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SECOND ADMINISTRATIVE REFORMS COMMISSION

REPORTS OF THE
ADMINISTRATIVE REFORMS COMMISSION
– *A Summary*

MAY 2009

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Gist of Second Administrative Reforms Commission Report (2ndARC)

The ARC or the Administrative Reforms Commission is a committee set up by the Government of India to review the public administration system and give recommendations to improve it. The reports by the Commission are called the ARC reports. The first ARC (1966) was headed by Morarji Desai initially and later by K. Hanumanthaiah.

The second ARC constituted in 2005 was chaired by **Veerappa Moily**.

What is ARC Report?

The 2nd ARC (2005) prepared a detailed blueprint to revamp the public administrative system. It submitted 15 reports to the Government covering areas like Right to Education, Ethics in governance, Local governance, Terrorism, Public administration, e-governance, financial management and so on.

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Chapter 1. Right to Information

Previous Year Questions

1. There is a view that the Official Secrets Act is an obstacle to the implementation of Right to Information Act. Do you agree with the view? Discuss. **(2019 GS PAPER IV).**
2. The Right to Information Act is not all about citizens' empowerment alone, it essentially redefines the concept of accountability. Discuss. **(2018 GS PAPER IV)**
3. Initially Civil Services in India were designed to achieve the goals of neutrality and effectiveness, which seems to be lacking in the present context. Do you agree with the view that drastic reforms are required in Civil Services. Comment **(2017 GS PAPER II)**
4. Discuss the Public Services code as recommended by the 2nd Administrative Reforms Commission. **(2016 GS PAPER IV)**
5. Some recent developments such as introduction of RTI Act, media and judicial activism, etc. are proving helpful in bringing about greater transparency and accountability in the functioning of the government. However, it is also being observed that at times the mechanisms are misused. Another negative effect is that the officers are now afraid to take prompt decisions. Analyse the situation in detail and suggest how the dichotomy can be resolved. Suggest how these negative impacts can be minimised. **(2015 GS PAPER IV).**

A Master Key to Good Governance

Right to information has been seen as the key to strengthening participatory democracy and ushering in people centred governance. Access to information can empower the poor and the weaker sections of society to demand and get information about public policies and actions, thereby leading to their welfare

In a fundamental sense, right to information is a basic necessity of good governance.



The Law Commission also recommended consolidation of all laws dealing with national security and suggested a “**National Security Bill**” comprising of

1. Chapters 6 and 7 of the Indian Penal Code.

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2. The Foreign Recruiting Act, 1874.
3. The Official Secrets Act, 1923.
4. The Criminal Law Amendment Act, 1938.
5. The Criminal Law Amendment Act, 1961.
6. The Unlawful Activities (Prevention) Act, 1967

The Commission agrees with the recommendation of the Law Commission that all laws relating to national security should be consolidated. The Law Commission's recommendation was made in 1971.

The **National Security Act (NSA)**, subsequently enacted in 1980, essentially replaced the earlier **Maintenance of Internal Security Act** and deals only with preventive detention. Therefore, a new chapter needs to be added to the NSA incorporating relevant provisions of **Official Secrets Act (OSA)** and other laws dealing with national security.

Recommendations on Official Secrets Act

1. The Official Secrets Act, 1923 **should be repealed**, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.
2. The Shourie Committee (**To investigate into the issues pertaining to the right to information**) recommended a comprehensive amendment of Section 5(1) to make the penal provisions of OSA applicable only to violations affecting national security,

1.1 Governmental Privilege in Evidence

- ✓ Section 123 of the Indian Evidence Act, 1872 **should be amended**.
- ✓ Accordingly, the following will have to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973:

"Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under section 123 of the Indian Evidence Act, 1872 shall have a right to appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the Court is still pending."

1.2 The Oath of Secrecy

The National Commission to Review the Working of the Constitution (NCRWC), while examining the Right to Information had the following to say:

"In fact, we should have an oath of transparency in place of an oath of secrecy.

Recommendations

- The Armed Forces should be included in the Second Schedule of the Act.
- The Second Schedule of the Act may be reviewed periodically.
- All organizations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs. (This provision can be made by way of removal of difficulties under section 30).

1.3 The Central Civil Services (conduct) Rules

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The Commission agrees with the views of the Shourie Committee. The Central Civil Services (Conduct) Rules were formulated when the RTI Act did not exist.

The spirit of these Rules is to hold back information.

With the emergence of an era of freedom of information, these Rules would have to be recast so that dissemination of information is the rule and holding back information is an exception.

Implementation of The Right To Information Act

- A. Section 12 of the Act may be amended to constitute the Selection Committee of **CIC** with the **Prime Minister, Leader of the Opposition and the Chief Justice of India.**
- B. Section 15 may be similarly amended to constitute the Selection Committee at the State level with **the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court.**

Recommendation on Organising Information and Record Keeping

- Suo motu disclosures should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year). Such a publication should be available for reference, free of charge. In respect of electronic disclosures, NIC should provide a single portal through which disclosures of all public authorities under appropriate governments could be accessed, to facilitate easy availability of information.
- **Public Records Offices** should be established as an independent authority in GOI and all States within 6 months by integrating and restructuring the multiple agencies currently involved in record keeping. This Office will be a repository of technical and professional expertise in management of public records. It will be responsible for supervision, monitoring, control and inspection of record keeping in all public offices.
- As a one time measure, GOI may create a **Land Records Modernisation Fund** for survey and updation of all land records. The quantum of assistance for each State would be based on an assessment of the field situation.

Recommendations on Capacity Building and Awareness Generation

- Training programmes should not be confined to merely PIOs and APIOs. All government functionaries should be imparted at least one day training on Right to Information within a year. These training programmes have to be organized in a decentralized manner in every block. A cascading model could be adopted with a batch of master trainers in each district.
- Appropriate governments should bring out guides and comprehensible information material within the prescribed time.
- The CIC and the SICs may issue guidelines for the benefit of public authorities and public officials in particular and public in general about key concepts in the Act and approach to be taken in response to information requests on the lines of the Awareness Guidance Series.

Recommendations on Monitoring Mechanism

1. The CIC and the SICs may be entrusted with the task of monitoring effective implementation of the Right to Information Act in all public authorities. (An appropriate provision could be made under Section 30 by way of removal of difficulties).

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2. As a large number of Public Authorities exist at regional, state, district and sub district level, a nodal officer should be identified wherever necessary by the appropriate monitoring authority (CIC/SIC) to monitor implementation of the Act.

3. Each public authority should be responsible for compliance of provisions of the Act in its own office as well as that of the subordinate public authorities

4. A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties.

The National Coordination Committee would:

- Serve as a national platform for effective implementation of the Act.
- Document and disseminate best practices in India and elsewhere.
- Monitor the creation and functioning of the national portal for Right to Information.
- Review the Rules and Executive orders issued by the appropriate governments under the Act.
- Carry out impact evaluation of the implementation of the Act.
- Perform such other relevant functions as may be deemed necessary.

Recommendation on Issues in implementation

- In addition to the existing modes of payment, appropriate governments should amend the Rules to include payment through postal orders.
- States may be required to frame Rules regarding application fee which are in harmony with the Central Rules. It needs to be ensured that the fee itself does not become a disincentive.
- Appropriate governments may restructure the fees (including additional fees) in multiples of Rs 5. {E.g. instead of prescribing a fee of Rs. 2 per additional page it may be desirable to have a fee of Rs. 5 for every 3 pages or part thereof}.
- State Governments may issue appropriate stamps in suitable denominations as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments.
- As all the post offices in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they may also be authorized to collect the fees in cash and forward a receipt along with the application.

1.4 Inventory on Public Authorities

Recommendations:

- At the Government of India level the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/ Departments which function as public authorities.
- Each Union Ministry/ Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each ministry/ department should be classified into:

1. Constitutional bodies

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2. Line agencies
 3. Statutory bodies
 4. Public sector undertakings
 5. Bodies created under executive orders
 6. Bodies owned, controlled or substantially financed
 7. NGOs substantially financed by government.
- Within each category an up-to date list of all public authorities has to be maintained.
 - Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.
 - A similar system should also be adopted by the States.

Recommendation on Single window agency at district level

1. A single window agency should be set up in each district. This could be achieved by creating a cell in a district-level office, and designating an officer as the assistant public information officer for all public authorities served by the single window agency.
2. The office of the District Collector/ Deputy Commissioner, or the Zilla Parishad is well suited for location of the cell.

1.5 Application to Non-Governmental Bodies

1. Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly may be brought within the purview of the Act
2. Norms should be laid down that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding.
3. Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution.
4. This could be achieved by way of removal of difficulties under section 30 of the Act.

1.6 Time Limit for Information

- The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures

- If any public authority intends to reduce the period up to which any category of record is to be kept, it shall do so after taking concurrence of the Public Records Office.

1.7 Application of the Act to the Legislature and Judiciary

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1. A system of indexing and cataloguing of records of the legislatures, which facilitates easy access, should be put in place. This could be best achieved by digitising all the records and providing access to citizens with facilities for retrieving records based on intelligible searches.
2. A tracking mechanism needs to be developed so that the action taken by the executive branch on various reports like CAG, Commissions of Enquiry and House Committees is available to legislators and public, online.
3. The working of the legislative committees should be thrown open to the public. The presiding officer of the committee, if required in the interest of State or privacy, may hold proceedings in camera
4. The records at the district court and the subordinate courts should be stored in a scientific way, by adopting uniform norms for indexing and cataloguing.
5. The administrative processes in the district and the subordinate courts should be computerised in a time bound manner. These processes should be totally in the public domain.

1.8 The Right to Information (Amendment) Act, 2019

It was introduced in the Lok Sabha in July, 2019 and got passed by both houses of parliament. It seeks to amend the RTI act-2005. And its key features

1. The bill states that the central government will notify the term of office for the CICs and the ICs. The earlier act provides for five-year term to CICs and ICs, now the bill replaces this provision.
2. It states that the salaries, allowances, and other terms and conditions of service of the central and state CICs and ICs will be determined by the central government.
3. The bill removes the salary deduction provisions of those who are receiving pensions or any other retirement benefits for previous government service at the time of appointment of the CICs and ICs of centre and state level.

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Chapter 2 Ethics in Governance

Previous Year Questions

1. What do you understand by the term 'Public Servant'? reflect on the expected role of public servant. **(2019- GS PAPER IV)**
2. 'Non-performance of duty by a public servant is a form of corruption. Do you agree with this view? Justify **(2019 GS PAPER IV)**
3. Explain the process of resolving ethical dilemmas in public Administration. **(2018 GS PAPER IV)**
4. Distinguish between "Code of ethics" and "Code of conduct" with suitable examples. **(2018- GS PAPER IV)**
5. In doing a good thing, everything is permitted which is not prohibited expressly or by clear implication". Examine the statement with suitable examples in the context of a public servant discharging his/her duties. **(2018 GS PAPER IV)**

2.1 Ethics and politics- Political Funding

A system for partial state funding should be introduced in order to reduce the scope of illegitimate and unnecessary funding of expenditure for elections.

Recent Improvements

- Improvement in accuracy of electoral rolls.
- Disclosure of antecedents of candidates.
- Disqualification of Persons convicted of criminal offence.
- Enforcement of code of conduct by Election Commission.
- Deputation of Central Armed Forces ensured Free and fearless polling.
- 91st amendment act, 2003 which put a cap on the size of council of ministers that fixed 15% to the strength of Lok Sabha/State Legislature

2.2 Tightening of Anti-Defection Law

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

2.3 Disqualification

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

2.4 Coalition and Ethics

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

2.5 Appointment of the Chief Election Commissioner

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

2.6 Expediting Disposal of Election Petitions

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

2.7 Grounds of Disqualification for Membership

- Appropriate legislation may be enacted under Article 102(e) of the Constitution spelling out the conditions for disqualification of membership of Parliament in an exhaustive manner. Similarly, the States may also legislate under Article 198 (e).
- 8. Ethical framework for Ministers in India
- In addition to the existing Code of Conduct for Ministers, there should be a Code of Ethics to provide guidance on how Ministers should uphold the highest standards of constitutional and ethical conduct in the performance of their duties.
- Dedicated units should be set up in the offices of the Prime Minister and the Chief Ministers to monitor the observance of the Code of Ethics and the Code of Conduct. The unit should also be empowered to receive public complaints regarding violation of the Code of Conduct.
- An annual report with regard to the observance of these Codes should be submitted to the appropriate legislature.
- The Code of Ethics should inter alia include broad principles of the Minister-civil servant relationship and the Code of Conduct.
- The Code of Ethics, the Code of Conduct and the annual report should be put in the public domain.

2.9 Ethical Framework for Legislators

An Office of 'Ethics Commissioner' may be constituted by each House of Parliament. This Office, functioning under the Speaker/Chairman, would assist the Committee on Ethics in the discharge of its functions, and advise Members, when required, and maintain necessary records.

2.10 Code of Ethics for Civil Servants

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

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2.11 Legal Framework for Fighting Corruption

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

- Gross perversion of the Constitution and democratic institutions amounting to wilful violation of oath of office.
- Squandering public money.
- Section 7 of the Prevention of Corruption Act needs to be amended to provide for a special offence of 'collusive bribery'. An offence could be classified as 'collusive bribery' if the outcome or intended outcome of the transaction leads to a loss to the state, public or public interest. The punishments for all such cases of collusive bribery should be double that of other cases of bribery. The law may be suitably amended in this regard.

2.12 Liability of Corrupt Public Servants to Pay Damage

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

2.13 Speeding up of Trials under the Prevention of Corruption Act

- A legal provision needs to be introduced fixing a time limit for various stages of trial. This could be done by amendments to the CrPC.
- Steps have to be taken to ensure that judges declared as Special Judges under the provisions of the Prevention of Corruption Act give primary attention to disposal of cases under the Act.
- Only if there is inadequate work under the Act, should the Special Judges be entrusted with other responsibilities.
- It has to be ensured that the proceedings of courts trying cases under the Prevention of Corruption Act are held on a day-to-day basis, and no deviation is permitted.
- The Supreme Court and the High Courts may lay down guidelines to preclude unwarranted adjournments and avoidable delays.

2.14 Corruption involving Private Sector

- The Prevention of Corruption Act should be suitably amended to include in its purview private sector providers of public utility services.
- Non-Governmental agencies, which receive substantial funding, should be covered under the Prevention of Corruption Act.

2.15 Confiscation of properties illegally acquired by corrupt means

- The corrupt public servants (forfeiture of property) Bill as suggested by the law commission should be enacted without further delay.

2.16 Serious Economic Offences

- A new law on 'Serious Economic Offences' should be enacted.

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- A Serious Economic Offence may be defined adequately to include the prevailing practices in India in this regard.

- A Serious Frauds Monitoring Committee should be constituted headed by the Cabinet Secretary, should have the Chief Vigilance Commissioner, Home Secretary, Finance Secretary, Secretary Banking - Financial Sector, a Deputy Governor RBI, Secretary, Department of Company Affairs, Law Secretary, Chairman SEBI etc as members.

- In case of involvement of any public functionary in a serious fraud, the SFO shall send a report to the Lok ayukta and shall follow its directions.

- In all cases of serious frauds the burden of proof regarding its non- existence, shall lie on the accused.

2. 17 Immunity Enjoyed by Legislators

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

2.18 Ombudsman at local level

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

- The local bodies Ombudsman should be empowered to investigate cases of corruption or maladministration by the functionaries of the local self governments, and submit reports to the competent authorities for taking action

2.19 Civil Society engagements to fight Corruption

- Inviting civil societies to oversee government programmes;
- enforcing access to information; holding integrity workshops and public hearings at the national and local levels at regular intervals to discuss problems and suggest changes involving all participants;
- surveying and assessing public service delivery periodically;
- Incorporating corruption as a subject in the education curriculum.

2.20 Rating of Public Offices

- Citizens may be involved in the assessment and maintenance of ethics in major government offices and institutions with large public contacts.

- A database of all visitors is maintained. The professional agency should contact these persons and get their feedback. Based on these feedbacks, the public office could be given a rating.

2.21 Initiatives for facilitating Citizen Participation:

- Enacting a false Claims Law is one way of incentivizing citizens' participation. A reward system for reporting cases of corruption could also help in bringing to light cases of corruption.

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- School awareness programmes can be very effective in bringing about attitudinal changes in the society.

- Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.

- Reward schemes should be introduced to incentivize citizens' initiatives.

2.22 False Claims Act

- Legislation on the lines of the US False Claims Act should be enacted, providing for citizens and civil society groups to seek legal relief against fraudulent claims against the government.

This law should have the following elements:

- Any citizen should be able to bring a suit against any person or agency for a false claim against the government.
- If the false claim is established in a court of law, then the person/ agency responsible shall be liable for penalty equal to five times the loss sustained by the exchequer or society.
- The person who brought the suit shall be suitably compensated out of the damages recovered.

2.23. Role of Media

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

2. 24 Building Societal Consensus

To fight corruption, it is necessary to form a broad based consensus. Political Parties should take a lead in building a consensus to fight against the corruption by enacting legislation.

2.25 Ways to Reduce Corruption

- Each Ministry/Department may undertake an immediate exercise to identify areas where the existing 'monopoly of functions' can be tempered with competition.
- A similar exercise may be done at the level of State Governments and local bodies.
- Some Centrally Sponsored Schemes could be restructured so as to provide incentives to states that take steps to promote competition in service delivery.

2.26 Simplifying Transactions

- A system of rewards and incentives for simplification and streamlining of procedures may be introduced in each government organization.
- The principle of 'positive silence' should generally be used, though this principle cannot be used in all cases. Wherever permissions/ licenses etc are to be issued, there should be a time limit for processing of the same after which permission, if not already given, should be deemed to have been granted. However, the rules should provide that for each such case the official responsible for the delay must be proceeded against it.

2.27 Using Information and Technology

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- Each Ministry/ Department/ Organization of government should draw up a plan for use of IT to improve governance.
- The Ministry of Information and Technology needs to identify certain governmental processes and then take up a project of their computerization on a nationwide scale.
- For computerization to be successful, computer knowledge of departmental officers needs to be upgraded.

2.28 Integrity Pacts

- The term refers to an agreement between the public agency involved in procuring goods and services and the bidder for a public contract to the effect that the bidders have not paid and shall not pay any illegal gratification to secure the contract in question.
- The Commission recommends encouragement of the mechanism of 'integrity pacts'
- The Ministry of Finance may constitute a Task Force with representatives from Ministries of Law and Personnel to identify the type of transactions requiring such pacts and to provide for a protocol for entering into such a pact.
- The Task Force may, in particular, recommend whether any amendment in the existing legal framework like the Indian Contract Act, and the Prevention of Corruption Act is required to make such agreements enforceable.

2.29. Reducing Corruption

- All government offices having public interface should undertake a review of their activities and list out those which involve use of discretion.
- In all such activities, attempt should be made to eliminate discretion. Where it is not possible to do so, well-defined regulations should attempt to 'bound' the discretion.
 - Ministries and Departments should be asked to coordinate this task in their organizations/ offices and complete it within one year.
 - Decision-making on important matters should be assigned to a committee rather than individuals. Care has to be exercised, however, that this practice is not resorted to when prompt decisions are required.
 - State Governments should take steps on similar lines, especially in local bodies and authorities, which have maximum 'public contact'.

2.30. Supervision

- The supervisory role of officers needs to be re-emphasised. It bears reiteration that supervisory officers are primarily responsible for curbing corruption among their subordinates, and they should take all preventive measures for this purpose.
- Each supervisory officer should carefully analyze the activities in his/her organization/office, identify the activities which are vulnerable to corruption and then build up suitable preventive and vigilance measures. All major instances of loss caused to the government or to the public, by officials by their acts of omission or commission should be enquired into and responsibility fixed on the erring officer within a time-frame.

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- In the Annual Performance Report of each officer, there should be a column where the officer should indicate the measures he took to control corruption in his office and among subordinates. The reporting officer should then give his specific comments on this.
- Supervisory officers who give 'clean certificates' to subordinate corrupt officers in their Annual Performance Reports should be asked to explain their position in case the officer reported upon is charged with an offence under the Prevention of Corruption Act.
- Supervisory officers should ensure that all offices under them pursue a policy of suo motu disclosure of information within the ambit of the Right to Information Act.

2.31. Ensuring Accessibility and Responsiveness

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

2.32 Reforming the Civil Services

- The administrative system should be transformed so that at every level of the civil service, there is a clear assignment of duties and responsibilities with structured and interlocking accountability in which the government servant can be held accountable for the manner in which he/she performs his/her duty.
- There also has to be an in-built system of rewards and punishments, with criteria being laid down which can eliminate arbitrariness and subjectivity in granting rewards or awarding punishments.
- At present, there is no incentive to work diligently and efficiently and no adverse consequences of shirking work, indulging in corruption or failing to achieve an acceptable level of efficiency. At present, not only is there no performance audit but even the old system of awareness of an officer's strengths, weaknesses and reputation seems to have become a thing of the past.

2.33 Risk Management for Preventive Vigilance

- Risk profiling of jobs needs to be done in a more systematic and institutionalized manner in all government organizations.
- Risk profiling of officers should be done by a committee of 'eminent persons' after the officer has completed ten years of service, and then once in every five years. The committee should use the following inputs in coming to a conclusion

2.34 Proactive Vigilance on Corruption- Vigilance Network

- A national database containing the details of all corruption cases at all levels should be created. This database should be in the public domain.

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- Identified authorities should be made responsible for updating the database regularly.

2.35 Relationship between the Political Executive and Permanent Civil Service:

- The Fifth Pay Commission made several recommendations about evolving detailed, clear, and transparent transfer policies. First, the Commission recommended that detailed guidelines should be formulated and publicized by each department as part of a comprehensive transfer policy, so that arbitrariness in transfers is eliminated altogether, and transfers are affected in as transparent a manner as possible.

- Second, in order to ensure administrative continuity and stability to incumbents, frequent transfers should be discouraged, and a minimum tenure for each posting of officers should be predetermined, and it should normally be three to five years, except in cases where longer tenures are justified on functional grounds.

- Third, any premature transfer before the completion of the prescribed tenure should be based on sound administrative grounds, which should be spelt out in the transfer order itself. The civil servant should be given the right to appeal against such an order if he feels aggrieved.

- Fourth, the instrument of transfer should not be allowed to be misused either by bureaucrats themselves or by politicians in power. It should not be used as a means of punishment by circumventing the procedure laid down for disciplinary proceedings.

- Another likely area of conflict between the Minister and the officers is the influence exercised by the Minister in the day-to-day functioning of subordinate officer.

- It is necessary to spell out the relationship between the Political executive and the bureaucracy in a comprehensive manner.

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Chapter 3 Strengthening Financial Management Systems

Previous Year Questions

1. Effective utilization of public funds is crucial to meet development goals. Critically examine the reasons for under-utilization and mis-utilization of public funds and their implications. (2019)

Public Finance Management

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

3.1 Unrealistic Budget Estimates

- At the end of each year the reasons for the gap between the estimates' and 'actuals' must be ascertained and efforts made to minimize them. These assumptions should also be subject to audit.
- The method of formulation of the annual budget by getting details from different organizations/units/agencies and fitting them into a pre- determined aggregate amount leads to unrealistic budget estimates.
- This method should be given up along with the method of budgeting on the basis of 'analysis of trends'.

This should be replaced by top-down method by indicators to each organization/agency.

3.2 Delay in Implementation of Projects:

The norms for formulating the budget should be strictly adhered to in order to avoid making token provisions and spreading resources thinly over a large number of projects/schemes.

3.3 Skewed Expenditure Pattern - Rush of Expenditure towards the end of the Financial Year

The Modified Cash Management System should be strictly adhered. This System should be extended to all Demands for Grants as soon as possible.

3.4 Ad hoc Project Announcements

- ✓ The practice of announcing projects and schemes on an ad-hoc basis in budgets and on important National Days, and during visits of dignitaries' functionaries to States needs to be stopped.
- ✓ Projects/schemes which are considered absolutely essential may be considered in the annual plans or at the time of mid-term appraisal.

3.5 Emphasis on Meeting Budgetary Financial Targets rather than on Outputs and Outcomes

- ✓ The outcome budgeting is a complex process and a number of steps are involved before it can be attempted with any degree of usefulness.
- ✓ A beginning may be made with preparation and training in case of the Flagship Schemes and certain national priorities.

3.6 Development of Financial Information System:

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A robust financial information system, on the lines of SIAFI of Brazil, needs to be created in the government in a time bound manner. This system should also make accessible to the public, real time data on government expenditure at all levels.

3.7 Accrual System of Accounting

A Task Force should be set up to examine the costs and benefits of introducing the accrual system of accounting. This Task Force should also examine its applicability in case of the Appropriation Accounts and Finance Accounts.

3.8 Internal Audit

- ✓ An Office of the Chief Internal Auditor (CIA) should be established in select Ministries/departments to carry out the functions related to internal audit.
- ✓ CIAs should be directly responsible to the Secretary of the Department.
- ✓ An Audit Committee should be constituted in each Ministry/Department. The Audit Committee should look after matters related to both internal and ----external audit including implementation of their recommendations and report annually to the respective departmentally related Standing Committee of Parliament.

3.9 Integrated Financial Adviser

The role of the Financial Adviser as the Chief Finance Officer of the Ministry who is responsible and accountable to the Secretary of the Ministry/Department should be recognized and the trend of dual accountability should be done away with.

3.10 Accountability to Parliament

In order to further strengthen the Parliamentary oversight mechanism, as many audit paras as possible need to be examined by Parliamentary Committees.

3. 11. Relationship between Audit and the Government/Government Agencies

- There is need for better understanding and synergy between the audit and auditors for enhanced public accountability and consequently better audit impact.
- There should be balanced reporting by the audit. Audit reports should not focus on criticism alone but contain a fair assessment or evaluation, which would mean that good performance, is also acknowledged.
- There is need for increasing interaction as well as coordination between the executive and the audit, including at senior levels at regular intervals.

3.12. Timeliness of Audit

- External audit needs to be more timely in inspecting and reporting so that their reports can be used for timely corrective action. All audits for the year under review should be completed by 30th of September of the following year.
- IT should be used increasingly and effectively for data collection and analysis

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Chapter 4 Citizen Centric Administration

Previous Year Questions

1. Explain the basic principles of citizens charter movement and bring out its importance. **(2019 GS PAPER IV)**
2. E-governance is not only about utilization of the power of new technology but also much about the critical importance of the 'use value' of information. Explain. **(2018 GS PAPER II)**
3. The Citizen's Charter is an ideal instrument of organisational transparency and accountability, but it has its own limitations. Identify the limitations and suggest measures for sevottam model **(2018-GS PAPER II)**
4. What do you understand by the terms 'governance', 'good governance' and 'ethical governance'? **(2016 GS PAPER IV)**
5. Effectiveness of the government system at various levels and people's participation in the governance system are inter-dependent " Discuss their relationship in the context of India **(2016 GS PAPER II)**
6. Though Citizen's charters have been formulated by many public service delivery organizations, there is no corresponding improvement in the level of citizens' satisfaction and quality of services being provided. Analyse. **(2013- GS PAPER II)**

4.1 Good Governance

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

4.2 Measures taken for Good Governance

- Central Vigilance Commission (CVC) was set up by the Government of India in 1964.
- Many States have constituted 'Lokayuktas'.
- Computerised Grievances Redressal Mechanisms: A Computerized Public Grievances Redressal and Monitoring System (CPGRAMS) were installed. All the grievances received are entered in this system and processed.
- **Right to Information:** In recognition of the need for transparency in public affairs, the Indian Parliament enacted the Right to Information Act, 2005.

4.3 Barriers to Good Governance

1. Attitudinal Problems of the Civil Servants

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2. Lack of Accountability

- Seldom are disciplinary proceedings initiated against delinquent government servants and imposition of penalties is even more rare.

3. Red Tapism

- Low levels of Awareness of the Rights and Duties of Citizens

4. Low levels of compliance of Rules by the citizens

- It also acts as an impediment to good governance
- A vigilant citizenry, fully aware of its rights as well its duties, is perhaps the best way to ensure that officials as well as other citizens, discharge their duties effectively and honestly.

5. Ineffective Implementation of Laws and Rules

- While the laws made by the Legislature may be sound and relevant, very often they are not properly implemented by government functionaries.

4.4 Need for Reforms

- Integrated index to measure the quality of governance is needed
- Sound legal framework.
- Robust institutional mechanism for proper implementation of the laws and their effective functioning.
- Competent personnel staffing these institutions; and sound personnel management policies.
- Right policies for decentralization, delegation and accountability.
- Re-engineering processes to make governance 'citizen centric'. Adoption of appropriate modern technology.
- Right to information.
- Citizens' charters.
- Independent evaluation of services.
- Grievance redressal mechanisms.
- Active citizens' participation - public-private partnerships.
- Decentralization, Delegation and Accountability
- Transparency and Right to Information
- citizens' charters
- service delivery surveys
- social audits
- citizens' report cards

4.5 Citizens' Charters

Each organization should spell out the services it has to perform and then specify the standards/norms for these services. Once this is done then the organisation can be held to account if the service standards are not met.

4.6 The Indian Experience of Citizen's Charter

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- The Government of India in 1996 commenced a National Debate for Responsive Administration.
- Since May 1997 at the Union level departments, organizations, etc have formulated 115 Citizens' Charters.
- DAR & PG engaged from 2002 to 2003 to develop a standardized model for internal and external evaluations of Charters.

4.7 Citizen's Participation in Administration

- Suitable mechanism for receipt of suggestions from citizens- 'Suggestion Box'
- Fool-proof system for registration of all complaints
- A prescribed time schedule for response and resolution,
- Use of tools of information technology can help to make such a system more accessible for citizens.

Some of the findings of the agency were:

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

Recommendations

1. Need for citizens and staff to be consulted at every stage of formulation
2. Orientation of staff about the salient features and goals/ objectives of the Charter
3. Need for creation of database on consumer grievances and redress
4. Need for wider publicity of the Charter
5. Earmarking of specific budgets for awareness generation
6. Replication of best practices in this field.
7. Citizens' Charters should be made effective by adopting the following principles
8. One size does not all.
9. Citizens' Charter should be prepared for each independent unit under the overall umbrella of the organisations' charter.
10. Wide consultation which include Civil Society in the process. Firm commitments to be made, Redressal mechanism in case of default.
11. Periodic evaluation of Citizens' Charters.

4.8 Sevottam model

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A quality management framework applicable to public service delivery organisations, in all its departments.

Objective:

Improve the quality of public service delivery in the country.

Seven Steps in Sevottam Model

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

Three Modules in Sevottam Framework

- Citizen Charter.
- Public Grievance Mechanism.
- Service Delivery Capability.

4.9 Lokpal and Lokayukta:

- Lokpal and Lokayukta Act, 2013 provided for the establishment of Lokpal for the Union and Lokayukta for States.
- These institutions are statutory bodies without any constitutional status
- They perform the function of an "ombudsman" and inquire into allegations of corruption against certain public functionaries and for related matters.
- Lokpal Jurisdiction- includes Prime Minister, Ministers, members of Parliament, Groups A, B, C and D officers and officials of Central Government.

4.10 Meghalaya's social audit law

- In April 2017, Meghalaya became the first State in the country to pass a social audit legislation, the Meghalaya Community Participation and Public Services Social Audit Act.
- Act mandated social audits across 21 schemes and 11 departments.
- Meghalaya audits had been built on traditional tribal institutions, leveraging their inherent strengths and facilitating their engagement with contemporary democratic practices.

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Chapter 5 Promoting e-Governance

Previous Year Questions - GS PAPER II

1. Implementation of information and Communication Technology (ICT) based Projects / Programmes usually suffers in terms of certain vital factors. Identify these factors, and suggest measures for their effective implementation.(2019)

The smart way forward

It is the application of communication and (ICT) for providing government services, exchange of information, transactions, integration of previously existing services and information portals.

Building a Congenial Environment

- Building a congenial environment is a sine qua non for successful implementation of e-Governance initiatives.
- This should be achieved by:
- Creating and displaying a will to change within the government Providing political support at the highest level
- Incentivising e-Governance and overcoming the resistance to change within government
- Creating awareness in the public with a view to generating a demand for change.

5.1 Public-Private Partnership (PPP):

- Several components of e-Governance projects lend themselves to the Public-Private Partnership (PPP) mode. In all such cases (PPP) should be the preferred mode.
- The private partner should be selected through a transparent process. The roles and responsibilities of government as well as the private partner should be clearly laid down in the initial stage itself, leaving no room for any ambiguity

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5.2 Protecting Critical Information Infrastructure Assets:

There is need to develop a critical information infrastructure assets protection strategy. This should be supplemented with improved analysis and warning capabilities as well as improved information sharing on threats and vulnerabilities.

- ✓ **Mission Mode Project on Computerisation of Land Records:** Surveys and measurements need to be carried out in a mission mode utilising modern technology to arrive at a correct picture of land holdings and land parcels and rectification of outdated maps
- ✓ **Passport & Visa:** The entire passport issue process needs to be put on an e-Governance mode in phases. As the processes which precede and follow the police verification have already been re-engineered and put in e- Governance mode, this may be integrated with online police and citizen identification data bases. In the meantime, the process of police verification should be streamlined and made time bound.
- ✓ **Unique National Identity Number/Card:** The proposed Unique ID Authority should evolve a database of UIDs on the basis of permanent identifiers such as date of birth, place of birth etc. as described.
- ✓ **Legal Framework for e-Governance:** A clear road map with a set of milestones should be outlined by Government of India with the ultimate objective of transforming the citizen-government interaction at all levels to the e-Governance mode by 2020.

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- ✓ **Common Support Infrastructure:** As recommended by the Standing Committee on Information Technology in its 58th Report, the State Data Centres (SDCs) should be maintained by Government agencies such as NIC as it involves handling of sovereign data.

5.3 Capacity Building and Creating Awareness

- Organizational capacity building as also the professional and skills upgradation of individuals associated with the implementation of e- Governance projects.
- Each government organization must conduct a capacity assessment which should form the basis for training their personnel.
- Organisations should prepare a roadmap for enhancing the capabilities of both their employees and the organization.
- A network of training institutions needs to be created in the States with the Administrative Training Institutes at the apex.
- Lessons learnt from previous successful e-Governance initiatives should be incorporated in training programmes.

5.4 Business Process Re-engineering

- ✓ For every function a government organisation performs and every service or information it is required to provide, there should be a step-by-step analysis of each process to ensure its rationality and simplicity.
- ✓ Such analysis should incorporate the viewpoints of all stakeholders, while maintaining the citizen-centricity of the exercise.
- ✓ After identifying steps which are redundant or which require simplification, and which are adaptable to e-Governance, the provisions of the law, rules, regulations, instructions, codes, manuals etc. which form their basis should also be identified
- ✓ Following this exercise, governmental forms, processes and structures should be re-designed to make them adaptable to e- Governance, backed by procedural, institutional and legal changes.

Implementation:

- ✓ Each government organization should prepare a time-bound plan for providing of transactional information through their websites.
- ✓ Updating the websites at regular intervals, while at the same time, reengineering the back-end processes and putting them on computer networks. Ultimately, all the back-end processes should be computerized.
- ✓ Complex e-Governance projects should be planned and implemented like any major project having several parts / components for which Project Management capability should be developed in-house.

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Chapter 6 Crisis Management- *From Despair to hope*

Previous Year Questions

1. Vulnerability is an essential element for defining disaster impacts and its threat to people. How and in what ways can vulnerability to disasters be characterized? Discuss different types of vulnerability with reference to disasters. **(2019 GS PAPER III)**
2. Disaster preparedness is the first step in any disaster management process. Explain how hazard zonation mapping will help in disaster mitigation in the case of landslides. **(2019 GS PAPER III)**
3. Describe various measures taken in India for Disaster Risk Reduction (DRR) before and after signing 'Sendai Framework for DRR (2015-2030)'. How is this framework different from 'Hyogo Framework for Action, 2005'? **(2019 GS PAPER III)**
4. On December 2004, tsunami brought havoc in 14 countries including India. Discuss the factors responsible for the occurrence of Tsunami and its effects on life and economy. In the light of guidelines of NDMA (2010) describe the mechanisms for preparedness to reduce the risk during such events. **(2017 GS PAPER III)**
5. With reference to National Disaster Management Authority (NDMA) guidelines, discuss the measures to be adopted to mitigate the impact of recent incidents of cloudbursts in many places of Uttarakhand **(2016 GS PAPER –III)**
6. The frequency of urban floods due to high intensity rainfall is increasing over the years. Discussing the reasons for urban floods, highlight the mechanisms for preparedness to reduce the risk during such events. **(2016 GS PAPER III).**
7. The frequency of earthquakes appears to have increased in the Indian subcontinent. However, India's preparedness for mitigating their impact has significant gaps. Discuss various aspects **(2015 GS PAPER III)**
8. Drought has been recognized as a disaster in view of its spatial expanse, temporal duration, slow onset and lasting effects on vulnerable sections. With a focus on the September 2010 guidelines from the National Disaster Management Authority (NDMA), discuss the mechanisms for preparedness to deal with likely El Nino and La Nina fallouts in India. **(2014 GS PAPER III)**
9. How important are vulnerability and risk assessment for pre-disaster management. As an administrator, what are key areas that you would focus in a disaster management **(2013 GS PAPER III)**

Crisis:

Crisis' may be defined as an emergency situation arising out of natural or human activity which poses a threat to human life and property or leads to large scale disruption of normal life

6.1 Phases of Crisis/Disaster Management

(1) Pre-Crisis - Preparedness

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- ✓ Steps taken for preventing and mitigating the crisis and preparing for actual occurrence

(2) During Crisis - Emergency Response

- ✓ It requires a speedy response to alleviate and minimize suffering and losses

(3) Post-Crisis

- ✓ Recovery
- ✓ Rehabilitation
- ✓ Reconstruction

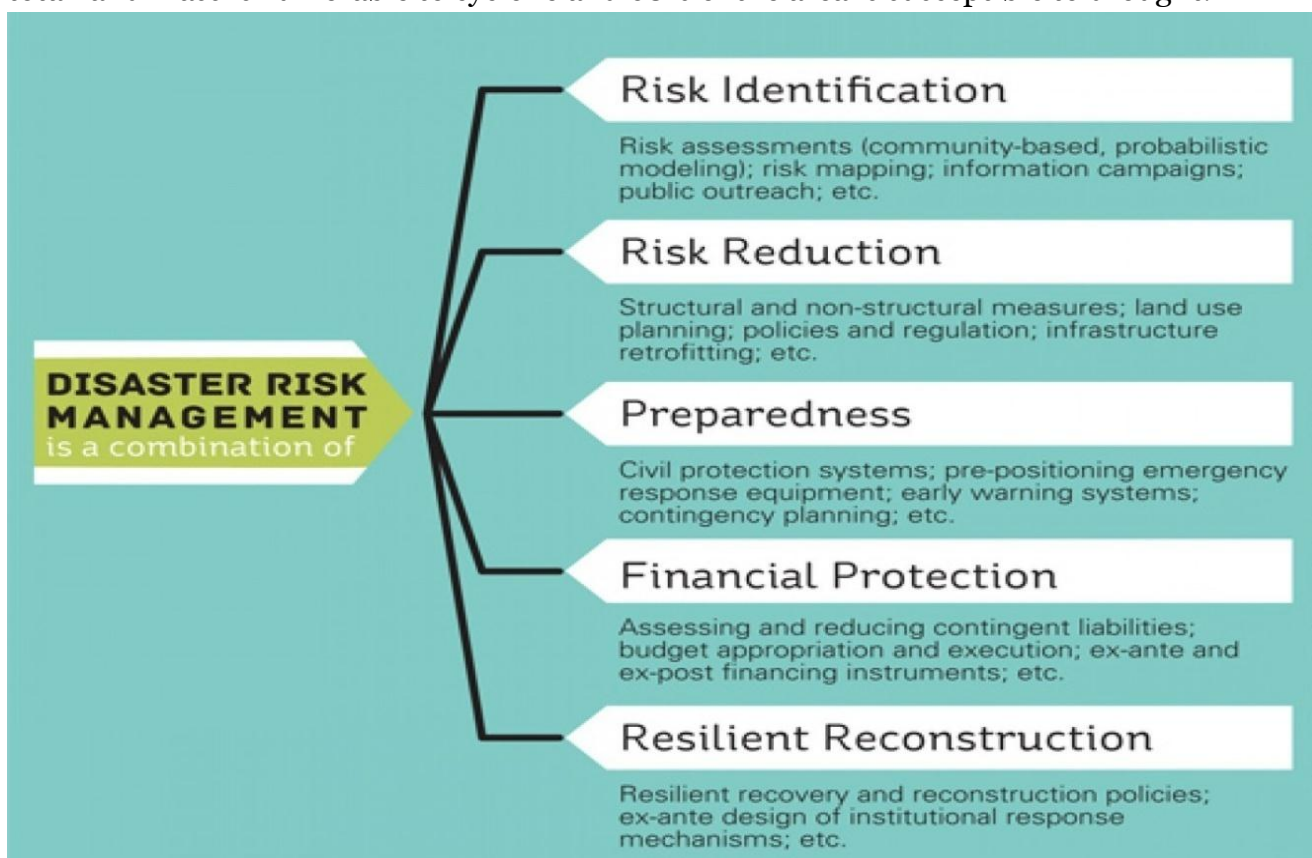
6.2 Disaster Vs Hazard

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

6.3 India's Key Hazards, Vulnerabilities and the Crisis Response Mechanism

Almost 85% of the country is vulnerable to single or multiple disasters and about 57% of its area lies in high seismic zones.

Approximately 40 million hectares of the country's land area is prone to flood, about 8% of the total land mass is vulnerable to cyclone and 68% of the area is susceptible to drought.



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Nuclear Hazards

The Department of Atomic Energy (DAE) has been identified as the nodal agency in the country in respect of man-made radiological emergencies in the public domain.

Nuclear facilities in India have adopted internationally accepted guidelines for ensuring safety to the public and environment

6.4 Other Disasters

Slow Onset Disasters

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

Sea Erosion

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

Droughts

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

6.5 Epidemics

The major sources of epidemics can be broadly categorized as follows:

1. Water-borne diseases like cholera
2. Vector-borne (often mosquito-borne) epidemics
3. Person to person transmission of disease
4. Air-borne diseases like in influenza and measles

Epidemics often take place due to poor sanitary conditions leading to contamination of food and water or due to inadequate disposal of human or animal carcasses in post- disaster situations.

6.6 Crisis/Disaster Response Mechanism in India

Till late 1960s the necessity for famine relief work declined and a holistic drought management programme was taken up in the form of the Drought Prone Areas Programme (DPAP).

Very few laws regarding disaster management till 2005

Legal and Institutional Framework

- ✓ 'Disaster Management' as a subject is not mentioned in any of the three lists
- ✓ However, by practice and convention the primary responsibility for managing disasters rests with the State Governments.

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- ✓ National Commission to Review the Working of the Constitution (NCRCW) to recommend insertion of an entry on the subject in the Concurrent List

Recommendations:

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

6.7 Evolution of Legal Framework

1. The Factories Act, 1948 amended after the Bhopal tragedy to include the right to information; along with the EPA, 1986 which lays down rules for the protection of land, water and air

(a) Hazardous Chemicals Rules, 1989

(b) Chemical Accident (Prevention and Preparedness) Rules, 1996;

2. The Atomic Energy Act combined with Rules notified under the Environment Protection act, 1986 (EPA)

3. State Essential Services Maintenance Acts (ESMA)

4. Coastal Zone Regulations, Building Codes, Fire Safety Rules etc;

5. State Public Health Acts;

6. The Army Act, which empowers civil administration to seek help of army during crisis

6.7 Structure Prior to NDMA, 2005

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

6.8 National Disaster Management Act, 2005

- ✓ Disaster management with reference to rapid onset disasters was moved from the purview of the Ministry of Agriculture to the Ministry of Home Affairs. The Ministry of Agriculture retains the responsibility for droughts, pest attacks and hailstorms;
- ✓ State Governments were advised to reorganize their Relief & Rehabilitation Department into a separate Disaster Management Department;
- ✓ State Governments were further advised to constitute State Disaster Management Authority under the Chairmanship of State Chief Minister .
- ✓ A specialized force comprising eight battalions to be named as National Disaster Response Force to be constituted

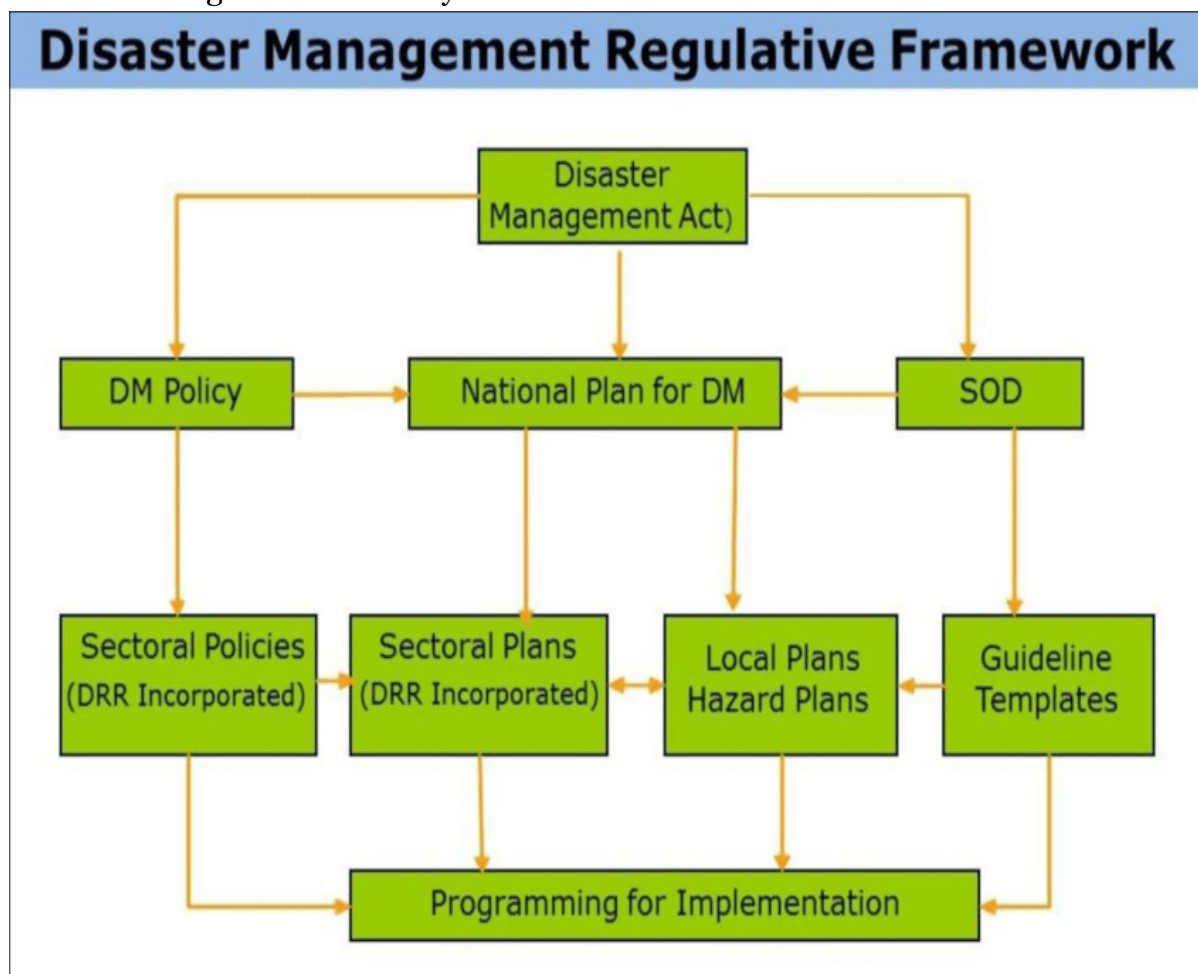
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- ✓ An advanced fail-proof disaster communication network would be set up through Emergency Operation Centres (EOC) at national, state and district levels;
- ✓ The National Institute of Disaster Management was set up at Delhi for training, capacity building, research and documentation on different aspects of disaster management in the country;
- ✓ A community based disaster risk management programme to be launched in multi-hazard districts throughout the country.



6.9 Critical Analysis of the Disaster Management Act, 2005

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

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Recommendations

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

6.10 Crisis management at apex level

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

6.11 Role of Local Self-Governments

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

6.12 Strengthening of National Institute of Disaster Management (NIDM)

It is an autonomous body under the Ministry of Home Affairs and its objectives are:

- (i) to undertake quality research,
- (ii) to work as a national resource centre,
- (iii) to professionalise disaster management,
- (iv) to promote training,

The best practices' in disaster management are the strategies and methods perfected by several developed countries and India can take advantage from exposure to these practices.

6.13 Assessment of Risk - Hazard and Vulnerability Analysis

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

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6.14 Generating Awareness about Risk

Awareness generation programmes should be undertaken using tools of social marketing.

A responsible media, which is also well informed about all aspects of disaster, is a very powerful tool for sensitizing people.

6.15 Preparation of Disaster Management Plans

The Disaster Management Act, 2005 mandates preparation of District, State and National level Plans

The District Disaster Management Plan needs to have two components:

1. Long Term Mitigation Plan.

(a) Long Term Development Plan.

(b) Long Term Enforcement Plan.

2. Emergency Response Plan. Making Crisis/Disaster Management Plans a Part of Development Plans

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

6.16 Early Warning Systems



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

6.17 Building Community Resilience

- ✓ Location specific training programmes for the community should be executed through the panchayats.

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- ✓ Crisis management awareness needs to be mainstreamed in education.
- ✓ Orientation and sensitization programmes highlighting issues and concerns in disaster management should be taken up.

6.18 Emergency Response System

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

6.19 Role of Specialized Agencies

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

6.20 Recovery

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

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Chapter 7 Combating Terrorism- *Protecting by righteousness*

Previous Year Questions

1. The banning of 'Jamaat-e – islaami' in Jammu and Kashmir brought into focus the role of over-ground workers (OGWs) in assisting terrorist organizations. Examine the role played by OGWs in assisting terrorist organizations in insurgency affected areas. Discuss measures to neutralize the influence of OGWs. **(2019 GS PAPER III)**
2. The scourge of terrorism is a grave challenge to national security. What solutions do you suggest to curb this growing menace? What are the major sources of terrorist funding? **(2017-GS PAPER III)**
3. "Terrorism is emerging as a competitive industry over the last few decades." Analyse the above statement.**(2016 GS PAPER III)**

Need for a comprehensive Anti-Terrorist Legislation

A comprehensive and effective legal framework to deal with all aspects of terrorism needs to be enacted. The law should have adequate safeguards to prevent its misuse. The legal provisions to deal with terrorism could be incorporated in a separate chapter in the National Security Act, 1980.

Definition of Terrorism

- There is need to define more clearly those criminal acts which can be construed as being terrorist in nature, definition should include the following:
- Use of firearms, explosives or any other lethal substance to cause or likely to cause damage installations/ establishments having military significance.
- Assassination of (including attempt thereof) public functionaries.
- The intent should be to threaten the integrity, security and sovereignty of India or overawe public functionaries or to terrorise people or sections of people.
- Providing/facilitating material support, including finances, for the aforesaid activities.

7.1 Bail Provisions

Regarding grant of bail, the law should provide that:

- No person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless the Court gives the Public Prosecutor an opportunity of being heard;
- Where the Public Prosecutor opposes the bail application of accused to release on bail, no person accused of an offence punishable under this Act or any rule made there under shall be released on bail until the Court is satisfied that there are grounds for believing that the accused is not guilty
- A Review Committee should review the case of all detenus periodically and advise the prosecution about the release of the accused on bail and the prosecution shall be bound by such advice.

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7.2 Confession before a Police Officer

- Confession before the police should be made admissible as recommended in the Report on Public Order. But this should be done only if comprehensive police reforms as suggested by the Commission are carried out. Directions of the Supreme Court in Prakash Singh vs Union of India
- State Security Commission in every state that will lay down policy for police functioning, evaluate police performance, and ensure that state governments do not exercise unwarranted influence on the police.
- Police Establishment Board in every state that will decide postings, transfers and promotions for officers below the rank of Deputy Superintendent of Police
- Police Complaints Authorities at the state and district levels to inquire into allegations of serious misconduct and abuse of power by police personnel.
- Minimum tenure of at least two years for the DGP and other key police officers (e.g., officers in charge of a police station and district) within the state forces, and the Chiefs of the central forces to protect them against arbitrary transfers and postings.
- DGP of state police is appointed from amongst three senior-most officers who have been empanelled for the promotion by the Union Public Service Commission on the basis of length of service, good record and experience.
- Separate the investigating police from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people.
- National Security Commission to shortlist the candidates for appointment as Chiefs of the central armed police forces.

Presumptions under the Law: The following legal provisions should be included regarding presumptions:

If it is proved –

- i. That the arms or explosives or any other dangerous substance were recovered from the possession of the accused.
- ii. That the accused rendered any financial assistance to a persona accused of, or reasonably suspected of, an offence of terrorism, the Court shall draw adverse inference against the accused.

Review Committee: A statutory Review Committee should be constituted to examine each case registered, within 30 days of its registration. The Review Committee should satisfy itself that a prima facie case has been made out by the investigation agency. This Committee should review each case every quarter.

Special Courts: Provisions for constitution of Special Fast Track Courts exclusively for trial of terrorism related cases may be incorporated in the law on terrorism. Other specific provisions related to such Special Courts may also be incorporated. Such Courts may be set up as and when required.

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Possession of Arms etc. Provision for penalizing unauthorized possession of certain specified arms and ammunition in notified areas and unauthorized explosive substances, weapons of mass destruction and biological or chemical substances of warfare in notified as well as non-notified areas, may be incorporated in the law on terrorism.

A Federal Agency to Investigate Terrorist Offences

- The Commission would like to reiterate the recommendations made in its Report on 'Public Order' on the creation of a specialized Division in the CBI to investigate terror offences.
- It should be ensured that this Division of the CBI is staffed by personnel of proven integrity and who are professionally competent and have developed the required expertise in investigation of terrorism related offences.
- The autonomy and independence of this agency may be ensured through a laid down procedure of appointment and assured fixed tenure for its personnel.

7.3 Measures against Financing of Terrorism - Anti-money Laundering Measures

- The Prevention of Money-laundering Act (PMLA) may be suitably amended at early date to expand the list of predicate offences to widen its scope and outreach.
- The stage at which search and seizure action may be taken under the PMLA may be advanced in cases involving wider ramifications. Adequate safeguards may also be put in place in such cases.
- It may be examined whether institutional coordination mechanisms between the Directorate of Enforcement and other intelligence collecting and investigating agencies, could be strengthened and some provisions of the PMLA delegated to them by the Enforcement Directorate.
- The financial transaction reporting regime under the Financial Intelligence Unit (FIU-IND) may be extended to cover high risk sectors such as real-estate. There is also need to strengthen the capacity of FIU- IND to enable it to meet future challenges.
- It would be useful to utilize the platform provided by the Regional Economic Intelligence Councils (REICs) for increased coordination among various investigation agencies in cases which are suspected to be linked with money laundering.
- Further, owing to the complexity of cases involved, the FIU-IND, apart from disseminating agency specific information, should furnish overall region-centric information to the Central Economic Intelligence Bureau (CEIB) for disseminating it to the respective REICs with a view to expanding the information regime.

7.4 Measures against Financing of Terrorism

Measures to Block the flow of Funds for Financing Terrorist Activities

- The new legal framework on terrorism may incorporate provisions regarding freezing of assets, funds, bank accounts, deposits, cash etc. when there is reasonable suspicion of their intended use in terrorist activities. Such actions may be undertaken by the investigating officer with the prior approval of a designated authority, subject to adequate safeguards.
- A specialized cell may be created in the proposed National Counterterrorism Centre for taking concerted action on the financial leads provided from information gathered by various sources.

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- For speedy investigation into the financial aspects of specific cases/group of cases related to terrorist activities, dedicated teams may be formed within the agencies charged with the responsibility of investigating into offences related to terrorism.

7.5 Role of Citizens, Civil Society and Media in Combating Terrorism

Media- Media should be encouraged to evolve a self-regulating code of conduct to ensure that publicity arising out of terrorist attacks does not help the terrorist in their anti-national designs.

Recommendations made at National Workshop on Public Order held in, 2006 at Sardar Vallabhbhai Patel National Police Academy, Hyderabad.

- A national forum should be set up for formulation of policy and strategy for dealing with terrorism
- A stable, comprehensive, all India anti-terrorist legislation, having adequate safeguards against abuse, must be put in place.
- While terrorist violence has to be effectively dealt with by the security forces, people's grievances - genuine and perceived – which get exploited, have to be redressed by concerned agencies with a sense of urgency.
- Outdated laws (eg., The Explosive Act), containing irrelevant provisions resulting in delay in investigation and prosecution of offenders, must be amended.
- Developmental activities should be planned and executed with due regard to problems of displacement of people, resettlement etc., so that violent eruption of conflicts on such issues can be avoided.
- For tackling the root causes of Left-Wing Extremism, relevant socio- economic issues such as land reforms, alienation of tribals from forest land etc. should be addressed and relevant laws must be strictly enforced.
- An all-India legislation should be enacted for tackling the growing menace of organised crime.
- Terrorism has to be fought by the security forces with the cooperation of the people
- Appropriate sensitisation training should be given to security forces for avoiding alienation of the people and for enlisting their cooperation.

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Chapter 8 Local Governance- *An Inspiring Journey into the Future*

Previous Year Questions

1. Appropriate local community level healthcare intervention is a prerequisite to achieve “Health for All” in India. Explain. **(2018-GS PAPER II)**
2. Assess the importance of the Apart from government grants, what sources the Panchayats can look out for financing developmental projects? **(2018-GS PAPER II)**
3. The local self government system in India has not proved to be effective instrument of governance”. Critically examine the statement and give your views to improve the situation.(**2017- GS PAPER II)**
4. In the absence of well – educated and organised local level government system, Panchayats and Samitis have remained mainly political institutions and not effective instrument of governance. Critically Discuss (**2015 GS PAPER II)**

8.1 Core Principles of Local Governance

- **Subsidiarity**- functions shall be carried out closest to citizens at the smallest unit of governance possible and delegated upwards only when the local unit cannot perform the task.
- **Citizen centricity**- Citizen is the heart of a democratic system. Therefore all governance institutions, particularly local governments should be judged by the satisfaction of citizens and the direct empowerment of people.
- **Democratic Decentralisation**- Decentralisation is a potent tool to counter the phenomenal asymmetry in the locus of power and the imbalance in the exercise of power.
- **Delineation of Functions**- In a federal democracy, the roles and responsibilities of various tiers of government have to be clearly defined. In all federations, this is usually done through a constitutionally mandated scheme.
- **Convergence**- In large, complex governance structures compartmentalisation is inevitable. But as governance is brought closer to the citizens, this fragmentation should yield place to convergence based on the recognition that the citizens’ needs and concerns are indivisible. Even in an otherwise efficient and honest administration, isolated functioning of disparate government agencies and departments complicates the citizen’s life immeasurably.

8.2 A critical Analysis

- A recent UNFPA report on the status of world population has said that India does not even recognise peri-urban areas within its urban population .
- Peri-urbanisation refers to rapid unplanned settlement over large tracts of land in the precincts of manufacturing facilities on a city’s periphery.

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- We have allowed local bodies to a trophy and starved them of funds to such an extent that while local government revenues accounted for 15% of the total government revenues in the USA in the year 2001, the corresponding figure in India was just 3%.
- Even after the passing of the 73rd and 74th Constitutional Amendments, the transfer of funds, functions and functionaries has been nominal in most States with notable exceptions such as Kerala.
- Throughout the seventies and eighties, a process of centralisation of even basic municipal functions such as water supply and sanitation into the hands of parastatals such as water boards and authorities has led to a massive decline in the role and status of local bodies which is only now sought to be reversed
- Local democracy is sometimes treated as synonymous with 'decentralisation', but the two are in fact quite distinct.
- In particular, decentralisation is not necessarily conducive to local democracy.

Recommendations

The Principle of Subsidiarity

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

8.3 Devolution of Powers and Responsibilities

- ✓ There should be clear delineation of functions for each level of local government
- ✓ Each subject-matter law, which has functional elements that are best attended to at local levels, should have provision for appropriate devolution to such levels
- ✓ In the case of new laws, it will be advisable to add a 'local government memorandum'
- ✓ In case of urban local bodies, in addition to the functions listed in the Twelfth Schedule, the following should be devolved to urban local bodies: * School education; Public health; Traffic management and civic policing activities; Urban environment management and heritage; and Land management, including registration. Framework Law for Local Bodies

8.3 Framework Law for local governments

- ✓ The Framework Law could be enacted under Article 252 of the Constitution on the lines of the South African Act, for the States to adopt.
- ✓ Principle of Subsidiarity, Democratic Decentralisation, Delineation of Functions, Devolution in Real Terms, Convergence, Citizen Centricity

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8.4 The State Finance Commission (SFC)

- ✓ SFCs should evolve objective and transparent norms for devolution and distribution of funds.
- ✓ SFCs should carry out a more thorough analysis of the finances of local bodies and make concrete recommendations
- ✓ SFCs should evolve norms for staffing of local bodies.
- ✓ The DPC should be assisted by a planning office with a full time District Planning Officer.
- Accountability and Transparency
- ✓ There should be a separate Standing Committee of the State Legislature for the local Bodies.
- ✓ A local body Ombudsman should be constituted

Recent Schemes by Government

Swachh Bharat Mission (SBM)

- It is a nation-wide campaign in India for the period 2014 to 2019 that aims to clean up the streets, roads and infrastructure of India's cities, towns, urban and rural areas.
- The objectives of Swachh Bharat include eliminating open defecation through the construction of household-owned and community-owned toilets and establishing an accountable mechanism of monitoring toilet use.
- The mission has two thrusts: Swachh Bharat Abhiyan rural - which operates under the Ministry of Drinking Water and Sanitation Swachh Bharat Abhiyan

Rashtriya Gram Swaraj Abhiyan (RGSA).

- It is a central government scheme that aims at making rural local bodies self-sustaining, financially stable and more efficient.
- It seeks to address critical gaps that hinder success of Panchayats by enhancing their capacities and effectiveness, and promote devolution of powers and responsibilities.
- Its intended objective is to train and build capacity of elected representatives of Panchayati Raj Institutions (PRIs).
- It will be implemented during the period from April 2018 to March 2022 with an outlay of Rs. 7255 crore.

Smart Cities Mission

- It is an innovative and new flagship initiative by the Government of India by enabling local development and harnessing technology as a means to create smart outcomes for citizen
- It will cover 100 cities and its duration will be five years from 2015 to 2020.
- The Mission is implemented by the Ministry of Urban Development (MoUD).
- SCM will be operated as a Centrally Sponsored Scheme (CSS) where in the central Government proposes to provide financial support up to Rs. 100 crore per city per year

Atal Mission for Rejuvenation and Urban Transformation (AMRUT)

Five hundred cities have been selected under AMRUT

The Mission will focus on the following Thrust Areas:

- (a) Water Supply Sewerage and septage management.

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- (b) Storm Water Drainage to reduce flooding of Non-motorized Urban Transport.
- (c) Green space/parks.

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Chapter 9 State and District Administration

Previous Year Questions

1. Many State Governments further bifurcate geographical administrative areas like Districts and Talukas for better governance. In light of the above, can it also be justified that more number of smaller States would bring in effective governance at State level? Discuss. **(2013- GS PAPER II)**

Recommendations for Restructuring State Governments Size of the Council of Ministers

- The size of the Council of Ministers in the States needs to be reduced further considering the needs of an efficient government. For this purpose the maximum size of the Council of Ministers may be fixed in a range between 10% to 15 % of the strength of their Legislative Assemblies.
- In the larger States (where membership of the Assembly is more than 200), maximum percentage should be 10% where as in the medium (where the strength of the Assembly is between 80 and 200) and the smaller States (where the strength of the Assembly is below 80) it may be 12% and 15% respectively.
- It may be ensured that the maximum number of Ministers permissible for the medium sized States should not exceed the number prescribed for a large sized State having 200 legislators and similarly, the maximum number of Ministers permissible for the smaller States should not exceed the number prescribed for a medium sized State having 80 Legislators. There may not be any prescribed minimum.

Rationalising the Number of Secretariat Departments

The number of Secretariat Departments in the States should be further rationalized on the following basis:

- The existing departments covering inter-related subjects, activities and functions should be merged;
- Need for synergy between the activities of various departments
- Devolution of a large number of functions to the PRIs
- The role of Secretaries to be redefined and to be divested of nonessential responsibilities and executive work and larger delegation of power to the executive departments/agencies.
- Need for streamlining the decision making process.

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9.1 Executive Agencies

- The State Governments should scrutinize the functions/activities of each department to confirm whether these activities/ functions are critical to the mission of the department and can only be carried out by government agencies.
- Only those functions/ activities that have to be carried out by the government should be carried out directly by the departments. Other functions/ activities should be carried out by Executive Agencies of the department.
- Each Executive Agency, whether a new body or an existing departmental undertaking/ agency/ board/ special purpose body, etc. that is converted into an Executive Agency, must be semi-autonomous and professionally managed under a mandate. Such executive agencies could be structured as a department, board, commission, company, society, etc
- There is a need for a right balance between autonomy and accountability while designing the institutional framework of executive agencies.

9.2 State Public Service Commission Appointment of chairman and members

- In making an appointment to a State PSC the Governor should consult the chairman of the UPSC and the Chairman of the State PSC. At least one member of the State PSC should belong to a different State.
- The minimum academic qualification for membership of a Commission should be a university degree.
- A member selected from among government officers should have held office under a State Government or the Union Government for at least ten years; and should have occupied the position of a Head of Department or Secretary to Government in a State or a comparable position in an institution of higher education.
- Members selected from non-official should have practiced at least for ten years in any of the recognised professions like teaching, law, medicine, engineering, science accountancy or administration.

9.3 Roles and functions of Public Service commissions

- The PSC should handle only recruitment of candidates for higher level posts under the State Government (Class I and Class II positions of various State cadres)
- Advising government on senior level promotions through the DPC and
- Recruitment and promotions to teaching posts in government Colleges and fully funded units of the Universities.

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- With regard to the appointment of junior level functionaries of the State Government, the role of the State PSC should be to lay down broad norms and standards. The recruiting organisations concerned.

9.4 Summary of recommendations on District administration

The Institution of District Collector

- There is need to realign the functions of the Deputy Commissioners/ District Collector so that he concentrates on the core functions such as land and revenue Administration, maintenance of law and order, disaster management, public distribution and civil supplies, excise, elections, transport, census, protocol, general administration, treasury management and Coordination with various agencies/ departments.
- Surveys and measurements need to be carried out in a mission mode utilizing modern technology to arrive at a correct picture of land holdings and land parcels and rectification of outdated maps.
- This needs to be accompanied by an analysis of the existing mechanism for updating land records - which varies from State to state - to be supplanted by an improved and strengthened mechanism which ensures that all future transactions in titles are immediately reflected in the land records.
- The dispute resolution mechanism with regard to land titles needs to be strengthened in order to be compatible with the demands made on it.
- In case of urban areas, a similar exercise needs to be undertaken especially since measurements and surveys have not been done in many of such areas and even record of titles is not available in most cities.
- There is need to strengthen the compliance machinery at the district level to enforce provisions of the RTI Act and to reduce the element of delay and subjectivity in the functioning of the lower level formations of the government. This should be done by creating a special RTI Cell in the office of the Collector, whose functions should be reviewed by the Collector at regular periodicity.
- Officers may be posted as District Magistrates early in their career, but in complex and problem-prone districts an IAS officer should be posted as DM only on completion of 10-12 years of service.

Modernizing the Office of the District Collector

- Development of an e-District framework applicable to all districts based on which ICT initiatives may be undertaken by respective districts

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- Comprehensive classification of rules, guidelines and procedures is necessary for efficient service delivery and better understanding among both the officers and the general public.
- Delegation of adequate powers and responsibilities needs to be done so that unnecessary file movements and resultant delays may be avoided.
- Introducing a IT based mechanism for feedback and grievance redressal wherein public grievances are attended to within specified timelines in a transparent manner.
- Developing a reliable central district database through which data collection from the grass root level with the help of local revenue administration machinery can be done.
- Providing e-governance services through the front-end service delivery nodes for rendering important services.

Functional and Structural Reforms in local Governance

- There should be an integrated governing structure at the district level in the form of the "District Council" with representation from both urban and rural areas. The Council will act as the "District Government".
- The District Collector should have a dual role in this government structure. He should work as the Chief Officer of the District Council and should be fully accountable to the District Council on all local matters.
- The District Officer would also be fully accountable to the State Government on all regulatory/other matters not delegated to the District Government.

Summary of recommendation on Administration of the Union Territories - The National Capital Territory of Delhi

Role of the Government of NCT in Municipal Affairs –Its Relationship with the Municipal Corporation of Delhi (MCD)

- The MCD, including appointment of the Commissioner and other functionaries should lie in the domain of the Government of the National Capital Territory (GNCT). However, the appointment of the Commissioner should be made by the GNCT in consultation with the Union Government.
- In order that, the Union Government retains its overarching role over delivery of municipal services in the National Capital Territory, some provisions of the existing Act should remain unchanged.
- Provisions dealing with building regulations should be kept intact in the domain of the Union Government (for example Section 347). Section 503(dealing with exemptions to the diplomatic

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missions) and Section 508 (dealing with special provisions for the Red Fort area) should also vest with the Union Government.

Role of the Government of the NCT: - In Police, Law and Order

- The Union Government may retain control over the broader aspects of security and law and order whereas traffic, local policing and enforcement of the special laws could be handed over to the Delhi Government. In the long run some of these functions could be transferred to the Municipal Corporation.
- As this will involve major restructuring of the present Delhi Police establishment, it may be advisable to constitute a Task Force with representatives of both the Union and the Delhi Government to study the matter in depth and suggest appropriate restructuring through legislative and administrative measures.

On Puducherry

- There should be enhanced financial and administrative delegation of powers to the Government of Puducherry. The Council of Ministers should be free to discharge its functions effectively within such delegation.
- Recommendations made by the Commission in its Report on "Local Governance" (6th Report) may be implemented on priority in order to strengthen and empower the PRIs in Puducherry.
- The Puducherry Administration should be given the powers to raise public debt in order to finance its development projects and plans.

Administration in Andaman & Nicobar Islands

- The Union Government should constitute an Advisory Council to the Administrator of Andaman & Nicobar Islands consisting of the local Member of Parliament, the Chief Secretary, Chairpersons of the Zila Parishad and Municipal Council and senior representatives from the Ministries of Home Affairs, Tribal Affairs, Environment, Forests and Defence and the Planning Commission to advise him on all important matters of administration.
- The Union Government should enhance financial the powers of the UT administration by notifying delegation. This should be revised once in five years. Within such delegated powers, the UT Administration must be given full administrative and functional autonomy.

On Lakshadweep

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- The Union Government should constitute an Advisory Council to the Administrator of Lakshadweep consisting of the local Member of Parliament, Chairman of the Zila Parishad and representatives of the Ministries of Home Affairs, Tribal Affairs, Environment and Forests and Defence and the Planning Commission to advise him on all important matters of administration.
- The multi-disciplinary task force under the Chairmanship of the Deputy Chairman, Planning Commission, recommended to be set up for the Lakshadweep Islands.

Summary of recommendation on North- eastern states

Ethnic Conflicts in Places, Manifesting As Territorial Conflict and Violence (Problem of Insurgency and Law And Order)

- There is need to continue political dialogue among various stakeholders. Steps should be taken to upgrade the capacity and capability of the police forces of the States so that they are able to uphold the law.
- In order to control cross border movement of insurgents, in addition to other measures, diplomatic efforts should be stepped up.
- The North-East Division of the Ministry of Home Affairs should be upgraded to a separate wing.

Provisions of the Sixth Schedule Of The Constitution With Respect To Assam, Meghalaya, Tripura And Mizoram

- Autonomous Councils should be encouraged to pass suitable legislation for establishment of elected bodies at the village level with well defined powers and a transparent system of allocation of resources.
- Suitable stipulations may be made in the procedure for release of grants to the Councils that a certain portion thereof will be disbursed only in the event of a Council passing and implementing the legislation referred at (a) above.
- While an Autonomous District Council should be free to lay down a suitable framework for Village Councils under its jurisdiction, this freedom should be subject to certain general principles.

Absence of Linkage between the Sixth Schedule And The 73rd Amendment

- Autonomous Districts/Councils in Sixth Schedule Areas should also be covered by the State Finance Commission and the State Election Commission.

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Special Powers of the Governors of Assam, Meghalaya, Tripura and Mizoram with Respect To schedule Sixth Areas

- The Governors of Assam, Tripura and Mizoram should be empowered to exercise discretionary powers in respect of all the provisions pertaining to the Autonomous Councils under the Sixth Schedule in consultation with the Council of Ministers and if necessary, in consultation with these Councils. A Constitutional amendment will be required for this purpose.
- A high-level Review Committee headed by the Governor and consisting of representatives of both the State Government and the District Councils should be formed in each State to review the functioning of these bodies. This Committee should submit its report to the Union Government.

Issues of Tribal Areas Lying Outside the Sixth Schedule

- For tribal areas which lie outside the Sixth Schedule as well as the Seventy Third Constitutional Amendment the State Government should take steps to create specially at the district level bodies which should consist of both elected as well as traditionally selected representatives. The States which show initiative and take a lead in this matter should be given incentives.
- The District Rural Development Authority of the district should work as a body accountable to this District Level Body.

Personnel Management and Capacity Building of Administration

- The North Eastern Council, in consultation with the Universities and other educational institutions of the region, should draw up programmes for coaching students for the Civil Services, and other competitive tests such as the Combined Defence Services Examination and the Engineering/Medical Examinations.

Issues of Recruitment in the Sixth Schedule Areas

- Immediate steps should be taken to constitute District cadres for all Groups 'C' and 'D' posts (Classes III and IV) for performance of all 'transferred functions' wherever such action has not been taken.
- Recruitment to Groups 'A' and 'B' posts (Classes I and II) by the Autonomous District Councils or analogous bodies particularly to positions requiring
- technical/professional qualifications should ordinarily be left to the State level.
- State Governments and the Autonomous District Councils should jointly draw up norms for arriving at the number of technical and professional posts required in the tribal areas. Personnel for such posts should be made available on priority basis.

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- Postings to the tribal areas should be for a fixed tenure and must be followed by, as far as practicable, to a posting at a place of the officer's choice.

State specific recommendations Assam

- All the three Sixth Schedule Autonomous Councils of Assam should be given parity with regard to legislative and executive powers.
- Adequate resources should be provided to the Autonomous Councils so that they are able to carry out their assigned responsibilities effectively. The allocation of funds to these bodies should be based on pre- settled norms (with reference to the minimum standards of service to be provided and their capacity to raise local resources). This exercise could be undertaken by the State Finance Commission.
- The system of release of funds to the BTC through a single window system should be further fine tuned to make it more effective and hassle free. Such a hassle free system of fund release should be adopted for the other two Councils also with adequate delegation of financial powers.

Arunachal Pradesh

- Some districts of Arunachal Pradesh are presently affected by insurgency from neighboring States. Firm steps should be taken by both the Union and the State Government to restore peace in the affected areas.
- Traditionally, land in Arunachal Pradesh is owned by the community. However, this system has gradually weakened primarily because community owned land is not bankable collateral. This issue needs to be resolved in consultation with the Reserve Bank of India, banks and stakeholders in the land.
- Because of the gradual expansion of the formal judicial system in place of the traditional 'Kebang system', it would be necessary for the Ministry of Home Affairs to examine the Assam Frontier (Administration of Justice) Regulation Act 1945 in the State, to ensure a smooth transition to the formal judicial system.

Manipur

- Sincere, proactive measures should be taken to revive and activate the Hill District Councils in Manipur. It will be imperative to devolve a major domain of developmental activities to them. It will have to be done along with transfer of funds and functionaries.
- The local functionaries of the field offices/departments of the State Governments and the parallel bodies which are currently handing these activities at the district level will also need to be placed at the disposal of the District Councils.

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- All steps should be taken to put in place elected Village Councils in rural areas. Suitable incentives should be provided to the State for initiating proactive legislative measures in this direction having due regard to the local circumstances.

Meghalaya

- The fact of Autonomous District Councils should be accepted and the State should undertake comprehensive activity mapping with regard to all the matters mentioned in para 3 of the Sixth Schedule. This process should cover all aspects of the subjects viz planning, budgeting and provisioning of finances.
- Allocation of funds to the District Councils should be based on normative and transparent considerations.
- The Union Government would also need to take similar action with regard to Centrally Sponsored Schemes being implemented in these areas.
- Appropriate measures may be taken for capacity building in Autonomous Councils so that they are able to utilize the funds in a better way.
- In the long run, directly elected village level representative bodies will need to be constituted and adequately empowered in autonomous Hill Councils areas of Meghalaya.

Mizoram

- The State should undertake comprehensive activity mapping with regard to all the matters mentioned in para 3 of the Sixth Schedule. This process should cover all aspects of the subjects viz planning, budgeting and provisioning of finances.
- This will necessitate full transfer of functionaries of the field offices/ departments/bodies relating to these activities to the control of the Councils.
- The Union Government will also need to take similar action with regard to Centrally Sponsored Schemes being implemented in these areas.

Tripura

- DPCs may be constituted in all the districts of Tripura with representation from both the TTADC and the District Administration as all the districts in Tripura comprise of both TTADC and part IX areas. The TTADC should also be involved in the planning process at the State level.
- Immediate steps should be taken to ensure that there is only one intermediate structure between the village and the district bodies of the TTAADC.
- The State Government should take steps to evolve a mechanism which could coordinate block level committees chaired by MLAs and zones and sub-zones which are headed by elected representatives of TTAADC.

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- The State may also undertake comprehensive activity mapping exercise to delineate functions among various levels operating within the system such as the District Council, the Block committee and the Village Council.

MANAGING STATE FINANCES

Within these broad outlines, the following issues are of importance in sustainable financial administration of the State Governments.

1. Financial Delegation and Operational Flexibility

- The IFA system Based on the experience of the Union Government with regard to the IFA, States should take steps to introduce / strengthen the IFA system in the State administration.

2. Avoiding Fiscal Profligacy :

- The State Governments need to take steps to ensure that projects and programmes are included in the budget only after well-considered deliberations and processes.
- The practice of announcing projects and schemes on an ad-hoc basis needs to be done away with.

3. Expenditure Management

- The States should take priority steps to improve their expenditure profile
 - By finalizing the detailed project reports of schemes in the preceding year and
 - Ensuring that the financial sanctions are given to the departments in the first two months of the current financial year.
 - The States should conduct a zero-base review of programmes and schemes which are more than five years old and which involve large sums of public money. (Say over 50 crores)

4. Prudent Budget formulation

Some of the key recommendations are

- Realistic estimates and assumptions for budget preparation
- Avoiding inaccurate and incomplete disclosure of financial situation
- Public consultation in budget formulation

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- Issue of supplementary demands
- Off budget and contingent liabilities
- Multi-year budgeting.

5. Revenue Forecast and Need for a Tax Research Unit

- The State Governments should initiate steps to set up dedicated cell within its Finance Department to provide input on the revenue forecast with the reasons thereof.

6. Mechanism for Internal Control

- The State Governments should take steps to set up internal audit committees in each of its departments.

7. External Audit

- The State Governments should specify a time frame for the Departments for necessary follow up action on the recommendations of Audit and forwarding of the ATN after incorporating such action to Audit for vetting before their final submission to the State PAC/ COPU. All Departments should adhere to the prescribed time limits.

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Chapter 10 Public Order

Introduction

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

10.1 Causes of public disorder.

1. Widely prevalent crime
2. Political polarisation
3. Divisive impulses based on ethnicity, religion, region, language and the sharing of natural resources
4. Criminalisation of politics
5. Indigenous and transnational criminal organisations
6. Homegrown armed groups like Naxalites
7. Foreign sponsored secessionist groups

10.2 Reasons to preserve public order:

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

10.3 Police and internal security

- As police are the agency to enforce the will of the State, the capacity of the police agencies to respond to a potential or real challenge to public order - rapidly, efficiently and justly - is of paramount importance
- This power is exercised in a democratic society within the bounds of the constitution and the law.

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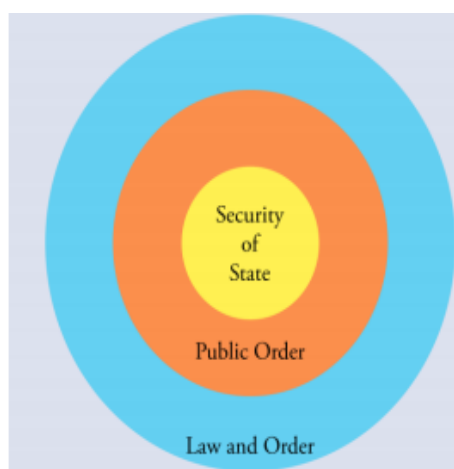
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- The manner in which the police functions is an index of society's respect for civil liberty and the rule of law
- **Padmanabhaiah committee (2000)**
 - Meaningfully and effectively, the society and the country need a highly motivated, professionally skilled, infrastructurally self sufficient and sophisticatedly trained police force
- However just and efficient policing may be, security agencies alone cannot enforce the rule of law and maintain public order.
- An effective and impartial criminal justice system is a necessary precondition for order and harmony in society

10.4 Public Order

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



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

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

1. The State should resist the temptation to over-legislate except in crucial areas which constitute the essence of constitutional values or prevent significant public loss or promote vital public good.

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- Persuasion, public education and social movements are the desirable routes to social change in such cases
- 2. If such laws do exist, effective enforcement on case-to-case basis through prosecution of offenders is the better route and not the thoughtless precipitation of a public confrontation.

10.6 Some Grave Public Order Problems

Communal Riots

- Communalism in a broad sense implies blind allegiance to one's own communal group rather than to the larger society or to the nation as a whole.
 - Ranganath Misra commission (Delhi riots, 1984), Justice B N Srikrishna commission (Bombay riots 1992-93) and also the NHRC have gone into the causes of these riots
 - At times, the law enforcement machinery has been accused of gross dereliction of duty.
- *The commission of Inquiry into the anti-Sikh riots in Delhi 1984, NHRC on the Gujarat riots in 2002

Common issues

Systemic Problems

- Conflict resolution mechanisms are ineffective;
- Intelligence gathered is not accurate, timely and actionable and
- Bad personnel policies

Administrative Shortcomings

- The administration and the police fail to anticipate and read indicators which precipitated violence earlier;
- The administration and police at times acted in a partisan manner
- At times there is failure of leadership

Post-riot Management Deficiencies

- Rehabilitation is often neglected
- Officials are not held to account for their failures

Terrorism

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

Militancy in the North East

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- Another intractable problem has been created by migration from Bangladesh.
- The redrawing of national boundaries following Partition provided an impetus to migrants from East Pakistan.
- This migration has continued even after the emergence of Bangladesh.
- The fear among the local populace that this immigrant population would reduce them to a minority has fueled militancy in the region.
- Several major initiatives for the development of the North East Region have been launched:
 - ❖ The North Eastern Council (NEC) was established in 1972 through an Act of Parliament,
 - ❖ For securing the balanced development of the North Eastern Region and for inter-state coordination
 - ❖ Ministry for the Development of North East Region deals with matters pertaining to the development of the eight states.
 - ❖ All Union Ministries/Departments earmark at least 10% of their budget for specific programme of development in the North Eastern Region
- The ethnicity, diversity, geography and history of the region demand a comprehensive nation building approach for resolving the complex issues
- Left-Wing Extremism**
 - Naxalites operate in the vacuum created by the inadequacy and ineffectiveness of the administrative machinery.
 - Naxalites continue to hold Jan-Adalats, a mechanism to dispense crude and instant justice.
- The problems of poverty and alienation, the demand of territorial rights and displacement from traditional forest habitats have aggravated the problem.
- Besides, unequal sharing of benefits of exploitation of resources has also helped create a fertile breeding ground for the growth of this menace.
- It started as an ideological movement with 'romantic sacrificialism', has now become militarised and criminalised.
- They are backed by a chain of 'couriers' and sympathisers and some civil society organisations.
- Government has adopted a multi-pronged strategy
 - Apart from countering violence, it is addressing the political issues involved,
 - Attending to the development needs of the affected areas and managing public perception.
 - Strengthening of intelligence structures, financial assistance to the affected states,
 - Modernisation of the state police, long-term deployment of central Police Forces Improved coordination mechanism,

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- Backward District Initiatives and backward Regions Grant Fund are some of the concrete measures taken by the Government of India.

10.7 Causes of Public Order problems

Three broad categories of public violence can be discerned:

- violence of remonstrance, violence of confrontation, and violence of frustration

Five broad causes of the types of violence

- Social
- Economic
- Administrative
- Communal
- Political.

10.8 Lessons from the Past

Some of the major strengths of the existing legal framework are

- A clearly laid down democratic, constitutional and legal framework,
- An independent judiciary and an elaborate criminal justice system and judicial review of executive action,
- Representative institutions to debate issues of public importance,
- Vigilant media and
- Emerging civil society responsiveness.

The strong points of the administrative framework of the country:

- Firmly established administrative traditions,
- A well-organised police machinery,
- Systems of accountability, even if deficient and
- The existence of a professional bureaucracy

Legal and administrative framework has certain weaknesses:

- Delays, unresponsiveness.
 - Lack of functional autonomy for law enforcement and investigation agencies;
 - Lack of adequate and effective accountability mechanisms;
 - Outdated and unprofessional interrogation and investigation techniques;
 - Inadequate training and infrastructure for police;
 - Lack of coordination between prosecution and investigation;
 - Insufficiency of laws dealing with terrorism and organised crime;
- Essentially there is a need for Rule of law, and it would entail:
- A legal framework, which is fair and just and provides equal opportunities
 - An effective, fair and just civil administration

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- An effective, efficient, accountable and well equipped police system
- A strong, autonomous and effective crime investigation machinery
- A civil society which is vigilant about its rights and duties
- An alert and responsible media.

10.9 The Existing Police System

The Police Organisation

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

People's Perception of the Police

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

Police Accountability Mechanism - Balancing Autonomy and Control

Relation between the State Government and the Police

The National Police commission (NPC) Stated that the arrangement that existed between the police and the foreign power before Independence was allowed to continue with the only change that the foreign power was substituted by the political party in power.

- The NPC also suggested the constitution of a statutory commission in each state to be called the State Security commission.
- Broad policy guidelines, evaluate performance of state police and function as a forum for appeal from police officers and also review the functioning of the police in the state.

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ARC Recommendations :

- The power of superintendence of the police service shall vest in and be exercised by the State Government in accordance with the provisions of law.
- The State Government shall exercise its superintendence over the police in such manner and to such an extent as to promote the professional efficiency of the police and ensure that its performance is at all times in accordance with the law.
- Obstruction of justice' should also be defined as an offence

10.10 Separation of Investigation from other Functions

Police tasks can be categorised as follows:

(a) Prevention; deployment of police force as a preventive measure when breach of peace is threatened

(b) Investigation; all actions taken by the police in the course of investigating a case

(c) Service provision; rendering service of a general nature during fairs and festivals, rescuing children lost in crowds, providing relief, etc.

- The Padmanabhaiah committee (2000) also recommended separation of the investigation work from law and order and other duties.
- The law commission in its 154th Report (1996) also recommended the separation result in speedier investigation
- It will increase the expertise of investigating police.
- They would not provoke public anger and hatred which stand in the way of police-public co-operation

The ARC has carefully examined this issue and feels that a clear separation of investigation from law and order duties is required

Two separate agencies - one dealing with 'Investigations' and the other dealing with 'law and Order'

10.11 Accountability of law and Order Machinery

A State Police Performance and Accountability Commission should be there. It consists of Home Minister (Chairman), Leader of Opposition in the State Assembly, etc

Functions

- Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with law;
- Prepare panels for the office of Director General of Police against prescribed criteria;
- Identify performance indicators
- Review and evaluate organizational performance.
- A State Police Establishment Committee should be constituted
- This Committee should deal with cases relating to officers of the rank of Inspector General of Police and above.

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- These Committees should deal with all matters of postings and transfers, promotions and also grievances relating to establishment matters.

- All cities with population above one million should have Metropolitan Police Authorities.

Reducing Burden on Police - Outsourcing Non Core Functions:

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

Public Grievances

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

10.11 Community Policing

Community Policing is an area specific proactive process of working with the community for prevention and detection of crime, maintenance of public order and resolving local conflicts and with the objective of providing a better quality of life and sense of security

Community policing has four elements:

1. community-based crime prevention;
 2. Patrol deployment for non- emergency interaction with the public;
 3. Active solicitation of requests for service not involving criminal matters; and
 4. creation of mechanisms for grassroots feedback from the community.
- The basic principle underlying community policing is that 'a policeman is a citizen with uniform and a citizen is a policeman without uniform'.
 - 'Maithri' in Andhra Pradesh, 'Friends of Police' in Tamil Nadu, Mohalla committees in Bhiwandi (Maharashtra),

Few principles of Community Policing

- Community policing is a philosophy and not just a set of a few initiatives.
- The success of community policing lies in citizens developing a feeling that they have a say in the policing of their locality and also making the community the first line of defence.

Community

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- It should not become a mere 'public relations' exercise
- Interaction with people should be organised through 'community liaison groups' or citizen's committees at different levels.
- Convergence with activities of other government departments

Gender Training

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

10.12 National Security Commission

- The Supreme court has directed that the union Government should set up a National Security commission:
- Selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years.
- It could be headed by the Union Home Minister and comprise heads of the CPOs and 2 security experts and Home Secretary as its Secretary

Arguments for inclusion of 'Public Order' in the concurrent list

1. A collapse of 'public order' has wide ramifications for national security, economic development and even on the legitimacy of the State
2. Union Government in such situations means that it is often powerless to intervene in major crisis situations
3. Another reason often cited for bringing public order in the concurrent list is that inter-state crime is on the increase.
4. Due to the rapid growth in communication facilities and the use of modern technologies, organised crime and terrorism often operate on a national or even international scale and can best be tackled by providing for a unified legal, administrative and operational framework for police forces across the country.

Arguments against bringing 'Public Order' in the concurrent list

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

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5. The size and diversity of our country is another reason why 'Public Order' and 'Police' have been kept in the State list

ARC's View:

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

Obligations of the Union and States

Articles

256: The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament, Article 256 casts a responsibility on the union to uphold the rule of law.

352. Proclamation of Emergency.

355. Duty of the Union to protect States against external aggression and internal disturbance.

356. Provisions in case of failure of constitutional machinery in States

365. Effect of failure to comply with, or to give effect to, directions given by the Union.

Federal Crimes

Committee on Reforms of criminal Justice System

Federal Investigating Agency with an all-India Charter

Organised crime, Terrorism, Acts threatening national security, Trafficking in arms and human being, Sedition, Major crimes with inter-state ramifications, Assassination (including attempts) of major public figures, Serious economic offences.

ARC's view:

Agrees with Padmanabhaiah committee that such crimes should be investigated by a specialised wing in the central bureau of Investigation.

10.13 Armed Forces (Special Powers) Act, 1958

- When deployment of the Army and the para-military forces in large numbers and for an indeterminate period to deal with the situation arising because of insurgency by the 'Nagaland National council' became necessary, a law on the lines of the 1947 enactments was also considered to be indispensably required.
- The result was the Armed Forces (Assam and Manipur) Special Powers Act, 1958.
- The reorganization of the North-Eastern region in 1972 entailing, inter alia, a constriction of the territory of the State of Assam, the Act was amended and renamed the Armed Forces (Special Powers) Act (AFSPA).
- It comes into operation after a declaration is made under Section 2 that a particular area is disturbed.
- AFSPA now extends to all the states of the North East except Sikkim
- Earlier, only the Governor/Administrator was competent to issue such declaration; the 1972 amendment now vests a similar power with the union Government.
- Members of the Armed Forces discharging duties under the Act immunity from prosecution and other legal proceedings except with the previous sanction of the union Government.

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- The Act has been used in Manipur and Nagaland since 1958 and in Mizoram, Assam and Tripura from later dates.

The Five-judge bench of the Apex court arrived at, inter alia, the following conclusions after taking into consideration various arguments:

1. Parliament was competent to enact AFSPA in exercise of the legislative power conferred under Entry 2 of list I (pertaining to naval, military and air forces and also any other armed forces of the union) and Article 248 of the constitution read with Entry 97 of list I (pertaining to residuary powers of legislation)
2. It is not a law in respect of maintenance of public order
3. AFSPA is not a colourable legislation or a fraud on the constitution.

In 2004, union Government appointed the committee to Review the Armed Forces (Special Powers) Act, 1958

It found that the powers conferred therein are not absolute and could only be invoked in the disturbed area if there was already a prohibitory order in force.

ARC's view

- It, after considering the views of various stakeholders, came to the conclusion that AFSPA should be repealed.
- It recommend insertion of appropriate provisions in the unlawful Activities (Prevention) Act, 1967 (ulPA) instead of suggesting a new legislation

The Role of the Media in Public Order

The Administration must make facts available to the media at the earliest about any major development, particularly activities affecting public order.

Increased interaction between the Administration and the media.

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