

5. Accountability And Control

ACCOUNTABILITY

Various expressions like responsiveness, responsibility, accountability and control are used to ensure the subservience of public officials. The word 'Accountable' seems to have come into usage in the English language for the first time in 1583 in the financial context. Even today, financial accountability is an important part of the concept which is a comprehensive one and covers all the activities undertaken by the Government. Accountable means liable to be called to account. Accountability means that the administration has to be accountable for the exercise of authority which it possesses. Accountability in Public administration becomes necessary because of the nature of the job performed and power exercised by the public officials.

Meaning;

Accountability may refer to the legal and hierarchical views of responsibility. It denotes the specific methods and procedures which help to enforce the responsibility of civil servants. Sri Ram Maheshwari says, "Administrative accountability is an organisational imperative because first and foremost, it purports to evaluate its performance in terms of its goals. The goal is split up into definite tasks and responsibilities, and it is the individual administrators who are called to render an account of how they are discharging their responsibilities... concepts like hierarchy, span of control, unity of command, supervision, etc. are all accountability promoting and enforcing mechanisms. So, in the annual budget, accountability carries meaning only when it closely and firmly relates itself to the basic tasks and objectives of an organisation."

Thus, accountability means liability to give a satisfactory account of the exercise of the power of discretion vested in some authority to which it is due, failing which, some kind of punishment may follow. The civil servants are accountable to the political executive and courts of law. The civil servants generally enjoy security and it is difficult to make them responsible for policy decisions. Administrative accountability seeks to ensure optimisation of the available resources and at the same time to realise the organisational goals.

CONTROL

Every organisations, whether government or non-government, business or non-business, require control over the use of their human and material resources. Public administration all over the world is exhibiting an unmistakable trend of expansion. The phenomenal increase in governmental functions is a continuing process. Consequently, administration is today draped with unparalleled powers. Control may be defined as the process of checking whether actions are being taken as planned or in the desired way and taking corrective action to make them conform to decisions. Control process tries to find out deviations between planned performance and actual performance and to suggest corrective action when needed.

The expansion of the functions of the administration and the consequent increase in power has brought to the fore, the fear that the civil servants may abuse and misuse their powers, may act in a despotic manner is that of the excesses committed on the people by Public administration under the 'internal emergency' which lasted from June 26, 1975 to March 23, 1977, or, may develop an irresponsible attitude. Numerous instances, from all parts of the globe, can be cited in support of Lord Acton's statement, "Power corrupts and absolute power corrupts absolutely." One such

instance from the Indian situation 1977. During the period of internal emergency, all mechanisms of control were made ineffective and as a result public administration went amuck. Administrators were seen signing blank warrant forms to have innocent citizens arrested. The history of the nineteen monthlong emergency is replete with such instances. Its memories are still fresh and will always be a pointer to the need for control over administration by devising effective means for the purpose.

Types of Control

: The types of control over the administration can be broadly divided into two groups— Internal control and External control. Internal controls form part of the administrative machinery and work automatically and spontaneously with the movement of the machinery. They comprise of the following :

1. Budgetary control
2. Personnel management control
3. O and M system
4. Administrative ethics and Professional standards
5. Leadership

External controls work within the general constitutional machinery, e.g. legislative control, executive control and judicial control. Public control is also a form of external control.

The two types of control, internal and external, are, however, not exclusive categories. They both complement and supplement each other.

1. Internal Control

Internal controls are fitted in the machinery of Public administration. They are in the nature of self-regulating devices and act as brakes in an automobile. Internal controls exist in every section, branch and department of Public administration.

In the hierarchical structure of the administration there is always a fear of reprimand, of loss of superior's favour, of the loss of increments, and of demotion and dismissal.

While, on the one hand, Public administration provides the means of controlling the lazy and inefficient employees, on the other hand, it gives them incentives to induce greater efficiency and loyalty by laying out uniform systems of promotion, service careers, and other government service privileges.

The systems of internal control are as follows :

Budgetary Control : The Budgetary system is a method of apportioning available resources amongst various branches of administration. If properly run, it also serves to guide the officials, and in keeping the administration on the right track.

A good budget is a rough estimate of the expenditure the government proposes to incur, and of income it hopes to collect in the ensuing financial year. It is a complete policy statement of all the activities and programmes which the Government would undertake during the year, together with an estimate of expenditure and the available sources of income required to meet the costs of the programmes.

The officials are, thus, made aware of the amount of funds they have. If they exceed the budgetary allocation or fail to conform to financial rules, they will be held responsible for it.

The two main agencies which exercise control in this behalf are : (i) The Ministry of Finance; and (ii) the Comptroller and Auditor-General.

No money can be withdrawn from public funds without the previous sanction of the Finance Ministry and the Comptroller and Auditor-General. Once the money has been withdrawn, the accounts are to be maintained in accordance with the manner prescribed for it. Numerous forms, proformas, returns statements have been prescribed which the departments make use of while incurring any expenditure. There are detailed rules for guiding the officials in money matters, which serve as a check upon the administration and reduce the possibility of extravagant expenditure.

The Finance Ministry exercises accounts and pre-audit controls through its accounts officers who are attached to all the spending Ministries. The auditors audit the accounts maintained by the departments and bring to notice any irregularity or extravagance of expenditure. The fear of audit objections makes the official conform to the financial rules and procedures.

The audit report is laid before the Parliament which is referred to the Public Accounts Committee for review and examination. Thus, the accountancy and audit arrangements control the administration from within.

The budget continues to be made all the year long. Schemes or projects of various kinds are presented to the Finance Ministry throughout the year, some for early clearance and apportionment of funds, some as a hostage to later budgets. As time for making the budget is approached, all of these schemes on file are examined, some are selected, and these, in addition to normal establishment expenditures, become the budget of the particular ministry. The schemes which are not included in the budget remain in the file and may be activated subsequently, either in any subsequent year or at any time within a year.

The main defects in our budget system are :

- (i) Our budget estimates are not the actual administrative and expenditure projections but only vague ideas which are very often prepared and approved much in advance.
- (ii) Because of this, the Finance Ministry has actually become an apportioning rather than a controlling authority. This becomes a bottleneck in programme accomplishments.

Personnel Management Control: The administrative machine, which is hierarchical in structure, provides clear lines of responsibility. Every one in the organisation is bound up in a single chain of command which makes an officer at a lower level responsible to the officer at the higher level.

“Responsibility and accountability are impossible without authority — the power to direct. The exercise of authority is impossible without a clear line of command from the top to the bottom and a return line of responsibility and accountability from the bottom to the top.” (Hoover Commission Report). The merit of this system lies in the fact that through it, it is possible for the sovereign people to control the rank and file in the administration through their representatives. The representatives control the Ministers who, in turn, control the heads of departments. The heads of departments control the next lower in rank, as every one is bound up in a single chain of command.

Besides, responsibility and accountability system, personnel management control is also exercised through standardisation of establishment (staffing) norms. The number of personnel required in each department, their grades and salaries, recruitment and promotion, retirement, dismissal and other conditions of service are laid down by a central agency. The central agency in India is the Home Department and the Treasury in Britain. The central agency usually lays down the general conditions and principles of personnel management and leaves the responsibility for detailed management to the separate departments.

Under the system, there develops uniformity in the personnel patterns of different Ministries which makes the preparation of budget estimates of the various Ministries easier. It also standardises the system of personnel management.

O and M System : The 'Organisation and Methods' system originated in large scale industries during the Second World War. Their primary requirement, during the war time, was to accelerate production. In order to do so, labour saving devices by way of machinery were used. It was also felt necessary to make 'time and motion' studies with a view to cutting down all unnecessary movements in mechanical operations. The object of the motion study was to ensure that the flow materials is uninterrupted and that the worker is able to get the material with the minimum of exertion.

In Public administration, the O and M system stands for the idea of scientific approach to public management. Under this system, administrative bodies are to have special branches whose job is to think objectively about organisation and methods of operation, and on that basis to devise improved structures and procedures.

The O and M system was first adopted by Great Britain, in 1942, on the recommendation of the Select Committee on National Expenditure. The British Government started an O and M division in the Treasury Department for a systematic survey of departmental procedure and work. Soon after, the O and M units were also established in other departments and offices of the Government. From Great Britain, the movement has spread to other countries including the U.S.A., which has a formidable 'Organisation and Management' movement. It covers all large-scale industries and governmental departments.

O and M system in India : After independence, Indian administration faced many problems of heavy work load and defective machinery. For the solution of these problems, the Government of India accepted the principle of O and M. However, delay occurred in the adoption of the system, because the Home Ministry and Finance Ministry vied with each other in claiming to house the O and M Division. The Division was ultimately located in the Cabinet Secretariat in 1954. At present there are O and M units in all the departments and bigger offices of the Union and State Governments and also in some larger local authorities.

Apart from the O and M system there are other ways also of carrying out an efficiency survey of the work of administrative units like :

- Tours of higher officials;
- 'Inspections' by officers from the headquarters; and
- Periodical survey reports by administrative inquiry committees.
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Inspection is particularly valuable in a wide-spread organisation for ensuring reasonable levels of efficiency in the field establishments. However, the inspecting officials should have a wide

knowledge and experience of the authority's work and regulations and should also be skillful and tactful in conducting inspections with the least friction with the local officials.

In the U.S.A., efficiency rating is a regular part of personnel management. The efficiency records are used for determining promotions, and also for personnel management and budgetary control.

Administrative Ethics : There are some formal as well as informal internal checks which work upon the conscience of the official. They are collectively known as Professional Code of Morality in general or Administrative Ethics in Public administration.

Prussia was the first country, in modern times, to professionalise the Government service. However, the Prussian services' professional code was bureaucratic and ill-suited to democracy. Thus, Great Britain became the first country where Government services developed a democratic code characterised by loyalty, secrecy, neutrality and anonymity. Countries like America, which did not believe in the professionalisation of Government service, are now fast professionalising it.

James McCanny, an American writer, defining the place of morality in administrative responsibility, has said, "Next and probably most significant of all, the permanent officials of Government are responsible to themselves. They must answer to their own consciences, to their own sense of dignity and pride, to the opinions of their fellow men and to their hopes of esteem for the record they leave behind them, above all to their devotion, to their own honest effort to define the total welfare and to serve it."

There is an inherent danger in the present day large bodies of civil services to develop tendencies of officiousness and indifferentism. "The professional standards, ethics, philosophy, attitudes, and ideology of the public service are the surest means of securing a satisfying rapport. Group consciousness and responsibility, although they may lead to exclusiveness are, paradoxically enough, the very forces which can correct the inherent defects of bureaucracy." (Prof. Dimock).

Administrative morality is a part and parcel of the national morality of a community. Any community in which bribery, favouritism and corruption are rampant, civil service would rarely be chaste. However, since the civil servant is the guide and philosopher of the society, it is incumbent upon him to set up a higher moral standard before his subordinates and before the people at large. This is all the more necessary in a paternalistic society where the people look upon Government officials as the very embodiment of statehood.

An official's discretion is also unconsciously limited by what is called 'departmentalism' or the 'bureau' philosophy. Modern psychologists hold that the so called 'expert' decisions are no more than the institutional views or whims rationalised.

Leadership : Administrative leadership is defined as the activity influencing people to cooperate for achieving a desirable goal. Leadership role, in an hierarchical order, depends on the position of the official concerned. One at the higher level enjoys a wider discretion owing to his higher responsibility than the one at the lower level.

Leadership plays the very important role of boosting the morale and enthusiasm of the subordinates, setting up professional standards and directing group activity to the attainment of the goals and programmes of the organisation as a whole. Leadership role is not merely a

negative role of curbing the irrational patterns of individual employees' activities. It plays a positive role of harmonising individual's activities into rational patterns.

2. External Control

External controls assume a special significance in a democratic set-up. Democracy is not satisfied with only internal controls. It expects the official to be both responsible and responsive to public

opinion. Thus, the public official is accountable and responsible to the Legislature, Executive, Judiciary and also the people.

Legislative Control : The main function of the Legislature is to state clearly and broadly the purpose and objective which it wishes an administrative agency to apply to specific situations. Through its budget review and other devices of investigation it determines whether that purpose and objective is guiding the administrators.

The Legislature exercises general power of 'direction, supervision and control of Public administration,' a phrase which, in the words of W.F. Willoughby, implies "far-reaching decisions regarding the character of work to be undertaken and the means to be employed in performing such work; giving the necessary direction for its performance; and subsequently exercising such supervision and control over the persons to whom the work is entrusted as will ensure that it is being properly and efficiently done."

The Legislature decides the nature and extent of administrative organisation, the number of personnel required for the organisation, the methods and procedure of work and also the funds that are to be made available to the administration for carrying the policy into practice.

The cardinal principle of the Parliamentary form of Government is the responsibility of the executive to the Legislature. However, the Parliamentary system suffers from a serious drawback. The official is not responsible to the Legislature directly and takes shelter behind the doctrine of ministerial responsibility. He can never be called onto the floor of the House of Legislature nor criticised by name. He may be summoned by a committee of Parliament but he cannot be obliged to answer personal criticism.

The responsibility of administration is, therefore, indirect. It is enforced through the Executive. The Minister shoulders the responsibility for the administrative acts of his department. If he is unable to satisfy Parliament, he has to quit office. Sometimes, the entire ministry may have to quit the office since the Council of Ministers is collectively responsible to Parliament. Thus, the control of the Legislature on the administration is an indirect one. It is exercised through the Executive.

Means available to the Legislature for enforcing responsibility in a Parliamentary form of Government are as follows :

(a) Control on Delegated Legislation

What is Delegated Legislation ? Normally, law making is the function of the legislative branch of Government and not of the administrative branch. However, under the stress of the complex conditions of the modern industrialised and urbanised society, the functions of the state have vastly expanded. The state is virtually confronted with the management of the life of the community as a whole. Pressure of work, want of time and expertise (as regards technical matters) on the part of the Legislature, etc., has made it obligatory for the Legislature to delegate some of its powers to the administrative authorities.

Since the rules made by the administrative authorities have the same force as the law under which they are made and since the administrative authorities make them in pursuance of the power delegated to them by the Legislature, the rule-making power is also known as 'delegated legislation,' 'executive legislation' or 'subordinate legislation'. Delegated legislation is strictly subordinate to the terms of the statute under which it is done, and is subject to judicial review as regards its validity.

Reasons for Growth : Many of the matters to be dealt with by modern Legislatures are highly technical. Since members of Legislatures are usually lay persons and do not possess expert knowledge, the Legislature lays down only the general principles, leaving the technical details to be filled up by rules made by the concerned departments.

In case of large and complex matters, it is not possible for the Legislature to foresee and include in the law itself all the contingencies which may possibly arise, or variations which may, in the light of local conditions, be needed. It makes for flexibility and avoids the rigidity of legislative enactments which cannot be amended so easily. It makes consolation with the interests affected possible. To meet emergencies like war, natural calamities, or epidemics, full powers to legislate have to be given to the Executive.

Dangers of Delegated Legislation : Lord Hewart in his book *The New Despotism* argued that the characteristic feature of the old-time despotism was a combination of the powers of legislation, administration, and justice, in its hands. Constitutional Government separated these powers into the hands of distinct organs in the interest of popular liberty. Growth of delegated legislation and administrative adjudication were again combining the three powers into the hands of administration and thus, a 'New Despotism' threatened to come into being. The legislature consisting of the elected representatives of the people brings the popular point of view to bear on legislation. But the same is not true of the officials and experts of administrative agencies.

Safeguards to obviate the dangers of Delegated Legislation

- 1) The delegation of the legislative power by Parliament should be well-defined. It should not be vague, general or sweeping that its limits may be undiscernible, for in that case scrutiny or control by anybody becomes impossible.
- 2) Delegation of the legislative power should not ordinarily be made for purposes which the Committee on Ministers' Powers described as 'unusual' or 'abnormal', e.g., to impose taxes, to legislate on matters of principle, to amend parliamentary legislation through the so-called 'Henry VIII' clauses, or to create offences and penalties. Where unusual powers of this kind are (or of necessity) delegated, they should be subject to other safeguards, e.g., the duration of their availability may be limited to a year or two, or special scrutiny by Parliament through procedures like affirmative resolution may be provided for.
- 3) The procedure of rule-making should provide for consultation with the public and the special interests affected. In England and India, there is practice of publishing the drafts of rules to be made and invite public criticism and suggestions on it. What are known as 'adversary hearings', which are highly formal like court proceeding, are peculiar to the U.S.A. Meetings and conferences are held after due notice to interested individuals and organisations and their views are obtained on the draft rules submitted to them.
- 4) In Britain, parliamentary scrutiny of delegated legislation is done by
 - (i) simply laying before Parliament with no other direction or requirement;
 - (ii) laying subject to annulment of the rules in question by hostile resolution by

- either house within a specified period;
- (iii) laying with the provision that the rules shall not be operative until approved by resolution of both the Houses of Parliament or the House of Commons only. This is called the affirmative resolution procedure. However, hundreds of rules which were laid on the table of Parliament, went unnoticed due to Parliament's pre-occupation with other things and, thus, laying in most cases became a mere formality. Therefore, in 1944, a Select Committee of the House of Commons on Statutory Instruments was set up.
- 5) Publication of rules, etc., both antecedent and subsequent, is governed in Britain by the Rules Publication Act of 1893. In the U.S.A. antecedent publicity is secured by Administrative Procedure Act of 1946 and daily publication by the Federal Register Act. In India, there appears to be no general statute on the matter but the statutes delegating the rule-making power themselves require antecedent as well as subsequent publication in the Official Gazette.
- 6) Through judicial review, courts are empowered to declare the rules ultra vires and void if the exercise of the delegated authority is broader than the terms of the delegation. However, in Britain the Parliament can exclude judicial control over the rules made under a particular Act by express or implied provision to that effect in that Act. Both in the U.S.A. and India, the rules must be intra vires of the parent Act and of the Constitution.

(b) President's Speech

The President addresses both Houses of Parliament at the beginning of every new session and also on other occasions. The aim of the President's speech is to broadly spell out the major policies and activities of the executive in the period immediately ahead. Four days are usually set aside for a general discussion on President's speech. During this period, members of Parliament have the opportunity of criticising the administration for its various acts of omission and commission. It must, however, be remembered that the President's speech is meant to sway public opinion outside the Parliament, and not to influence the Members of Parliament, who, normally, follow party lines in their utterances and in casting their votes.

(c) Financial Control

For the various activities, both welfare and other activities, undertaken by the administration, finance is needed. In order to check misappropriation of public funds, Parliament exercises the following powers :

Budget Discussion : At the beginning of every financial year the 'annual financial statement' (i.e., the 'Budget') is introduced in Parliament. After the presentation of the budget, general discussion takes place. At this stage the discussion relates to the budget as a whole or any question of principle involved therein.

Voting on grants provides the second opportunity. The estimates of expenditure, other than those charged upon the Consolidated Fund of India, or Exchequer in Britain are placed before the lower house of Parliament in the form of 'demands for grants'. Discussion at this stage is confined to each head of the demand, and if cut motions are moved, to the specific points raised therein.

Discussion on the Finance Bill provides a boundless opportunity to discuss the entire administration. In the words of G.V. Mavalankar, former Speaker of the Lok Sabha, "It is an acknowledged principle that any subject can be discussed on the Finance Bill and any grievance ventilated, the principle being that the citizen should not be called upon to pay, unless he is given, through Parliament, the fullest latitude of representing his views and conveying his grievances.

” Audit Report : In the Cabinet form of Government, as in Britain and India, Parliamentary control of the public purse is the most powerful guarantee of ministerial responsibility. However, since few (if any) Members of Parliament possess the requisite competence to exercise effective control over the financial transactions of the Government, the office of the Comptroller and Auditor-General, an expert and independent agency, assumes special significance. He audits all the accounts of the Government annually and reports about the financial transactions of the Government to the Legislature.

Reports of the Estimates Committee and the Public Accounts Committee : These two committees are appointed by the Legislature from amongst its own members. The Public Accounts Committee thoroughly scrutinises the report of the Comptroller and Auditor-General and may also review the financial dealings of the various Government departments. The Legislature discusses the audit report on the basis of the findings of the Committee. The Estimates Committee makes recommendations for improving the organisation; for securing economy and for providing guidance in the presentation of the estimates.

(d) Other forms of Legislative Control Question Hour : From 11 A.M. to 12 noon, the first hour of each parliamentary day is reserved for questions. On an average some thirty questions are orally asked, and answered daily. A question is generally followed by supplementary questions, with a view to cross-examine the Minister.

A question is an effective device for focusing public attention on different aspects of the policies and activities of administration, for getting information, for obtaining ministerial opinion on a subject, or for simply hammering the Government on the alleged weak point. In the words of Lowell, the device of questions helps greatly "Not only to keep the administration upto the mark, but to prevent growth of a bureaucratic arrogance."

Half-an-hour, Short Discussions and Calling Attention Motion : The half-an-hour discussion follows the question hour, when a member feels dissatisfied with the answer given to his question. During this short discussion, the House may extract more information on a matter of public policy from the Government, may seek clarification of the policy, may ventilate the public grievance, or may put more pressure upon the Government to modify its policy in the light of the demands of the opposition.

Short discussions on a matter of urgent public importance can take place if the Speaker admits the notice given by a member to that effect. Members place their points of view before the House and the Government makes a reply. The discussion can last for a maximum of two and a half hours. There is no voting on the motion.

The device of 'Calling Attention Motion' is used to draw the Government's attention to a serious problem in its policy administration. If the motion is admitted by the Speaker, then the Government has to give an answer immediately or it may ask for time to make a statement.

'Zero Hour' Discussion : It is an extra-regular and not a formally prescribed device. The device is an Indian innovation in the field of parliamentary practices and since 1962 has

emerged as a powerful tool of controlling the executive. It is invoked in the House immediately after the question hour but before the agenda for the day is taken up for discussion and disposal. During the 'Zero Hour' the members of Parliament can raise matters of public importance even if not listed in the day's order paper (i.e., the agenda), with the permission of the presiding officer.

'Zero Hour' discussion has evolved slowly and steadily over the years and became prominent during Sanjeeva Reddy's first term as Speaker of Lok Sabha. However, since 1977 the 'Zero Hour' has undergone a subtle change in the sense that upto five members are allowed by the Speaker to raise, soon after the question hour, matters of public importance under Rule 377 of the Rules of Parliamentary Procedure.

Adjournment Debates: Adjournment motion is a tool of day-to-day control. It may be used for raising a discussion in the House on a matter of urgent nature and of public importance. If allowed by the presiding officer, the normal business of the House is suspended, and an immediate debate takes place on the matter raised.

In practice, the Speaker has shown a consistent tendency not to interpret 'urgent nature and public importance' of a matter liberally.

Difference between Adjournment debate and two hours' debate: Whereas the former is characterised by voting after the debate is over, in the case of the latter there is simply a discussion and no voting. However, the purpose of both an adjournment debate and the two hours' debate is to discuss a matter of urgent public importance.

No-confidence Motion : It is also called censure motion; a motion moved by a member to express lack of confidence in the Government for any reason. The motion, if allowed, is debated upon. At the conclusion of such a debate, a vote of confidence is sought by the Government and if it fails to get the required majority of votes, it has to resign.

For the first time in Indian parliamentary history, a no-confidence' motion was discussed and defeated in the Lok Sabha in its monsoon session in 1963. It was, however, V.P. Singh's Government which became the first to be voted out at the Centre in independent India. The Government resigned in November 1990 after losing the vote 36-142. On an earlier occasion in July 1979, the Morarji Desai Government resigned before the 'no confidence' motion could be actually passed.

Debates on Legislation : The Legislature lays down major public policies by enacting laws or by amending or repealing the existing ones. In practice, however, the initiative in policy making comes from the Executive. This is evident from the fact that public bills originating in the Executive, far outnumber the private members bills. In India as well, the legislative leadership rests with the Government. In 1961, all the 63 bills put on the statute of the Parliament were official bills.

It is in this context that debates on legislation assume a special significance. The various readings of a bill provide opportunities to the members of Parliament to criticise the entire policy underlying the bill. The criticism thus levelled may make the Government withdraw the bill, e.g., withdrawal of the highly controversial Hindu Code Bill in 1951.

(e) Committees of Parliament

The role of Estimates Committee and the Public Accounts Committee has already been dealt with, in this chapter, in relation to parliamentary control over the public purse. Other important committees which assist the Parliament in exercising control over administration are :

Committee on Assurances : It undertakes scrutiny of promises, assurances, undertakings, etc., given by the Ministers, from time to time, on the floor of the House, and reports on

- i. the extent to which such assurances, promises, etc., have been implemented;
- ii. where implemented, whether such implementation has taken place within the mini-mum time necessary for the purpose.

Its existence not only makes Ministers more careful in making promises, but also makes the administration prompt to take action on the promises made.

Committee on Subordinate Legislation : It controls the Government's activities regarding administrative sub-legislation.

Parliaments are generally unwieldy bodies and meet only periodically. They, therefore, appoint committees (both standing and ad hoc committees) from amongst their own members. The committees specialise in their particular sphere of activity and thus keep constant and close watch over the administration. Besides the above mentioned committees, special committees may, at any time, be appointed. The conclusions of the committees, which are in the form of authoritative recommendations, help in toning up the administration, in avoiding wastes and improving efficiency and quality of work.

Limitations of Legislative Control : The entire administrative machinery comes under the potential control of the Legislature. This is because every action may provoke a question, every question and adjournment debate, and every adjournment debate a full-dress debate. However, there is no denying the fact that the legislative control over administration is not as effective as it ought to be. Legislatures suffer from serious limitations :

- (1) Lack of time, staff, expertise and technical knowledge to exert effective control in the most meaningful areas.
- (2) No sustained measure of control and surveillance.
- (3) In case of India and other Third World countries the imperial background of the administration, the wide gulf between administration and the people, and prevalence of widespread illiteracy, inevitably project themselves on to the legislative chambers, and put further limitations on legislative control over Public administration.
- (4) The inclination and readiness of the Legislature to give concessions to the demands of small, influential and self-interested businessmen also acts as a limitation.
- (5) The endorsement of the narrow approach of the Public Service Commission in the mistaken belief that this strengthens the merit system, also undermines the responsibility of the Ministries and thereby the responsibility of Parliament.
- (6) Parliament can become captive under an authoritarian regime, e.g., the period of internal emergency of June 1975.
- (7) Government bills far outnumber private members' bills.
- (8) Legislatures do not often possess the technical knowledge of the various departments and, so, normally do not criticise their demands for grants.

- (9) Parliament cannot raise money or any tax unless the Executive demands it. It can only reduce or reject a demand made by the Executive.

Legislative Control over Administration in a Presidential System

Under the Presidential system of Government, as it exists in the U.S.A. and elsewhere, the doctrine of separation of powers along with a system of checks and balances is adhered to. Hence, most of the means of legislative control available in the parliamentary system are not available under the Presidential system. The Legislature in a Presidential system can neither put questions to the Ministers nor can it pass a 'no-confidence' or a censure motion against the Government. The executive does not sit in the Congress. It does not necessarily have the majority support in the Houses of Congress.

There are, however, other means at the disposal of the Legislature to control the Executive which are as follows :

- (1) It defines the organisation, powers and duties of administrative authorities;
- (2) It appoints legislative committees for investigation of administrative lapses;
- (3) It controls the national purse, sanctions expenditure through appropriation acts, fixes the purposes and amounts of expenditure, passes tax legislation, and examines the accounts and audit;
- (4) It has the power of impeachment of the President;
- (5) Legislative confirmation of appointments to certain high-ranking posts is practised at all levels of Government;
- (6) All the international treaties come into force only after the Congress has ratified them;
- (7) Sunset legislation requires the Legislature to make periodic, thorough re-examinations of all programmes and reconsider the need for them. If the decision is negative, the programme terminates (the 'sun sets on it').

All this is not to say that there are no limitations on the Legislature under the Presidential system.

Executive Control: In the Parliamentary system, a distinction is made between the political and the permanent executive. Executive control refers to the control exercised by the political executive over the bureaucracy, which is the permanent executive.

The Cabinet or Council of Ministers is collectively incharge of the whole administration. But each Minister is also individually incharge of one or more departments. The Ministry or Department under full charge of the Minister is managed either with the help of a Secretary, a senior officer of the civil service, or a board, e.g., the Railway Board in India. He has the power of direction, control and supervision.

Prof. Ogg fully appreciates the necessity and role of the bureaucracy in the working of the modern Governments. He asserts that the work of the Government would never be done if there were only Secretaries of State (Ministers) and other heads of departments, etc., because they cannot be expected to collect taxes, audit accounts, inspect factories, take censuses, keep accounts, deliver mail and carry messages, etc.

True, but as already pointed out, there is always a danger of the bureaucracy becoming arrogant in its ways. It is this danger which necessitates control over administration. The Legislature's control of administration, though important, is only of a general type and is used

only periodically. But the executive control is fuller in content and constant in execution. According to Prof. Nigro, “Executive controls are most important for their positive development and enforcement of standards and safeguards in the actual operation of substantive departments.” They give a positive and continuous guidance to the administrative operations and thus set up practical standards of work. Further, they being on the top, keep the administration always alert and ‘on its toes’. Controls applied by them are not negative but, corrective and stimulative.

Following are the controls applied by the Executive, used both for building up the morale of the officials and for keeping the administrative machinery on the right track. These are :

(a) Recruitment System

The power of appointment and the power to remove the officials is usually placed in the hands of an independent agency, like the Union Public Service Commission (for appointment to the All-India and Central Services) and the Public Service Commissions of the various States in India. The general principles regarding age, qualification, etc., for purposes of recruitment and promotion are laid down by the Government of the day.

To the higher posts of the civil service, the Executive has a free hand. Ministers select their own secretaries and deputy secretaries and thus exercise full control over the administration of the department through their appointees.

(b) Executive Law-Making

The law-making power is exercised by the Executive in two ways :

Powers of Sublegislation : The Legislature passes most of the laws in ‘skeleton form’ and empowers the Executive to fill in the details as per requirements of time and circumstances. Administrative lawmaking powers are wide in scope and far-reaching in character. They go to the extent of creating rights, conferring privileges, imposing taxes or depriving a citizen of some rights.

Ordinances : In India, the Executive also has the power of passing Ordinances which may be promulgated by the Chief Executive during the recess of Parliament (or the Legislature of a State), to meet any unforeseen situation demanding immediate action. An Ordinance has the same power as an Act of Parliament. No reason for its promulgation need be given. The President or the Governor, as the case may be, is the sole judge to determine that circumstances exist which call for immediate legislation. Courts cannot question the bona fides of his action, or whether there existed reasonable necessity for such an action. However, there is a time-limit upto which an ordinance can remain in operation. The maximum duration of an ordinance, unless previously terminated by Parliament, is six months and six weeks.

(c) Budget

It has already been explained that the budgetary system, as a measure of control, has two aspects —internal and external. These two aspects are not exclusive of each other. How the system operates as an integral whole was explained while discussing measures for internal control.

Here it would suffice to say that the budgetary system determines the total financial and personnel resources which no department can exceed, gives an effective controlling power which prepares the budget, finds the resources and sets the targets. Neither any amount can be

spent without the previous sanction of the Finance Ministry nor a person be employed without the approval of the Home and the Finance Ministries. Thus, under an effective budgetary system, the administration is under the constant control of the Executive.

(d) Staff Agencies

There are two common assumptions about the staff:

- (1) It merely advises and does not command and control; and
- (2) It is so close to the Chief Executive that it would be best to call it merely an extension of his personality.

However, both these assumptions are myths. This can be explained with the help of some examples of staff agencies in India, The President and the Prime Minister of India have their personal secretariats. Besides this, the Indian Cabinet in which the supreme executive power is vested, is assisted by two kinds of staff agencies namely :

- i.) **The Cabinet Committees:** They are of two kinds standing and ad hoc. The ten standing committees of the Union Cabinet in India are the Economic Committee, Committee on Heavy Industries, the Defence Committee, Foreign Affairs Committee, Rehabilitation Committee, the Manpower Committee, the Scientific Committee, the Parliamentary and Legal Affairs Committee, Information and Broadcasting Committee, and the Appointments Committee, deal with matters connected with broad segments of governmental activity. Their task is to advise, direct and co-ordinate. The ad hoc committees are three in number. They deal with transient matters of minor importance.
- ii.) **The Cabinet Secretariat:** It consists of a secretary, a joint secretary, two deputy secretaries, two under secretaries, two assistant secretaries and four staff officers from the defence services.

There are four branches of Cabinet Secretariat:

- * The Cabinet branch prepares and circulates the agenda for the Cabinet, keeps the minutes of its proceedings, and supplies the necessary statistics and factual information required for its deliberations.
- * The Administrative branch deals with questions of organisations and personnel.
- * The General branch is concerned with the inter-departmental questions arising in relation to the civil departments.
- * The Co-ordination branch consolidates and circulates summaries of information and reports from Indian missions abroad. It also co-ordinates joint conferences of the Union and State Governments.

There are four other units attached to the Cabinet Secretariat:

- * and M Division,
- * Military Wing,
- * Economic Wing,
- * Central Statistical Organisation.

(e) Civil Service Code for Conduct and Discipline

‘The citizens or subjects follow in the footsteps of the rulers’ says an old Sanskrit adage — Jatha Raja Tatha Praja. A high moral standard of conduct among the public servants must, therefore, be ensured, so as to set an example to the people at large. Officials are also vested with considerable power over the life and activities of the citizens and so conduct rules are necessary to prevent the misuse of such powers by them for their personal ends. Political neutrality of the public servants is a fundamental requirement of the organisation of the modern civil services

and conduct rules are also necessary to ensure that. For these reasons, nowadays, all Governments formulate and enforce a code of rules to regulate the conduct of the employees.

Conduct rules for Government employees generally relate to the following kinds of matters :

- (1) Maintenance of correct behaviour towards official superiors, and of loyalty to the State.
- (2) Protection of the integrity of the officials by placing restrictions on their engaging in private trade, or business, contracting of debts, acquisition and disposal of property, etc.
- (3) The observance of a certain code of ethics in the official, private and domestic life, and
- (4) Regulation of political activities of the public servants including public speaking, writing in the press, and publication.

Disciplinary Action : It means punishment meted out to Government employees for lapse of duty or violation of the rules of conduct. L.D. White lists the causes or occasions for disciplinary action against public servants under the following heads :

- (1) Inattention to duty expressing itself as tardiness, laziness, carelessness, breakage, or loss of property, etc.
- (2) Inefficiency,
- (3) Insubordination, i.e., violation of laws or rules, or disloyalty,
- (4) Immorality,
- (5) Lack of integrity, i.e., bribery, corruption, etc., and
- (6) Violation of the recognised code of ethics, e.g., failure to pay debts, appearing in public in an intoxicated condition, failure to show proper deference to official supervisors, and due courtesy to colleagues and members of the public, and being guilty of conduct unbecoming of an officer generally.

(f) Appeal to Public Opinion

The civil service is everywhere change-resistant and does not display an automatic devotion to new plans and programmes, outlined by the Chief Executive.

The phenomenon is by no means peculiar to any particular country. In the U.S.A., it was found to be an impediment in the quick implementation of the New Deal programmes. In Britain, too, the civil service offered a kind of resistance to the socialistic programmes of the Labour Government when it came into power in 1945. Various organs of the administrative machinery seek to strengthen their position vis-a-vis other agencies and the executive by alliances with legislatures and pressure groups as well as by calculated support building campaigns directed at the general public. In such a situation the executive may appeal to public opinion.

Judicial Control: Judicial control over administration means the powers of the courts to examine the legality of acts of the officials and thereby to safe-guard the rights of the citizens. The right of an aggrieved citizen to bring a civil or criminal suit in a court of law against a public servant for the wrong done to him in the course of discharge of his public duty, is also implied injudicial control.

The importance of judicial control is explained by L.D. White in these words: “The system of formal external control over officials and their acts falls primarily into two main divisions — that exercised by the legislative bodies and that imposed by the courts. The purpose of legislative supervision is principally to control the policy and the expenditure of the executive

branch, the end sought by judicial control of administrative acts is to ensure their legality and thus protect citizens against unlawful trespass on their constitutional or other rights.”

Scope of Judicial Intervention

Courts of law intervene in any of the following cases:

Abuse of Power : The court’s intervention may be sought if the public servant uses his authority vindictively to harm some person.

Lack of Jurisdiction : Every officer has to act within the limits of the authority given to him and the authority so given extends to a specified geographical area. If he acts beyond the scope of his authority or in an area which does not fall in his jurisdiction, his acts will be declared by the courts as ultra vires or without authority. It is expressly laid down in the Constitution that no Government employee shall be dismissed by an authority lower in rank than the authority which appointed him.

Error of Law : Judicial remedies may be had if the official misinterprets or misconstrues the law and imposes on a citizen obligations which are not required by law. In legal terminology this is called misfeasance. A citizen who has suffered on account of this has the right to approach the court for damages. **Error in fact-finding :** The official, in some cases, may err in discovering facts, or he may wrongly interpret facts. There may also be a tendency on the part of the official to ignore certain facts. All this may adversely affect a citizen as the official acted on false presumptions. Thus, judicial intervention may be sought on the ground of error of fact-finding.

Procedural Error : If a public official fails to act according to the procedure laid down by laws, the legality of his action may be questioned in a court of law. Suppose an officer takes action against an employee without serving a proper notice (when the law requires that an employee should be served with the notice of the charges before any action of suspending or dismissing him can be taken against him), then his action shall be declared null and void by the court.

Means of Judicial Control

Means of judicial control can be broadly studied under two heads :

- Rule of Law System (prevails in England and the Dominions and other Commonwealth countries).
- Administrative Law System (prevails mainly in France).

CITIZEN AND ADMINISTRATION

Public administration and citizens are intimately connected with each other. Administration is of concern to every citizen because the services he receives, the taxes he pays, and the personal freedom he enjoys, depend largely on what Public administration does or fails to do.

Significance of Inter-relationship

Administration is meaningless without the citizens :

Administration is manned by human beings and its end is welfare of the people. It is, in the final analysis, a human problem to deal with human beings, not with some statistical data. In his inaugural address at the Indian Institute of Public Administration, Jawaharlal Nehru lamented, “There is the danger that pure administrators at the top (not so much at the bottom, because they come into contact with human beings) may come to regard human beings as mere

abstractions —the administrator may think in abstract of the people he deals with, come to conclusions which are justifiable apparently, but which miss the human element.” But as Administrative Reforms Commission rightly observed that “in the prosperity of the people lies the strength of a Government” and “in their contentment lie security and stability of democracy.”

Strengthens Democratic Values : Two views prevail regarding the interrelationship of citizens and administration. The instrumentalist view treats the public as the recipient of administrative benediction. But the participative view places the public at the centre of administration as a decider and the prime mover. It is the latter view which strengthens the democratic values. Democracy, we all know, believes that Government is an affair of the governed and so all problems should be solved in accordance with public opinion freely formed and freely expressed. Participation develops in the people a sense of common interests in common affairs and of the duty they owe to the community to see that such affairs are efficiently and honestly administrative. Voting in a general election once in five years is not enough. The citizen’s continued interest in governmental processes can be kept up by giving him opportunities of active participation in the administration of public affairs.

Co-operation and Participation : Co-operation and participation of the citizens is essential for success of developmental tasks. It was explicitly stated in the Fifth Five Year Plan that “The involvement of the people and their elected representatives is a pre-requisite for effective planning. A plan which does not take into account their aspirations and preferences can have no operational validity, especially since its successful implementation can be ensured only if the majority of citizens functioning as entrepreneurs and decision-makers in relation to consumption, savings, investment, etc., endorse the envisaged policies and programmes by their whole-hearted participation.” All the citizens have a right to participate in administration at all levels and they should in the interest of efficient functioning of administration in a democracy exercise this right.

For Realisation of Social Justice : A.P. Barnabas has raised the issue in the article, The Bureaucracy and the Poor what is the reality of the concept of ‘growth with justice.’ He says, “Administrative behaviour both within the system and without has not encouraged greater contact with lower classes. Such contact could at least make the bureaucratic structure more aware of the culture of poverty. The patronising attitude of the bureaucrats only reminds the under-privileged of his low status... When he does attempt to get at the administration, he is confounded with a maze of procedure that discourages him There is need for serious consideration to reach the poor. It is not merely in intentions, but in action that the administrative system must show real concern for the people of the lower strata.” Without active and meaningful co-operation of the citizens no administration can function smoothly and efficiently to ‘give’ or ‘confer’ benefits.

To Avoid Social Unrest: The phenomenon of growing social discontent which erupts into frequent acts of violence finds substance in the citizen’s frustration with the administration. It is, therefore, necessary that the citizens’ faith in Government, of which the administration, the Chief Executive agency is responsible, should not be allowed to deteriorate, but should be reinforced adequately. This is important both for political stability and preservation of the social fabric.

Nature of Dissatisfaction: A large number of studies have been conducted to measure and understand the reaction of the citizens towards administration.

Citizens have invariably complained about:

- * Delay in provisions of supplies and services. The problem is very acute in the case of supply of essential goods.
- * Inconvenience and harassment — the villagers are generally treated very rudely by the officers.
- * Lack of fair play — there is a growing tendency on the part of both civil servants and the elected representatives to favour their near and dear ones.
- * Inordinate delay due more to laxity of administration and supervision, and lack of interest and sensitiveness to public interest than due to the complexity of rules and procedures. Corruption is rampant. It is not easy to get the work done without greasing the palms of the officials.

However, it is difficult to say who is corrupt —officials or citizens. There is a general feeling that there is a deliberate delay, harassment and discourtesy in many departments. On the contrary, the officials feel that public wants to get things done expeditiously or out of turn and even without completing all the formalities.

The study carried out by A.P. Barnabas on ‘The Experience of Citizens in Getting Water Connections in Delhi,’ revealed that majority of the respondents were unaware of the procedure and the conditions governing the provisions of water connections and there was a general feeling that unless ‘Speed’ (money) was paid, the files would not move.

The nature and extent of citizens’ feeling differ from one sector of administration to another. The police are widely believed to be

- (a) mentally ill-equipped,
- (b) unhelpful,
- (c) rude and over-bearing to approach,
- (d) dishonest and corrupt,
- (e) in league with the under world,
- (f) addicted to third degree methods (beating, torture, wrongful confinement, or harassment of suspects and/or witnesses),
- (g) framing false cases and fabricating evidence, and
- (h) neglecting duty to the extent of even ignoring the complaints of poor and uninfluential citizens’ genuine complaints.

Methods to Establish Harmonious Relationships

- (1) Enlightened citizenship
- (2) Setting up of Citizen’s Associations and other voluntary organizations
This includes development of systems of public information to keep citizens as fully informed as possible of Government plans and policies. Voluntary citizen councils, consultative groups, civic groups and other methods of citizen participation can be used for purposes of consultation, advice and guidance in decision-making on Government proposals and their ‘ implementation.
- (3) Effective Public Relations Units in Administrative Organisation
Effective public relation units in administrative organisation for developing cordial, equitable and mutually profitable relations between the Government and the citizens. Public relations should not degenerate into a propaganda machinery. All this requires deliberate scientific and well conceived public relations work.
- (4) Reorientation of Attitudes of Civil Servants

The public servant of today should not only possess traditional service virtues like efficiency, integrity, and loyalty but should also shake off all the feelings of exclusiveness and superiority. There should be a desire to establish contacts with the citizens to understand their problems.

- (5) Reform of the Administrative Machinery
- (a) Simplification of procedures should take place in matters like :
- (i) Regard for public comfort and convenience;
 - (ii) Speed in disposal of applications;
 - (iii) Minimum inter-departmental office references;
 - (iv) Reduction in the number of levels required to examine cases;
 - (v) Reduction in the number of agencies with which the citizen has to deal; and
 - (vi) Supply of detailed information to the citizen as to how he is to receive a certain benefit or approval from administration.
- (b) Institutional Devices : With increased tempo of development activities under the aegis of the Government, bureaucracy has become all pervasive. There is a search today in most developing countries for effective checks on the administrative agencies by debureaucratising development. This has been done by handing over certain development activities to voluntary organisations, by decentralisation of functions to the local self-governing bodies like municipalities and the panchayati raj bodies, and by measures for popular participation and political mobilisation.

Decentralisation and popular participation are measures for less bureaucracy. Alongside these, other institutional devices have been recommended and instituted for better bureaucracy. Three institutional devices deserve special mention in this regard: the ombudsman system, the procurator system, and the system of administrative courts.

The Ombudsman

It was created for the redressal of citizen's grievances. The institution of Ombudsman is typically Scandinavian. The office of Ombudsman has been in existence in Sweden since 1809 and in Finland since 1919. It was adopted by Denmark (1955), Norway and New Zealand (1962), and the United Kingdom appointed the Parliamentary Commissioner for Administration in 1967. Several countries in the world, including India, have adopted the ombudsman-like institution 'as a bulwark of democratic government against the tyranny of officialdom' in the words of Donald C. Rowat, who has studied the institution in great detail. His writings include *The Ombudsman : Citizens' Defender*, *The Ombudsman Plan : Essays on the Worldwide Spread of an Idea*, and *Ombudsman Compared*.

Appointment: Ombudsman, a Swedish word, stands for 'an officer appointed by the Legislature to handle complaints against administrative and judicial action.' Although appointed by the Legislature, the office of Ombudsman is a constitutional post and the incumbent is politically independent of the Legislature. Traditionally, the appointment is based on the unanimity principle with all political parties supporting the proposal.

Powers and Functions : The Ombudsman can make investigations both on his own initiative, on the basis of press reports, and on receiving a written complaint from the aggrieved person. He makes the investigations in an impartial manner, gets at the facts objectively, and reports back to the legislature. He has the power to inspect the courts and the administrative agencies. However, in Denmark, Norway and New Zealand the Ombudsman does not have the power to supervise the courts, and the Ombudsman's investigations are confidential in nature. His right to

investigate does not authorise him to quash or reverse a decision, nor does he have direct control over the courts or the administrative agencies.

United Kingdom: The Parliamentary Commissioner for administration in the U.K. enjoys a status similar to the Comptroller and Auditor-General. His duty is to investigate cases of alleged maladministration referred to him by Members of Parliament. It is for the Commissioner to define what is 'mal-administration'. The local authorities, hospital boards, nationalised industries, the police, personnel questions in the civil service and the armed forces are excluded from the purview of the Commissioner. Matters on which a right of appeal was open to the complainant and major policy questions that are subject to parliamentary control are also beyond his jurisdiction. He cannot inquire into the merits of discretionary administrative decisions that are taken legally in accordance with appropriate administrative procedure. He has free access to information except when it is certified by a Minister that the information called for could not be given in the public interest. The investigations conducted by the Commissioner are confidential in nature.

India : Proposals of M.C. Setalvad and Dr. L.M. Singhvi for creation of an ombudsman-like institution were endorsed by the Administrative Reforms Commission (A.R.C.) in 1966. The A.R.C. gave the institution the name of Lok Pal and recommended that he be empowered also to look into complaints of political and bureaucratic corruption besides other complaints. Thus, the Lok Pal Bill (1968) envisaged two types of complaints, one relating to allegations of corruption against Ministers and officials, and the other relating to grievances arising out of maladministration. The Bill incorporated detailed provisions for appointment and removal of the Lok Pal to make the office of a very high status and completely independent of the Government. His jurisdiction extended to actions of Ministers, and public servants except the actions of the judges. He was given the powers of summoning and enforcing attendance of witnesses, discovery of documents, requisition of public records, issue of commissions of inquiry, etc. The 1968 Bill was, however, allowed to lapse.

In 1977, another Bill was introduced which said nothing about redress of citizens grievances. It was confined to an inquiry into allegations of misconduct against publicmen — Ministers, MPs, and others —except Government servants. This provision was strongly criticised. The Bill finally lapsed. Another Bill was presented in 1985 which again skipped the aspect of citizens grievances. Its scope was limited to inquiry into allegations of corruption against Union Ministers. Ultimately, the Government itself informed the Joint Committee that a more comprehensive Bill would soon be drafted. This Bill was thus dropped too.

The Lok Pal Bill was introduced by the National Front Government in December, 1989. It provides for inquiry into complaints of corruption against high political dignitaries including the Prime Minister. However, it does not extend to inquire against the President, the Vice-President, the Lok Sabha Speaker, Judges of the Supreme Court, Comptroller and Auditor-General, the Chief Election Commissioner or Chairman or any member of the UPSC. In case of allegations substantiated against a Minister, the Prime Minister will be the competent authority to decide the action on the Lok Pal's recommendation. If the Prime Minister is involved, the Lok Sabha is to take action.

Under the 1989 Lok Pal Bill three members will jointly act as Lok Pal, enjoying the salary and service conditions, including removal from office of judges of the Supreme Court. This is to ensure their objectivity and independence.

Lok Ayukta : Some of the states in India have established Lok Ayuktas following the Administrative Regulatory Commission (ARC) recommendations.

The Procurator

Much like the institution of Ombudsman, the Procurator system which existed in the former Soviet Union, Hungary, Poland and Romania, played an important part in redressing citizens' grievances and in ensuring observance of legality at all administrative levels. The system still exists in China.

The Procurator system generally consisted of a 'central apparatus' and a number of subordinate offices. The entire system was organised on the principle of subordination of lower to higher procurator, the Procurator-General being responsible only to the Legislature.

Under the Procurator system an individual citizen could lodge a complaint with the procuracy. The procuracy would, on receipt of complaint, take either of the following steps :

- advise the complainant to avail of the ordinary administrative or judicial channel.
- itself initiate administrative or judicial proceedings, if authorised to do so.
- take action on the subject of the complaint and directly address the organ against which the complaint is received.

The Administrative Courts

The French system of administrative courts to deal with disputes between the administration and the individual citizen is an unique institution. The administrative courts are separate from the hierarchy of ordinary courts.

A distinction is made between acts for which a Government servant is personally liable and suable in the ordinary courts (Faute de - Personate) and those which are the result of administrative faults for which service as an entity is responsible (Faute-de-service). The latter class of faults is referred to appropriate administrative courts. Administrative tribunals are the courts of first instance. At the head of the system of administrative courts is the Council of State (conseil d'Etat), which advises the Government on legislation, exercises general supervision over administration, and possesses ultimate authority over the discipline of civil servants.

The Council consists of over 150 members recruited almost entirely through the School of Administration. It is divided into several sections.

Role of Civil Society and People's Participation

Civil society consists of the general population; not military or religious. Civil society is the product of man's instinctive desire for association which finds expression in the aggregation of people having common interests and united together by what may be called consciousness of the kind. The people who live together think alike, associate with one another and make common efforts for a common purpose or plan. Society stands for the whole scheme of life and it is interwoven by different associations which perform different purposes to complete the whole purpose of life. Political purpose is one of those purposes and it is performed by the State. Society exists for a number of purposes, some great and some small, but all in their aggregate deep as well as broad. Society is natural and instinctive. It is prior to the State and it embraces all communities organised and unorganised. Civil society recognises no territorial limitations. Its branches may be spread in different parts of the universe. It embraces the whole life of man

and all those social ties, like the family, the caste, the church, the club, etc, which bind men together. Civil society has its own rules which regulate social behaviour, but they are not imperatives. They are simply rules of conduct, which the members of society are desired to observe. It has no authority to force their obedience, nor can it physically punish those who disobey its rules. It ensures observance of its rules by persuasion and appeal to the goodwill of its members. Barker rightly said, “the area of society is voluntary co-operation, its energy is goodwill and its method is elasticity.” The Civil society strives to achieve the common objective; the free development of human personality. Society precedes the State just as it precedes the family, the church, the corporation, the political party. It unites all these as a tree unites its branches. Civil society acts upon its members through customs, conventions and moral rules. It exercises social pressures but not force. It cannot imprison a man for the violation of its requirements.

People’s participation in administration is, however, indirect and mainly informal. Civil society plays a vital role to formulate the opinion of the people and sets the demands which are general in nature. However, there are some formal and constitutional modes of people’s participation through election, recall, advisory and consultative committees and pressure groups. People vote for the political parties and its leaders and the political executive appoints the top officials. It denotes the officials who have a share in the formulation of public policy, work under the control of the people. In Switzerland and in parts of the United States, there is a provision of elected officials. People can also recall an official before the expiry of his term if he is defeated in a recall poll. Advisory and consultative committees are appointed in the highest to the lowest levels of administration consisting of conscious and intelligent people and of representatives of the different departments. These committees are not only possible in case of community projects but in foreign affairs, there is a real place for advisory committees in Public administration. Pressure group is a section of the public organised and active in the pursuit and promotion of some special interests. Besides industrialists and trade union groups, in India, there are caste and religious groups which use political and other tactics to influence the Government and administration at all levels.

The followings are the major benefits flowing from people’s participation in administration :

- (i) It provides important information throughout the implementation process by ensuring a congruence between objectives of development and community values and preferences.
- (ii) It reduces project cost by rationalising manpower resource utilisation.
- (iii) If the local people are involved in the development process, they will accept the change brought about by the project.
- (iv) The community learns from its own involvement; both the administrator and the people become co-learners.
- (v) It helps to rebuild community cohesion and instills a sense of dignity in the community.

The role of the State in people’s participation is very important and cannot be undermined. It is clear that the civil servants are reluctant to make atmosphere for popular governance and take shelter, under rules and regulations to prevent decentralisation. Popular rule at the grassroot level is possible only with the co-operation of the higher level and field bureaucracy. People’s participation in the administration can be successful only when a powerful united civil society or community emerges in the interactive process of developmental work.

Right to Information

The Central as well as the State Governments share the concern for ensuring responsive, accountable, transparent, decentralised and people-friendly administration at all levels. There is considerable anxiety over growing instances of corruption and criminalisation in public life and administration. Consequently, there is a demand for introducing greater transparency in the functioning of Government departments and public bodies. There is also a need to ensure that the people have an easy access to all information relating to Government operations and decisions, and the performance of the Government, except to the extent specifically excluded by law. Providing information and helpful attitude, as opposed to secrecy and mystification, should pervade all Government offices. The provisions of the Official Secrets Act, 1923 and the Code of Conduct Rules for Government employees prevent most of the information about affairs of Government from being disclosed to the public. There have been efforts since 1990 to introduce legislation to ensure freedom of information, and to amend the Official Secrets Act. Greater transparency in functioning and right to information have been implemented in several states of India. The Government of India has set up a working group under the chairmanship of Mr. H.D. Shourie to formulate a Bill for freedom of information and amendments to relevant laws for this purpose.

There is a need to ensure widespread and easy access of citizens to information at various levels in the Government as well as to revenue records and certificates, simplified and speedy systems of securing approvals and permits, redressal of grievances, etc., with the help of computers. A computerised public interface is already available through the National Informatics Centre, which is working closely with the State Governments. The Government of Andhra Pradesh is monitoring the movement of files and implementation of schemes through such computer networks. The Central Government has decided to provide a computerised public interface to all officers of the Government and agencies, aiming at dissemination of information to the public. The Press Information Bureau is an important agency of the Government of India, that disseminates information through different modes of communication, such as press releases, press notes, feature articles, press briefings, interviews, press conferences and others.

- or any member of the Union Public Service Commission.
- Civil society acts upon its members through customs, conventions and moral rules. People's participation denotes the officials who have a share in the formulation of public policy, work under the control of the people.