
UNIT 2 PUBLIC SYSTEMS MANAGEMENT: CONSTITUTIONAL CONTEXT*

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2.0 OBJECTIVES

After reading this Unit, you should be able to:

- Comprehend the importance of contextual relevance of public systems management;
- Explain the Constitutional environment of public systems management in India; and
- Discuss the different Constitutional authorities and Commissions that are playing an important role in public systems management.

2.1 INTRODUCTION

Public administration, as Fred Riggs so forcefully argued, is influenced by its environment. Every system operates in a given environment and has a contextual setting in accordance

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with which different policy issues and problems at hand are translated into action, implemented, and evaluated. The nature of State, the type of polity, the role of various governmental and non-governmental agencies and actors, culture, ethics, and values etc., have an important bearing on the functioning and performance of public systems. In other words, all these variables and forces are components of the contextual set up of the public systems management. The social, economic, political, technological, and constitutional factors are features of a contextual set up within which public systems operate. Policies are formulated and implemented taking cognisance of these factors. Therefore, public systems management cannot ignore these contextual factors and forces.

The focus of discussion of the present unit is confined to analysing the Constitutional environment of public systems management in India.

2.2 CONSTITUTIONAL ENVIRONMENT OF PUBLIC SYSTEMS

Modern governments are Constitutional governments. The Constitution is the basic law of the land. It not only establishes institutions of government but also lays down the goals of the State. The modern Constitutions are very elaborate documents, which go much beyond the description of three branches of government viz., the executive, the legislature, and the judiciary. Public systems function under the Constitutional framework and derive powers from it. But it has been observed that the legal and Constitutional framework under which the public systems of a country function does not give a total picture of actual reality of the functions of these systems. However, it is important to have an adequate understanding of the main Constitutional provisions relating to operations of public systems and those pertaining to various authorities and commissions provided for in the Constitution that strive to achieve Constitutional goals and objectives. The Constitutional principles, institutions and bodies determine and vitally influence the environment of public systems management.

Governance, in its political sense means the exercise of legal power and authority vested in the institutions and bodies of the Constitution to carry out the avowed goals and purposes of the State. The system of governance in India is in accordance with some of the basic objectives having been laid down by the planners in the light of the Constitution of the country. In the context of these objectives, public systems must be managed. The main thrust of these systems has been on self-reliance, economic growth, industrialisation, modernisation, and social justice. The Indian Constitution is not merely a document dealing with responsibilities and powers of the union and the states, it lays down the basic philosophy of governance and provides a kind of direction to administer the country. The following features of the Indian Constitution, broadly determine the environment in which public systems are to perform the activities:

- Preamble
- Parliamentary Democracy
- Federation with a Strong Centre
- Fundamental Rights and Duties
- Directive Principles of State Policy

- Independent Judiciary
- Judicial Review

Preamble

The Preamble is an introductory statement regarding the overarching philosophy of constitutional governance. It specifies the source of authority, the system of government, the objectives to be attained by the political and administrative systems and the date of the adoption and enactment of the Constitution. It declares India as a “Sovereign, Socialist, Secular, Democratic Republic” and to secure to all its citizens, Justice, Liberty, Equality and Fraternity. It contains lofty ideals serving as the beacon and the polestar for guiding the nation’s governance. In the case of *Keshavananda Bharati vs. State of Kerala*, the Supreme Court declared the preamble as part of the Constitution.

Parliamentary Democracy

The Indian model of political system is a creative representation of the values of modern liberal democracy. The most significant development in India’s Constitutional history is the consolidation of a parliamentary form of government, which broadly corresponds with the Westminster model. In this system of government, the executive is an integral part of Parliament and is responsible to it.

Federation with Strong Centre

The Constitution describes India as a “Union of States”, however, the system of government is federal. Although the word ‘federation’ is nowhere used in the Constitution, all the basic structural features of a federal government are incorporated in the Constitution.

The nature of federalism in a country is based on the requirements of that country. The conditions in which the federal system evolved in India necessitated a strong centre. The Indian federal system may be described as a new experiment in federalism for ensuring national unity and growth at one end and regional autonomy at the other.

Fundamental Rights and Duties

The fundamental rights and fundamental duties are incorporated under Part III and Part IV of the Constitution, respectively. The former was included originally from the inception of the Constitution, while the latter i.e., fundamental duties have been included as a part of the 42nd Amendment Act of 1976. The fundamental duties are non-justiciable. Part III of the Constitution relating to the fundamental rights contains 24 Articles i.e., from Article 12 to Article 35 of the Constitution. These rights can be classified into six groups:

- 1) Right to Equality
- 2) Right to Freedoms
- 3) Right against Exploitation
- 4) Right to Freedom of Religion
- 5) Cultural and Educational Rights
- 6) Right to Constitutional Remedies

The above rights, however, are not absolute. The State can impose reasonable restrictions on these rights. During national emergencies enforcement of these rights can be suspended.

Directive Principles of State Policy

Part IV of the Constitution contains various articles (36 to 51) relating to the Directive Principles of State Policy. The articles indicate the responsibilities of State in promoting the rights and benefits of the individuals and in translating the basic values of the Constitution in real life. To illustrate, some of the Directive Principles entrust the State to:

- a) Promote the welfare of the people and secure a just social order;
- b) Ensure equal justice and free legal aid to the poor ;
- c) Take steps to organise village panchayats and to endow them with such powers as may be necessary to enable them to function as units of self-governments;
- d) Make efforts to secure a uniform civil code throughout the territory of India etc.

The above directives are directions to the legislature and executive wings of government to be observed while formulating laws and policies. Most of them aim at the establishment of economic and social democracy, which is pledged for in the Preamble.

The Directive Principles are not enforceable by courts. They are moral precepts, and the courts are increasingly taking these principles into consideration while interpreting the Constitution.

Independent Judiciary

India has a single integrated system of courts for both union and states. At the apex of the entire system is the Supreme Court of India. Below the Supreme Court are the High Courts and the Subordinate courts. The President of India appoints the judges of the Supreme Court and High Courts, but to ensure their independence, the terms and conditions of their service are regulated by the Constitution.

Judicial Review

Judicial review implies the powers possessed by the courts to pronounce upon the Constitutional validity of the acts of public authorities, both executive and legislative. The expression 'judicial review' does not figure in the Constitution but has been derived by the judiciary through various provisions. In India, judiciary has the power to interpret the Constitution and to determine the relationship of the different organs of the Constitution.

Other important features of Constitution include single citizenship, bicameral legislature, special provisions for minorities, scheduled castes, and tribes. Elaborate provisions for dealing with emergency conditions arising due to unforeseen exigencies are also incorporated. Constitutional status is also accorded to certain commissions like the Public Service commissions and the Election commission.

Till date the Indian Constitution has been amended nearly 104 times. In the present coalition era of Indian democracy, amendment to the Constitution has become an overly complex and difficult exercise.

2.3 CONSTITUTIONAL AUTHORITIES AND COMMISSIONS

The Constitution of India has different provisions, for creation of various authorities and commissions which have been playing an important role in public systems management. It contains provisions to enable them to function independently and impartially and to remain uninfluenced by the executive. These institutions display in their behaviour and functioning complete objectivity and independence. The Constitution of India enumerates the following authorities and commissions:

- 1) Comptroller and Auditor General of India (Articles 148-157)
- 2) Election Commission (Article 324).
- 3) Union Public Service Commission (Articles 315-323)
- 4) Attorney General of India (Article 76)
- 5) National Commission for Scheduled Castes (Articles 338)
- 6) National Commission for Scheduled Tribes (Article 338 A)
- 7) National Commission for Backward Classes (Article 338B)
- 7) Commission for Linguistic Minorities in India (Article 350 B)
- 8) Finance Commission (Article 280-1).
- 9) Official Language Commission (Article 344).
- 10) Committee of Parliament to Examine the Report of the Language Commission (Article 344(4)).
- 11) State Public Service Commission (Articles 315-323)
- 12) Advocate-General for the State (Article 165).
- 13) Administrative Tribunals.
- 14) State Finance Commission
- 15) Civil Services

Some of these are functioning independently both at central and state government level, while others are common to both the levels of government. These are:

- a) Comptroller and Auditor General of India
- b) Election Commission and
- c) Finance Commission.

The other institutions and bodies belong either to the centre or to the states. The bodies which are functioning under the central government are:

- a) Union Public Service Commission
- b) The Attorney General of India
- c) National Commission for Scheduled Castes

- d) National Commission for Scheduled Tribes
- e) National Commission for Backward Classes
- e) The Official Language Commission
- f) The Committee of Parliament to examine the Report of the Official language Commission; and
- g) Commission for Linguistic Minorities.

There are only two bodies within the exclusive sphere of the states, namely, the State Public Service Commission and the Advocate General for the state. Many of these authorities and commissions are of a standing nature while some are set up periodically.

The authorities like the Comptroller and Auditor General, Union Public Service Commission, Attorney-General of India, the Special Officer for Scheduled Castes and Scheduled Tribes, Special Officer for Linguistic Minorities, the State Public Service Commission and Advocate General for the State are standing in nature.

The Finance Commission, the Official Language Commission, and the Committee of Parliament to examine the Report of the Official Language Commission are set up from time to time. It is also to be observed that some of the Constitutional authorities have plural membership, while others have single membership. In addition, there are certain commissions created by Acts of Parliament such as, National and State Human Rights Commissions etc. The following sub-sections shall discuss some of the Constitutional authorities and institutions.

2.3.1 Comptroller and Auditor General of India

The Comptroller and Auditor General (C&AG) occupies a unique place in Indian democracy. It was created by the Constitution Act, 1950. It is a Constitutional authority responsible to conduct the audit of the financial transactions of the union and state governments and union territories.

The President appoints the C&AG by warrant under his/her hand and seal. The term of office is six years or until he /she attains the age of 65 years whichever is earlier. The C&AG can be removed from office only on two grounds, viz., proved misbehavior or incapacity. The removal procedure is overly complex and serves as an effective safeguard against executive interference. The Constitution guarantees that the salary and conditions of service shall not be changed to his / her disadvantage after the appointment. The salary and allowances of the C&AG shall be charged on the Consolidated Fund of India.

The duties and powers of the Comptroller and Auditor General of India are prescribed by an Act of the Parliament called the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. With the separation of accounts from audit in certain departments of union government, the Comptroller and Auditor General has ceased to be responsible for maintaining the accounts of certain departments, since separate accounts offices were in existence for them. In 1976, the Government of India took accounting functions under its own administrative ministry / department with the result that separation of accounts from audit in central government became complete. The C&AG performs the following functions pertaining to audit:

- All transactions of the union and of the states relating to Contingency Fund, and Public Accounts.

- All trading, manufacturing, profit and loss accounts and balance sheets and other subsidiary accounts kept in any department of the union or of a state; and in each case to report on the expenditure, transactions, or accounts so audited.
- Receipts and expenditure of bodies or authorities substantially financed from union or state revenues.
- Accounts of any other bodies or authorities by request.

In the performance of the duties, he / she is assisted by the Indian Audit and Accounts Department.

The Constitution of India has prescribed the procedure to be followed by the C&AG for presentation of audit reports. Regarding the union government accounts, C&AG shall submit audit report to the President. The audit report on the accounts of the state government shall be submitted to the Governor of the State. In turn, President / Governor are to lay these audit reports before the Parliament / state legislature, respectively.

The C&AG is neither an officer of Parliament nor a functionary of the government. It is one of the most important Constitutional positions established for the purpose of securing the highest standards of financial integrity in government. Article 148 of the Constitution contains various provisions, the objective of which is to ensure the independence of the Comptroller and Auditor General of India. Some of the salient features of this Article are:

- 1) He / she can be removed from office only by an order of the President passed after an address by each house of Parliament, supported by most of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, and would be presented to the President in the same session for such removal.
- 2) The terms and conditions of the service have been made secure and cannot be varied to his disadvantage, after his/her appointment.
- 3) It also lays down that the C&AG will not be eligible for further appointment either under the Government of India or under the Government of any state after s/he has ceased to hold his office.
- 4) The administrative expenditure of the office of the C&AG has been a charge on the Consolidated Fund of India.

The provisions indicate that the C&AG is an officer of Constitution and is supposed to work for it without fear or favour.

2.3.2 Finance Commission

Article 280 of the Constitution provides for the setting up of a Finance Commission by the President every five years. So far fifteen Finance Commissions have been set up. The Commission is composed of one Chairman and four other members. The Chairman is appointed from amongst persons having experience in public affairs. The remaining members are selected from judiciary, accounts, administration, and economics.

Under the Constitution, the basis for sharing of divisible taxes by the centre and the states and the principles governing grants-in-aid to the states are to be decided by the Commission every five years. The President can refer to the Commission any other matter in the interest of sound finance.

The Commission recommends to the President:

- Basis for distribution of the net proceeds of taxes between the centre and the states.
- Principles, which should govern the 'grants-in-aid' to be extended to the states out of the Consolidated Fund of India.
- It suggests amounts to be paid to the States of Assam, Bihar, Orissa, and West Bengal in lieu of the assignment of system of export duty on jute products.

The Finance Commission's recommendations together with an explanatory memorandum as to the action taken by the government on them are laid before each house of Parliament.

The formation of the Finance Commission is a necessary requirement for maintaining the financial balance between the centre and the states. The Finance Commission is an instrument to correct regional imbalances. It has been playing a vital role as a Centre-State coordinating agency. Though the Constitution nowhere lays down that the recommendations of the Commission are binding on the government, the union government is apt to accept its recommendations.

The 73rd and 74th Constitutional Amendment Acts have provided for the establishment of State Finance Commission to recommend revenue sharing between the state government and the local bodies. The State Finance Commission is appointed every five years. Its report is required to be considered by the Finance Commission functioning at the central level.

2.3.3 Election Commission

The Constitution provides for an independent Election Commission to ensure free and fair elections to the Parliament, State legislatures and the Offices of President and Vice President. This Commission is unique in the sense that since its inception (except from 16th October 1989 to January 1, 1990) it has remained only as a one-member body consisting of the Chief Election Commissioner and since 1993 the Commission has become a three-member body. It is a Constitutional body established in pursuance of Article 324. The President may appoint the Election Commission consisting of a Chief Election Commissioner and such other Commissioners. Earlier the tenure was five years, which has been extended now to six years or till the day he/she attains the age of 65 years; whichever is earlier. The tenure of Chief Election Commissioner can be cut down on account of resignation or removal by the President on the grounds of proved misbehaviour or incapacity on the recommendation of the Parliament. Any other Election Commissioner shall not be removed from office except on the recommendations of the Chief Election Commissioner.

The service conditions and tenure of the Election Commissioner are subject to the provisions laid down in a law made by the Parliament. They cannot be changed to their disadvantage during their term of office.

The functions of the Election Commission are to:

- Prepare electoral rolls for the elections and suitably revise them after every census and before every general elections to the union and state legislature.
- Supervise the election machinery throughout the country so that elections are held in free and fair manner.

- Appoint and nominate staff for conducting the elections from time to time and making arrangements of necessary election material.
- Notify the dates and schedules of elections so that nomination papers are filed and properly scrutinised before the elections take place.
- Appoint officers for enquiring into disputes relating to electoral arrangements.
- Request President of India or the Governor of a state for staff necessary for conducting the elections.
- Cancel polls if mass scale rigging or other irregularities are committed.
- Play the role of a tribunal for settling matters as giving recognition to a political party or allotting a symbol for the election purposes.
- Advise the President or the Governor as the case may be, on a matter relating to the disqualification of a legislator.
- Declare the election results and appoint election tribunals for deciding election disputes.
- Issue a code of conduct to be observed by all parties and people at the time of elections.

The 73rd and 74th Constitutional Amendment Acts have provided for the establishment of Election Commission at State level to conduct elections for rural and urban local bodies in the states.

2.3.4 Union Public Service Commission

Article 315 of the Constitution provides that there shall be a Public Service Commission for the union and a Public Service Commission for each state. Two or more states may agree that there shall be one Public Service Commission for that group of states if a resolution to that effect is passed by the Legislature. Then Parliament may by law provide for the appointment of a Joint State Public Service Commission to serve the needs of those states. Article 316 empowers the President of India to appoint the chairman and other members of the Commission. However, the Constitution did not prescribe the size of the membership of the Commission. Normally, the Union Public Service Commission (UPSC) consists of 6 to 8 members.

The number of members constituting the UPSC, or a Joint Public Commission and the conditions of their service are determined by the President of India and in the case of the State Public Service Commission by the Governor of the state concerned. The Constitution also determined that one half of the members of the Commission should be persons who have held office under the Government of India or of a state at least for ten years.

The chairman and members of the UPSC hold office for a term of six years or until they attain the age of 65 years whichever is earlier. The Constitution has left the freedom to the President to prescribe the conditions of service of the members of the UPSC, such as salary, travelling allowances, and leave rules etc. The conditions of service shall not be changed to his/her disadvantage after his appointment. The expenses of the Union and State Public Service Commission including salaries, allowances, and pensions payable to the members shall be charged on the Consolidated Fund of India.

Elaborate legal provisions are made to secure the independence of the members of the Commission. A member may be terminated if he resigns from his office in writing to the President and the President removes him from office. The President may remove a member from office if s/he is adjudged insolvent or engages in any paid employment outside the duties of his/her office or is in the opinion of the President infirm in mind or body. S/He cannot be removed from office on any other ground except if the Supreme Court finds him/his guilty of proven misbehavior on a reference made to it by the President.

It is the duty of the UPSC to present annually to the President a report, as to the work done by the Commission. On receipt of such report, the President places a copy of it together with a memorandum explaining the cases, if any, where the advice of the Commission was not accepted on the table of the Parliament. In such cases, the reasons for non-acceptance should be stated.

2.3.5 Attorney General of India

The Attorney General, formerly known as Advocate General, is the highest Law Officer of the Government of India. He/she is appointed by the President of India, who can also terminate his appointment. His/her emoluments and conditions of service are determined by the President. The Constitution states that s/he must possess the same qualifications that are necessary for a Judge of the Supreme Court. In other words, s/he must be a citizen of India. S/he must have served as a Judge of some High Court for at least five years or as an advocate in some High Court for not less than ten years or that s/he must be a distinguished Jurist. S/he can quit his office by tendering resignation to the President. S/he can enjoy all the privileges and immunities permissible to a Member of Parliament.

The Attorney General has the right to take part in the proceedings of Parliament without the right to vote. In the discharge of his/her duties, s/he has the right of audience in all Courts in India. The Attorney General is assisted by a Solicitor-General and two Additional Solicitors-Generals.

The Attorney General's main function is to advise the central government upon those legal matters as may be referred to him/her and to carry out duties of legal character assigned to him/her. S/he also discharges such other duties of a legal character as are assigned to him/her by the President from time to time. S/he performs the following functions:

- Appears on behalf of the government in all cases including suits and appeals before the Supreme Court or any High Court in which the government is a party. S/he may be asked to appear before the Court on behalf of the Parliament or its presiding officer.
- Required to appear and represent the point of view of Government of India in matters of references made by the President to the Supreme Court for having its advisory opinion.
- Authorised the right of audience in all Courts of India and Commission of Enquiry.
- While appearing before the Supreme Court, S/he has precedence over all other advocates.
- Provide opinion on matters of legal and constitutional importance when asked, though that opinion is not binding upon the Speaker.

- Advise on the competence of the Parliament to pass laws without impinging the guaranteed Fundamental Rights and without transgressing the legislative field demarcated for the states under the federal system.

The above functions and powers reveal that S/he is the Principal Adviser to the Government of India in the matters of legal and constitutional importance.

2.3.6 National Commission for Scheduled Castes

The Commissioner for Scheduled Castes and Scheduled Tribes set up under Article 338 of the Constitution was replaced in 1990 by the National Commission for Scheduled Castes and Scheduled Tribes. Later, the 89th Constitutional Amendment Act 2003, provided for separate National Commission for Scheduled Castes and another for Scheduled Tribes. The National Commission for Scheduled Castes (Article 338) is a multi-member body, appointed by the President under his hand and seal. It investigates and monitors all matters relating to the safeguards provided for the scheduled castes under the Constitution or any other law and makes recommendations for their socio-economic development. The National Commission submits an annual report to Parliament.

2.3.7 National Commission for Scheduled Tribes

The National Commission for Scheduled Tribes (Article 338 A) is a multi-member body, appointed by the President under his hand and seal. It investigates and monitors all matters relating to the safeguards provided for the scheduled tribes under the Constitution or any other law and makes recommendations for their socio-economic development. The National Commission submits an annual report to Parliament.

Scheduled castes and tribes are constitutionally safeguarded. Article 46 empowers the State to promote with special care, the educational and economic interests of the weaker sections of the people and particularly SCs. It also promises to protect them from social injustice and all forms of exploitation. Article 275(1) promises grant-in-aid for the promotion and welfare of STs.

2.3.8 Official Language Commission

The Constitution makes a provision for setting up of a Commission on Official Languages. The President of India was empowered to appoint such a Commission, five years after the commencement of the Constitution and thereafter at the expiration of ten years from such commencement. The Commission is composed of a Chairman and such members representing the different languages specified in the Eighth Schedule. The President appoints the Chairman and members.

The Official Language Commission exercises the following functions. The Commission is to recommend to the President:

- The progress of the use of the Hindi language for the official purposes of the Union.
- The restriction on the use of the English language for all or any of the Official purposes of the Union.
- The form of numerals to be used for any one or more specified purposes of the Union.

- Any other matter referred to the Commission by the President as regards the Official language of the Union and the language for the Commission between the Union and a State or between one State and another and their use.

The recommendations of the Commission are examined by another Constitutional authority called the Committee of Parliament to Examine the Report of the Language Commission. After having considered the report, the President issues directions in accordance with the whole or any part of that report.

2.3.9 Commission for Linguistic Minorities

Article 350B of the Constitution, incorporated in 1956, provides: “There shall be a Special officer for Linguistic Minorities to be appointed by the President”. The Special Officer investigates all matters relating to the safeguards provided for linguistic minorities under the Constitution and reports to the President upon such matters at such intervals as the President may direct.

2.3.10 Administrative Tribunals

The Constitution was amended in 1976 to provide for the establishment of administrative tribunals to adjudicate disputes and complaints with respect to recruitment and conditions of service of public personnel. The Central Administrative Tribunal was first set up in 1985. Its functions are to resolve the disputes concerning recruitment and conditions of service of members of the all-India services and central services. The Central Administrative Tribunal is a multi-member body having membership drawn from both judicial and administrative backgrounds.

2.3.11 Civil Services

The Constitution of India provides for the all-India cadre of civil services. There are three types of All-India Services namely Indian Administrative Service, Indian Police Service, and Indian Forest Service. The officers of the services are recruited on an all-India basis with common qualifications and uniform scales of pay. The Constitution also authorises the Parliament to regulate by law the recruitment and the conditions of services of persons appointed to the services. Like other federal polities, the centre and the constituent states, under the Indian Constitution have their separate public services to administer their respective matters. There are central services to administer union subjects such as defence, income tax, railways etc. The officers of these services are exclusively with the union government. Similarly states have their own separate and independent services.

The role of civil services has been changing in modern times. Denhardt and Denhardt (2000) rightly said that “bureaucrats have to be stewards of public resources, conservators of public organizations, facilitators of citizenship and democratic dialogue, catalysts for community engagement and at the same time street level leaders”. The governance trend today involves network management and interactive policy making where multiple societal actors like private, non-governmental and voluntary organisations, individuals, the community, self-help groups etc., are involved in the formulation of policies. In such a scenario, the bureaucrats must bring these players to the table, facilitate, and negotiate decisions and creates a sense of shared interests and responsibilities (Mathew, 2003). Therefore, in these situations civil servants play multifaceted roles – a leadership, coordinating and steering to deal with complex situations.

Check Your Progress 1

Note: (i) Use the space given below for your answers.

(ii) Check your answers with those given at the end of the Unit.

1. What are the functions of Comptroller and Auditor general?

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2. Explain the functions of Finance Commission.

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2.4 OTHER IMPORTANT COMMISSIONS

In addition to Constitutional authorities and commissions, which we have discussed in the preceding section, there are other important commissions, which are not constitutional. They have been created by Act of Parliament. We shall be discussing three of those commissions below:

2.4.1 National Commission for Women

The National Commission for Women Act, 1990, established the National Commission for Women (NCW) on 31st January 1992. NCW is a statutory body of the Government of India, generally concerned with advising the government on all policy matters affecting women. The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns. The mandate of this body includes:

- Review the Constitutional and legal safeguards for women.
- Recommend remedial legislative measures.
- Facilitate redressal of grievances.
- Advise the government on all policy matters affecting women.

It is an all women Commission that has six members including a member-secretary and a chairperson. It undertakes the examination of legal safeguards for women under the Constitution and other laws and makes recommendations for their effective implementation. It inspects jails, remand homes, etc., where women are kept under custody and suggests remedial action. Besides, it advises on the planning process of socio-economic development of women and evaluates the progress made.

The commission processes the complaints received verbally or in writing. It also considers *suo moto* notice of cases related to women.

2.4.2 National Commission for Backward Classes

Indian Parliament had passed the National Commission for Backward Classes Act in 1993 to set up a permanent body at the centre to entertain, examine and recommend upon requests for inclusion and complaints of over-inclusion and under-inclusion in the list of other backward classes (OBCs) in accordance with the directions of the Supreme Court. The National Commission for Backward Classes has been in existence since August 1993. It got constitutional status through the 123rd constitutional amendment bill 2018 under the provisions of Article 338B of Indian Constitution. The Commission consists of one chairman and five members with the term of three years.

The Commission is vested with the responsibility of considering inclusions and exclusions from the list of communities notified as backward for the purpose of job reservations. The Commission provides needful advice to the central government on the issues related to the backward classes and the Commission has the powers of a civil court.

2.4.3 National Human Rights Commission and State Human Rights Commissions

Human rights are basic to a human being's existence, which allows him/her the freedom to lead a dignified and secure life of her/his choice. These include civil, political, economic, social, and cultural rights. The Indian Constitution ensures protection of human rights wherein under Article 32, the individual has the right to move the Supreme Court for the enforcement of an individual's human rights. In 1993, the World Conference on Human Rights at Vienna, reaffirmed that it is the duty of all states, regardless of their political, economic, and cultural systems to promote and protect all human rights and fundamental freedom. In tune with this, in 1993, the Indian government passed the Human Rights Protection Act.

The central government had set up the National Human Rights Commission (NHRC) on 12th October 1993 as a statutory public body to protect the human rights Act of 1993. The NHRC has eight members, a chairperson (a former chief justice of India), a present or former judge of the Supreme Court, a present or former chief justice of a High Court, two members from among those knowledgeable in human rights, and the chairpersons of the National Commission for Women, National Commission for SCs and STs, and the National Commission on Minorities. There is a Secretary General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions as delegated from time to time.

As per the act, the following functions shall be performed by the NHRC:

- Inquire, suo moto or on a petition presented to it by a victim or any person on his behalf, into complaint of violation of human rights or abetment thereof.
- Negligence in the prevention of such violation, by a public servant;
- Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- Visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon.

- Review the safeguards provided by or under the Constitution of India or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- Study treaties and other international instruments on human rights and make recommendations for their effective implementation ;
- Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means ;
- Encourage the efforts of non-governmental organisations and institutions working in the field of human rights; and
- Such other functions as it may consider necessary for the protection of human rights in India.

A state government may constitute a body known as the State Human Rights Commission (SHRC) to exercise the powers conferred upon, and to perform the functions assigned to the state commission. At present, 25 states have constituted State Human Rights Commissions.

All the Constitutional commissions and authorities share a few common characteristics mentioned below:

- The President of India appoints the members.
- Many of these functionaries and bodies are placed under an obligation to send their reports to the Government. The reports are required to be laid before each House of Parliament or before the state legislature as the case may be. However, it is to be noted that functionaries like the Attorney-General of India, the Election Commission, the Advocate-General for the state, do not submit any report on their activities.
- The Constitution has itself prescribed the procedure for removal of members.
- This procedure has been made deliberately difficult so that it cannot be used frivolously.

Check your Progress 2

Note: (i) Use the space given below for your answers.

(ii) Check your answers with those given at the end of the Unit.

1. What are the functions of National Commission for Women?

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2. List the common characteristics of Constitutional Commissions and authorities.

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2.5 CONCLUSION

Constitutionalism is one of the most important landmarks in the governance of post-independent India. The liberal democratic Constitution of India as the basic law of the land has made specific provisions to secure for the citizens of the country, social, political, and economic justice, liberty, equality, dignity of individuals, and to ensure unity and integrity of the nation. To achieve these constitutional objectives, the Constitution itself has created some important authorities and Commissions. The Constitutional provisions and the authorities and commissions determine the scope and activities of the public systems, and public systems management in India has to operate within the constitutional framework and on the basis of the principles enshrined in the Constitution.

2.6 GLOSSARY

- Consolidated Fund of India** : It is the fund which consists of all revenues received by the government, loans raised by it and receipts from recoveries of loans granted by it. All government expenditure is incurred from the Consolidated Fund and no amount can be withdrawn from the fund without authorisation from the Parliament.
- Contingency Fund** : It is utilised to meet urgent unforeseen expenditure pending authorisation from the Parliament. Any expenditure incurred from the fund, when the Parliament is not in session, is obtained subsequently and the amount spent from the fund is recouped.
- Judicial Review** : It implies the power of the judiciary i.e. courts to examine the legality and constitutionality of administrative acts of officials, executive orders and legislative enactments. It is a method of exercising judicial control. Judicial review is subject to constitutional provisions and respective acts that deal with administrative decisions in particular matters.
- Public Account** : It comprises money from other transactions of the government such as Provident Fund, small savings collections, other deposits etc.

Westminster Model

: This model is generally identified with British form of government. Its key characteristics include parliamentary sovereignty, accountability through free and fair elections, strong cabinet government, collective responsibility, central government dominance, ministerial responsibility, and neutral civil service.

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2.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

The functions of Comptroller and Auditor general of India include:

- Audit all transactions of union and states relating to contingency fund and public account;
- Audit all trading, manufacturing, profit and loss accounts, balance sheets and other subsidiary accounts kept in any department of the union or of a state, and to report on the expenditure, transactions, or accounts to be audited in each case;

- Audit receipts and expenditure of bodies or authorities substantially financed from union or state revenues; and
- Audit accounts of any other bodies or authorities by request.

2) Your answer should include the following points:

The functions of Finance Commission include recommending to the President:

- Basis for distribution of the net proceeds of taxes between the centre and the states.
- Principles that should govern the grants-in-aid to be extended to the states out of the Consolidated Fund of India.
- Amounts to be paid to the states of Assam, Bihar, Orissa, and West Bengal in lieu of the assignment of system of export duty on jute products.

Check Your Progress 2

1) Your answer should include the following points:

The functions of National Commission for Women include:

- Review the Constitutional and legal safeguards for women and implementation.
- Recommend remedial legislative measures.
- Facilitate redressal of grievances.
- Advise the government on all policy measures affecting women.

2) Your answer should include the following points:

- The appointment of members of the Constitutional authorities and commissions is done by President of India.
- The reports of many of these authorities, functionaries, and commissions, barring a few are to be laid before the Parliament or State legislature as the case may be.
- The Constitution lays down the procedure for removal of the members.