered by the government agencies. Within the organisations, the employees must be well prepared to serve the public as per the agreed-upon standards.

The Citizens' Charter is usually framed on the basis of the following principles:

- Wide publicity on the standards of performance of public agencies
- Assured quality of services
- Access to information along with courtesy and helpful attitude
- Choices to and consultation with the citizens
- Simplified procedures for receipt of complaints and their quick redressal; and
- Provision of performance scrutiny with citizens' involvement.

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It has to be seen that the Charter does not remain a mere ritual and serious as well as sincere efforts are made to involve the citizens in government operations. Concrete actions need to be taken based on citizens' perceptions about government performance. Right to Information Act is another measure that would ensure better citizens' access to governmental practices and programmes, and facilitate the coverage and utility of Citizens' Charters.

5.5.2 Social Participation

Another dimension of citizen-administration relationship that cannot be overlooked is the increased accessibility of citizens to the administration. This has been possible due to the recent accent on 'e-governance'. The information age paradigm shift has redefined the fundamentals of administration and changed the institutions and mechanisms of delivery of goods and services forever. Knowledge-based society enables the sharing of vast amount of information on a global scale almost instantaneously, which consequently helps in selecting, absorbing and adopting relevant technology and services. The focus today is on the user's needs. Many developed countries have already taken recourse to e- governance in order to increase the effectiveness of the interface between citizens and public administration and to improve the efficiency of administrative structures and processes (Chowdhry, 2003). Our MPA 2nd Year Course (017) on e-governance will discuss the benefits of e-governance in improving citizens and administration interaction in detail.

Social participation is a human act, based on mutual faith built upon the attitudes and beliefs of the people. It is a process, in which every individual takes part for the development of his/her own society in his/her capacity. This helps the people to understand their environment better and gives them enough motivation to handle their common issues. They become agents of their own development instead of merely being passive beneficiaries of the governmental schemes.

Social participation can be improved if the government aims to:

- Respect the community's indigenous contribution with regard to their knowledge, skills and potential

- Encourage project initiators to become facilitators and mediators of development and assist in bringing about society/community based initiatives, and challenge practices that hinder people and ideals
- Promote co-decision making in identifying needs, setting goals and formulating policies
- Avoid selective participatory proactive approach
- Inform the people about both the expected success and failure of the schemes
- Motivate participants to believe in the spirit of values viz., solidarity, conformity, compassion, respect, human dignity, and collective unity
- Utilise optimally the potential of the society/community without any exploitation
- Empower the society/community to share the fruits of development equitably

Stop to Consider

There are techniques like Participatory Rural Appraisal (PRA) that promote participation in development and management of programmes. PRA is a label given to a growing family of participatory approaches and methods that emphasise local knowledge and enable local people to make their own appraisal, analysis and plans. PRA uses group animation and exercises to facilitate information sharing, analyses and action among the stakeholders. The purpose of PRA is to enable development practitioners, government officials, and local people to work together to plan context-based programme (World Bank Source Book, 2005).

Participation facilitates the development process. At the planning and implementation levels of a development programme, the participatory process provides important information that helps to ensure development objectives and preferences. It helps in assessing the manpower resource utilisation, which reduces the cost of the project. In case any change in the development scheme takes place or mistake occurs, it would be amicably

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acceptable by the people, because they are involved in it. Field based studies suggest that monitoring and sustainability of the project is smoother even if the external agency or the NGO leaves the project mid-way, as by that time the people are totally involved in the management of the project. Participation teaches both the administrator and the community the necessity of cooperation. This learning process based on participation makes the community a real actor and boasts its confidence and dignity.

Check Your Progress

Q. 1: How does people's participation help in the administrative process?

Q. 2: What are the constraints which stands as obstacles in the path of Citien-Administration relationship?

5.6 Summing Up

The essential ingredients of the citizen-administration relationship are adequate knowledge of administrative norms, practices and structures for both citizens and administration; positive evaluation of the job performance of government officials; and perceptions of administrative system as sensitive and responsive to the public, rather than inflexible and remote. In the present scenario where economy, culture and society are changing, the situations demand a forging of a new equilibrium between the bureaucracy and the citizens. The goal of the bureaucracy must be to create an administration-citizens interface based on participation, information, belief, confidence and action orientedness that tends to meet the expectations of the citizens. Simultaneously, the attitude of citizens, self-help groups, corporations, associations of all kinds, and private institutions must also be supportive of the public authorities when genuine public interest is being served. Various mechanisms such as Citizens' Charters, Ombudsman like institutions and participatory devices have been introduced to facilitate redressal of citizens' grievances. These need to be revamped to strengthen the interface between citizens and administration in the positive direction. This Unit examined some of these issues.

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