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ISSUE AREAS IN INDIAN ADMINISTRATION

Introduction:

Corruption is an ill practice done by people to fulfil their selfish goals. Corruption is a crime against the humanity as well as against the nation. Corruption in the Indian society has prevailed from time immemorial in one form or the other.

International anti-Corruption organization defines “Corruption as an abuse of official position of once own benefit or for the benefit of another” Apex court specifically held that, “Corruption is an offence of criminal misconduct by a public servant in the discharge of his duties.

Factors Responsible for Corruption:

1. The most important factor responsible for corruption is the nature of the human being. People in general, have a great thirst for luxuries and comforts and as a result of which they get themselves involved in all unscrupulous activities that result in monetary or material benefits.
2. Moral and spiritual values are not given utmost importance in educational system, which is highly responsible for the deterioration of the society.
3. The salary paid to employees is very less and as a result of which they are forced to earn money by illegal ways.
4. The punishments imposed on the criminals are inadequate.
5. The political leaders have spoiled the society completely. They lead a luxurious life and do not even care about the society.
6. People of India are not awakened and enlightened. They fear to raise their voice against anti-social elements prevailing in the society.

Forms of Corruption

a. Bribery

Bribery means, any favor in kind of money paid to public servant or officials i.e. Bribery is the payment (in money or kind) that is given or taken in a corrupt relationship.

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Government contracts, bribe is given to speed up the activity which is basically perfect and legal. Which is also called “grease money” to turn the wheels of bureaucracy more smoothly, speedy in the right direction.

b. Embezzlement

Embezzlement is an act of dishonesty withholding assets for the purpose of conversion (theft) of such assets, by one or more persons to whom the assets were entrusted, Embezzlement is a type of financial fraud, e.g. a lawyer might embezzle funds from the trust accounts of his or her clients; a financial advisor might embezzle the funds of investors; and a husband or a wife might embezzle funds from a bank account jointly held with the spouse.

Embezzlement usually is a premeditated crime performed methodically, with the embezzler taking precautions to conceal his or her activities of the criminal conversion of the property of another person, because the embezzlement is occurring without the knowledge or the consent of the affected person

c. Straddling

It is another form of embezzlement. It is the process by which some power holders systematically use their position of office for his private interest

d. Fraud

Fraud is economic crime. Fraud involves a manipulation or distortion of information, facts by a public official with intention to seek private profit.

In law, fraud is deliberate deception to secure unfair or unlawful gain. Fraud is both a civil wrong (i.e., a fraud victim may sue the fraud perpetrator to avoid the fraud and/or recover monetary compensation) and a criminal wrong (i.e., a fraud perpetrator may be prosecuted and imprisoned by governmental authorities).

The purpose of fraud may be monetary gain or other benefits, such as obtaining a drivers license by way of false statements.

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e. Extortion

Extortion is a criminal offence of obtaining money, property or services from a person, entity, or institution through coercion. It is sometimes euphemistically referred to as a "protection racket" since the racketeers often phrase their demands as payment for "protection" from (real or hypothetical) threats from unspecified other parties. Extortion is commonly practiced by organized crime groups.

The actual obtainment of money or property is not required to commit the offense. Making a threat of violence which refers to a requirement of a payment of money or property to halt future violence is sufficient to commit the offense.

f. Favoritism

It is the natural human policy to favour friends, relative or anybody who is close or trusted, it is part of corruption.

g. Nepotism

Nepotism is favoritism granted to relatives. The term originated with the assignment of nephews to cardinal positions by Catholic popes and bishops. Nepotism can occur in various fields including: politics, entertainment etc.

h. Black money

Black money is money, which is not legitimate property of the owner. Black money is oxygen of corruption and it is also called parallel economy. Corruption generates black money. Probably black money is in real estate, politics, film world, election etc.

Black money is also 'unaccounted money' which is one of the chief sources for terrorists. Corrupted money always becomes black money and which is diverted to foreign bank. This money is not useful for him or to the society.

Impact of Corruption:

- Retarded economic development of country.
- Violence and lawlessness.
- Gives rise to casteism, linguism, communalism
- Black money in country.
- Destabilized government
- Widen imbalance between rich & poor



Anti-Corruption Measures:

Corruption is difficult to measure, but it exists in all countries. It is impossible to eradicate or control corruption in society unless and until, investigating machinery becomes independent and free from government control and supervision. The foolproof laws should be made and discretionary power of politician and bureaucrats is required to minimize.

There is no particular method to which we can ensure the measure to curb corruption. Unless there is a complete cooperation by the people and government towards the goal of corruption free India.

Present Laws are not strong enough to fight corruption and very little transparency is available at the government offices. Corruption is lack of independence and efficient media, strong and free press is helpful to reduce corruption in the society.

Today, corruption is a major challenge before Indian society to eradicate the evil of corruption. The central government has enacted anti-corruption laws to deal with the Prevention of Corruption and constituted commission such as CVC, CBI, ACB to enforce the law relating to corruption effectively.

Corruption is lack of monitoring mechanism or their poor enforcement which encourages public officials at difference levels to sack or accept illegal gratification. Scam is a form of fraud.

Nowadays public servant or bureaucrat lost their moral and have no fear of the Law they demand and take bribe i.e. money directly and openly on their table which clearly indicates that, the corrupt public servant or bureaucrats are confident that, no worthwhile action can be taken against them.

This reflects that, the existing system for identifying the corrupt and punishing them appears ineffective and provide to deterrence to them.

There are some specific measures to control increasing corruption which are as under –

1. The Right to Information Act (RTI) gives one all the required information about the Government, such as what the Government is doing with our tax payments.

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Under this act, one has the right to ask the Government on any problem which one faces. There is a Public Information Officer (PIO) appointed in every Government department, who is responsible for collecting information wanted by the citizens and providing them with the relevant information on payment of a nominal fee to the PIO.

If the PIO refuses to accept the application or if the applicant does not receive the required information on time then the applicant can make a complaint to the respective information commission, which has the power to impose a penalty up to ₹.25, 000 on the errant PIO.

2. Another potent check on corruption is Central Vigilance Commission (CVC). It was set up by the Government to advise and guide Central Government agencies in the areas of vigilance.

If there are any cases of corruption or any complaints thereof, then that can be reported to the CVC. Creating more awareness among people regarding the consequences of giving and taking of bribes and corruption is one of the most responsibilities on the CVC.

3. Establishment of special courts for speedy justice can be a huge positive aspect. Much time should not elapse between the registration of a case and the delivery of judgment.
4. Strong and stringent laws need to be enacted which gives no room for the guilty to escape.
5. In many cases, the employees opt for corrupt means out of compulsion and not by choice. Some people are of the opinion that the wages paid are insufficient to feed their families. If they are paid better, they would not be forced to accept bribe.
6. Corruption has been a part of human societies since the oldest of times. Corruption, fraud, embezzlement, theft, bribes, and kickbacks are all forms in which people try to increase their income at the cost of others.

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For combating corruption an anti-corruption revolution is required to make on the public mind and it is necessary to prosecute and punish the same of the top officials as well as ministers, business man.

Unfortunately, in India, till now very few corrupt political persons, businessman is punished. Free press, Independent judiciary plays important role in controlling corruption. To fight against corruption, we should make our laws more effective

The central bureau of investigation

Motto : Industry, Impartiality, Integrity.

CBI day : 1st April

Origin:

- The Central Bureau of Investigation traces its origin to the Special Police Establishment (SPE) which was set up in 1941 by the Government of India.
- The functions of the SPE then were to investigate cases of bribery and corruption in transactions with the War & Supply Department of India during World War II.
- Establishment of CBI was recommended by the Santhanam Committee as Prevention of Corruption (1963 - 64)
- The DSPE (Delhi special police establishment) acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry resolution dated 1.4.1963.
- Later it was transferred to Ministry of Personnel.

International Anti-Corruption Day has been observed annually, on 9 December, since the passage of the United Nations Convention Against Corruption on 31 October 2003.

Organisational structure:

The CBI is headed by a director, an IPS officer with a rank of Director General of Police or Commissioner of Police (State). The director is selected based on the CVC Act 2003, and has a two-year term. Other ranks in the CBI which may be staffed by the IPS or the IRS are Special director, Additional director, Joint director, Deputy inspector general of police, Senior superintendent of police and Superintendent of police.

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Selection Committee:

According to the CVC Act 2003, the committee recommends a panel of officers for director of the CBI.

It consists of:

Chief Vigilance Commissioner – chairperson

Vigilance Commissioners – members

Secretary, Home Ministry – member

Secretary (Coordination and Public Grievances) in the Cabinet Secretariat – member.

When making recommendations, the committee considers the views of the outgoing director. Final selection is made by the Appointments Committee of the Cabinet from the panel recommended by the selection committee.

Jurisdiction, powers and restrictions:

The legal powers of investigation of the CBI are derived from the DSPE Act 1946, which confers powers, duties, privileges and liabilities on the Delhi Special Police Establishment (CBI) and officers of the Union Territories.

The central government may extend to any area (except Union Territories) the powers and jurisdiction of the CBI for investigation, subject to the consent of the government of the concerned state. Members of the CBI at or above the rank of sub-inspector may be considered officers in charge of police stations. Under the act, the CBI can investigate only with notification by the central government.

Relationship to state police

Maintaining law and order is a state responsibility as “police” is a State subject, and the jurisdiction to investigate crime lies with the state police exclusively.

The CBI being a Union subject may investigate:

Offenses against central-government employees, or concerning affairs of the central government and employees of central public-sector undertakings and public-sector banks

Cases involving the financial interests of the central government

Breaches of central laws enforceable by the Government of India.



Ombudsman:

Ombudsman is defined as “a legislative commission for the investigation of citizen’s complaint of bureaucratic abuse.”

Etymologically the Swedish word ‘ombud’ refers to a person who acts as a spokesman or representative of another person. In Swedish public law, however, Ombudsman means an appointee of the Parliament of Sweden for the supervision of the administration.

Types of Ombudsman:

In India, there are several institutions functioning as ombudsman in different sectors such as banking, insurance, telecom, local self-government and electricity, to redress the grievances of the general public relating to these departments and such institutions are termed as ombudsman functioning in their respective spheres.

These institutions have been established with a view to promote good governance and transparency and accountability in their working and redressal mechanism and for speedy disposal of their complaints.

LOKPAL

A Lokpal is a proposed ombudsman, (Legal Representative) in India. The word ‘lokpal’ was coined by Dr.L.M.Singhvi in 1963. The concept of a constitutional ombudsman was first proposed in parliament by Law Minister Ashoke Kumar Sen in the early 1960s.

The first Jan Lokpal Bill was proposed by Shanti Bhushan in 1968 and passed in the 4th Lok Sabha in 1969, but did not pass through the Rajya Sabha.

Subsequently, ‘lokpal bills’ were introduced in 1971, 1977, 1985, again by Ashoke Kumar Sen, while serving as Law Minister in the Rajiv Gandhi cabinet, and again in 1989, 1996, 1998, 2001, 2005 and in 2011, yet they were never passed.

The Lokpal Act has been brought into force with effect from 16th January 2014.

The Administrative Reforms Commission (ARC) recommended the enacting of the Office of a Lokpal.



LOKAYUKTA

The Lokayukta is an anti-corruption authority ombudsman (An ombudsman is an official, appointed by the government or by parliament to represent the interests of the public). He works along with the Income Tax Department and the Anti-Corruption Bureau.

The Lokayukta (sometimes referred to the institution itself) investigates allegations of corruption and mal-administration against public servants and is tasked with speedy redressal of public grievances.

States that have this authority:

Only 19 Indian States have Lokayukta. Maharashtra was the first State to introduce the institution of Lokayukta in 1971. There are no Lokayuktas in Arunachal Pradesh, Jammu Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tamil Nadu, Tripura and West Bengal. The process to set up Lokayukta in Goa is in progress. Karnataka's Lokayukta is considered one of the strongest.

Appointment

The Lokayukta is usually a former High Court Chief Justice or former Supreme Court judge and has a fixed tenure.

Roles

Any citizen can make his/her complaints of corruption directly to the Lokayukta against any government official or elected representative. Lokayukta's power varies from State to State. In some States, the Lokayukta inquiries into allegations against public functionaries including Chief Minister, Ministers and MLAs. While some has the power to investigate into civil servants/bureaucrats, judiciary and police.

CENTRAL VIGILANCE COMMISSION

The Central Vigilance Commission (CVC) is the main agency for preventing corruption in the Central governments. It was established in 1964 by an executive resolution of the Central government and it was recommended by the Santhanam Committee on Prevention of Corruption (1962-64).

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Thus, originally the CVC was neither a constitutional body nor a statutory body. Recently, in September 2003, the Parliament enacted a law conferring statutory status on the CVC.

Composition:

The Commission shall consist of A Central Vigilance Commissioner - Chairperson; Not more than two Vigilance Commissioners - Members;

Appointment:

By the President on the recommendation of a three-member committee consisting of The Prime Minister as its head.

The Union Minister of Home affairs.

The Leader of the Opposition in the Lok Sabha.

Term and Tenure:

They hold office for a term of four years or until they attain the age of sixty-five years whichever is earlier. After their tenure, they are not eligible for further employment under the Central or state government.

Salary:

Similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC.

Functions:

To inquire or cause an inquiry or investigation to be conducted on a reference made by the Central government wherein it is alleged that a public servant being an employee of the Central government or its authorities, has committed an offence under the Prevention of Corruption Act, 1988.

To exercise superintendence over the functioning of Delhi special police establishment.

To give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under the Delhi Special Police Establishment Act, 1946.

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To tender advice to the Central government and its authorities on such matters as are referred to it by them.

To exercise superintendence over the vigilance administration in the ministries of the Central Government or its authorities.

Working:

- The CVC conducts its proceedings at its headquarters (New Delhi).
- It has all the powers of a civil court and its proceedings have a judicial character.
- The CVC, on receipt of the report of the inquiry undertaken to the president a report on its performance. The president places this report before each House of Parliament.

MINISTER SECRETARY RELATIONSHIP

Union Government Ministries/Department

The main policy making institution in the Union government is the central secretariat which comprises all the ministries and departments which in turn characterized by certain patterns of structural arrangements and functional specifications.

Structure of a Ministry

Ministry of Central Government has a three-tier structure consisting of

1. Political Head, who is a cabinet minister assisted by minister of state and deputy minister. Sometimes a minister of state may also be a political head of a ministry/department holding an independent charge.
2. Secretariat organization headed by a secretary who is a career civil servant. He is assisted by Joint secretaries, Deputy Secretaries, Undersecretaries and office establishment.
3. Executive organization under a head of the department who is known by various designations like Director, Director-General, Commissioner, Inspector-General, Chief Controller etc...

A ministry is primarily divided into departments. Each department is divided into wings. Each wing is in turn divided into divisions which are further divided into

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branches. Each branch is divided into sections. A section is the lowest level and smallest organizational unit of a ministry/department.

Under the Government of India, Rules of Business, 1961, the ministries departments in the Government of India were as follows

Central Secretariat

The central secretariat comprises of all the ministries and departments of the central Government. Article 77 of the Indian Constitution authorizes the President of India to make rules for more convenient transaction of business of Central Government and for allocation of such business among the ministries.

Role and Functions

The Central Secretariat is a policy making body of the government and is not, to undertake work of execution, unless necessitated by the lack of official agencies to perform certain tasks. The Central Secretariat normally performs the following functions:

- 1) Assisting the minister in the discharge of his policy making and parliamentary responsibilities.
- 2) Framing legislation, rules and principles of procedure
- 3) Sectoral planning and programme formulation.
- 4) Budgeting and control of expenditure in respect of activities of the Ministry/department.
- 5) Supervision and control over the execution of policies and programmes.
- 6) Initiating steps to develop greater personnel and organizational competence both in the ministry/department and its executive agencies.
- 7) Coordination and interpretation of policies, assisting other branches of government and maintaining contact with state administration.

Cabinet Secretariat

Functions

The Cabinet Secretariat functions directly under the Prime Minister. The administrative head of the Secretariat is the Cabinet Secretary who is also the ex-officio Chairman of the Civil Services Board. The business allocated to Cabinet Secretariat



under Government of India (Allocation of Business) Rules, 1961 includes (i) Secretarial assistance to the Cabinet and Cabinet Committees; and (ii) Rules of Business.

Organisation of Cabinet Secretariat

The Cabinet Secretariat has three wings

- Civil wing
- Military wing
- Intelligence wing

Civil wing - It is the main wing and provides aid, advice and assistance to the Union cabinet.

Military wing - provides secretarial assistance to the defence committee of the cabinet, the military affairs committee etc.

Intelligence wing - it deals with the matters pertaining to the joint intelligence committee of the cabinet.

Other organizations are - RAW, Director General of Security, SPG, Joint intelligence group, DG public grievances (1988), National Authority, Chemical Weapons Convention.

The Cabinet Secretariat is responsible for the administration of the Government of India (Transaction of Business) Rules, 1961 and Government of India (Allocation of Business) Rules, The Secretariat assists in decision-making in Government by ensuring Inter-Ministerial coordination, ironing out differences amongst Ministries/Departments and evolving consensus through the instrumentality of the standing/adhoc Committees of Secretaries. Management of major crisis situations in the country and coordinating activities of various ministries in such a situation is also one of the functions of the Cabinet Secretariat.

Support to Cabinet Committees

The secretarial assistance, provided by Cabinet Secretariat to the Cabinet and Cabinet committees, includes

- Convening of the meetings of the Cabinet & its Committees on the orders of the Prime Minister.

- Preparation and circulation of the agenda.
- Circulation of papers related to the cases on the agenda.
- Preparation of record of discussions.
- Circulation of the record of discussions after obtaining the approval of the Prime Minister.
- Monitoring implementation of decisions taken by the Cabinet and its Committees.
- The Cabinet Secretariat is the custodian of the papers of the Cabinet meetings.

Cabinet Secretary

The office of cabinet secretary was created in India in 1950. The first Cabinet secretary was N.R.Pillai. The Cabinet Secretary is the head of the Cabinet Secretariat. He is given a top place among the civil servants. Thus, he is the senior most civil servant in India.

Union Government -Apex Bodies

- President of India
- Vice President of India
- Cabinet Secretariat
- Election Commission of India
- Union Public Service Commission (UPSC)
- National Human Rights Commission (NHRC), India
- Comptroller and Auditor General (CAG) of India,
- Indian Audit and Accounts Department
- NITI Aayog - National Institution for Transforming India
- National Commission for Women (NCW)
- National Commission for Scheduled Tribes (NCST)
- Fifteenth Finance Commission of India
- National Commission for Minorities (NCM)
- Insurance Regulatory and Development Authority (IRDA)
- Office of the Principal Scientific Adviser

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The Prime Minister's Office (PMO)

The Prime Minister's Office (PMO) consists of the immediate staff of the Prime Minister of India, as well as multiple levels of support staff reporting to the Prime Minister. The PMO is headed by the Principal Secretary, The PMO was originally called the Prime Minister's Secretariat until 1977, when it was renamed during the Morarji Desai ministry.

Office of Principal Scientific Adviser

The Office of the Principal Scientific Adviser to the Government of India (O/o of PSA) was set-up in November, 1999, primarily to:

- Evolve policies, strategies and missions for the generation of innovations and support systems for multiple applications,
- Generate science and technology tasks in critical infrastructure, economic and social sectors in partnership with Government departments, institutions and industry,
- Office of PSA also services the Prime Minister's Science, Technology and Innovation Advisory Council (PM-STIAC)
- Office of PSA has been placed administratively under the Cabinet Secretariat in August, 2018.

The PMO provides secretarial assistance to the Prime Minister. It is headed by the Principal Secretary to the Prime Minister. The PMO includes the anti-corruption unit and the public wing dealing with grievances. The office houses the Prime Minister and few selected officers of Indian Civil Service who work with him to manage and coordinate government and his office. The Prime Minister through his office coordinates with all ministers in the central union cabinet, minister of independent charges and governors and ministers of state government.

CONSTITUTIONAL BODIES

Election Commission of India (ECI):

Under Article 324 of the Constitution of India, the Election Commission of India is vested with the power of superintendence, direction and control of conducting the elections to the Lok Sabha and State Legislative Assemblies.

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The Chief Electoral Officer of a state / Union Territory is authorised to supervise the election work in the state / Union Territory subject to the overall superintendence, direction and control of the Election Commission.

Composition:

- Chief election commissioner +2 Election Commissioners.
- Appointed by President.
- Tenure decided by President.
- From 1950 to 15 October 1989 - functions as a single member body.
- 16 October 1989 two more election commissioners appointed.
- All the three members have same emoluments and allowances as those of a Judge of the Supreme Court.
- They can hold office for a term of 6 years or until they attain the age of 65 years whichever is earlier.
- No prescribed qualification of the members in the constitution.

POWERS AND FUNCTIONS

The powers and functions of the Election Commission with regard to elections to the Parliament, state legislatures and offices of President and Vice-President can be classified into three categories, viz,

1. Administrative
2. Advisory
3. Quasi-Judicial

In detail, these powers and functions are:

- To determine the territorial areas of the electoral constituencies throughout the country on the basis of the Delimitation Commission Act of Parliament.
- To prepare and periodically revise electoral rolls and to register all eligible voters.
- To notify the dates and schedules of elections and to scrutinize nomination papers.
- To grant recognition to political parties and allot election symbols to them.

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- To act as a court for settling disputes related to granting of recognition to political parties and allotment of election symbols to them.
 - To appoint officers for inquiring in to disputes relating to electoral arrangements.
 - To determine the code of conduct to be observed by the parties and the candidates at the time of elections.
 - To prepare a roster for publicity of the policies of the political parties on radio and TV in times of elections.
 - To advise the president on matters relating to the disqualifications of the members of Parliament.
 - To advise the governor on matters relating to the disqualifications of the members of state legislature.
 - To cancel polls in the event of rigging, booth capturing, violence and other irregularities.
 - To request the president or the governor for requisitioning the staff necessary for conducting elections.
 - To supervise the machinery of elections throughout the country to ensure free and fair elections.
 - To advise the president whether elections can be held in a state under president's rule in order to extend the period of emergency after one year.
 - To register political parties for the purpose of elections and grant them the status of national or state parties on the basis of their poll performance 5.
 - The Election Commission is assisted by deputy election commissioners.
 - They are drawn from the civil service and appointed by the commission with tenure system. They are assisted, in turn, by the secretaries, joint secretaries, deputy secretaries and under-secretaries posted in the secretariat of the commission.

Finance Commission

Article 280 of the Constitution of India provides for a Finance Commission as a quasi-judicial body. It is constituted by the president of India every fifth year or at such earlier time as he considers necessary.

Composition

The Finance Commission consists of a chairman and four other members to be appointed by the president. They hold office for such period as specified by the president in his order. They are eligible for reappointment. The Constitution authorises the Parliament to determine the qualifications of members of the commission and the manner in which they should be selected. Accordingly, the Parliament has specified the qualifications of the chairman and members of the commission¹. The chairman should be a person having experience in public affairs and the four other members should be selected from amongst the following:

1. A judge of high court or one qualified to be appointed as one.
2. A person who has specialised knowledge of finance and accounts of the government.
3. A person who has wide experience in financial matters and in administration.
4. A person who has special knowledge of economics.

Functions

The Finance Commission is required to make recommendations to the President of India on the following matters:

- The distribution of the net proceeds of taxes to be shared between the Centre and the states, and the allocation between the states of the respective shares of such proceeds.
- The principles that should govern the grants-in-aid to the states by the Centre (i.e., out of the consolidated fund of India).
- The measures needed to augment the consolidated fund of a state to supplement the resources of the panchayats and the municipalities in the state on the basis of the recommendations made by the state finance commission.
- Any other matter referred to it by the president in the interests of sound finance. Till 1960, the commission also suggested the grants given to the States of Assam, Bihar, Odisha and West Bengal in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products.
- These grants were to be given for a temporary period of ten years from the commencement of the Constitution.

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- The commission submits its report to the president. He lays it before both the Houses of Parliament along with an explanatory memorandum as to the action taken on its recommendations.

National Commission for SCs:

Established : Article 338 of the constitution

Originally, Article 338 of the Constitution provided for the appointment of a Special Officer for Scheduled Castes (SCs) and Scheduled Tribes (STs) to investigate all matters relating to the constitutional safeguards for the SCs and STs and to report to the President on their working.

Later, the 65th Constitutional Amendment Act of 1990 provided for the establishment of a high-level multi-member National Commission for SCs and STs in the place of a single Special Officer for SCs and STs. This constitutional body replaced the Commissioner for SCs and STs as well as the Commission set up under the Resolution of 1987.

The 89th Constitutional Amendment Act of 2003 bifurcated the combined National Commission for SCs and STs into two separate bodies, National Commission for Scheduled Castes (under Article 338) and National Commission for Scheduled Tribes (under Article 338-A).

The separate National Commission for SCs came into existence in 2004.

Members : Chairperson, a vice-chairperson and three other members.

Appointed by : President by warrant under his hand and seal.

Tenure : Determined by the President

FUNCTIONS OF THE COMMISSION

The functions of the Commission are:

- (a) To investigate and monitor all matters relating to the constitutional and other legal safeguards for the SCs and to evaluate their working;
- (b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs;
- (c) To participate and advise on the planning process of socio-economic development of the SCs and to evaluate the progress of their development under the Union or a state;

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- (d) To present to the President, annually and at such other times as it may deem fit, reports upon the working of those safeguards;
 - (e) To make recommendations as to the measures that should be taken by the Union or a state for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the SCs; and
 - (f) To discharge such other functions in relation to the protection, welfare and development and advancement of the SCs as the president may specify.

REPORT OF THE COMMISSION

- The commission presents an annual report to the president. It can also submit a report as and when it thinks necessary.
- The President places all such reports before the Parliament, along with a memorandum explaining the action taken on the recommendations made by the Commission.
- The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.
- The President also forwards any report of the Commission pertaining to a state government to the state governor.
- The governor places it before the state legislature, along with a memorandum explaining the action taken on the recommendations of the Commission.
- The memorandum should also contain the reasons for the non-acceptance of any of such recommendations

POWERS OF THE COMMISSION

The Commission is vested with the power to regulate its own procedure. The Commission, while investigating any matter or inquiring into any complaint, has all the powers of a civil court trying a suit and in particular in respect of the following matters:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record from any court or office;

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- (e) issuing summons for the examination of witnesses and documents; and
 - (f) any other matter which the President may determine.

The Central government and the state governments are required to consult the Commission on all major policy matters affecting the SCs.

The Commission is also required to discharge similar functions with regard to the other backward classes (OBCs) and the Anglo-Indian Community as it does with respect to the SCs.

In other words, the Commission has to investigate all matters relating to the constitutional and other legal safeguards for the OBCs and the Anglo-Indian Community and report to the President upon their working.

National Commission for Scheduled Tribes

Constitutional body

Established by : Article 338-A of the Constitution

SEPARATE COMMISSION FOR ST's

The National Commission for SCs and STs came into being consequent upon passing of the 65th Constitutional Amendment Act of 1992. The Commission was established under Article 338 of the Constitution with the objective of monitoring all the safeguards provided for the SCs and STs under the Constitution or other laws.

In order to safeguard the interests of the STs more effectively, it was proposed to set up a separate National Commission for STs by bifurcating the existing combined National Commission for SCs and STs.

- This was done by passing the 89th Constitutional Amendment Act of 2003.
- This Act further amended Article 338 and inserted a new Article 338-A in the Constitution.
- The separate National Commission for STs came into existence in 2004.
- Members: Chairperson, a vice-chairperson and three other members. They
- Appointed by: President by warrant under his hand and seal.
- Tenure: Determined by the President



FUNCTIONS OF THE COMMISSION

The functions of the Commission are:

- (a) To investigate and monitor all matters relating to the constitutional and other legal safeguards for the STs and to evaluate their working;
- (b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the STs;
- (c) To participate and advise on the planning process of socio-economic development of the STs and to evaluate the progress of their development under the Union or a state;
- (d) To present to the President, annually and at such other times as it may deem fit, reports upon the working of those safeguards;
- (e) To make recommendations as to the measures that should be taken by the Union or a state for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the STs; and
- (f) To discharge such other functions in relation to the protection, welfare and development and advancement of the STs as the President may specify.

REPORT OF THE COMMISSION

- The Commission presents an annual report to the President. It can also submit a report as and when it thinks necessary.
- The President places all such reports before the Parliament, along with a memorandum explaining the action taken on the recommendations made by the Commission.
- The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.
- The President also forwards any report of the Commission pertaining to a state government to the state governor. The governor places it before the state legislature, along with a memorandum explaining the action taken on the recommendations of the Commission.
- The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.



Powers of the Commission

The Commission is vested with the power to regulate its own procedure. The Commission, while investigating any matter or inquiring into any complaint, has all the powers of a civil court trying a suit and in particular in respect of the following matters:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing summons for the examination of witnesses and documents; and
- (f) any other matter which the President may determine.

The Central government and the state governments are required to consult the Commission on all major policy matters affecting the STs.

Special Officer for Linguistic Minorities

Originally, the Constitution of India did not make any provision with respect to the Special Officer for Linguistic Minorities. Later, the States Reorganisation Commission (1953-55) made a recommendation in this regard.

Accordingly, the Seventh Constitutional Amendment Act of 1956 inserted a new Article 350-B in Part XVII of the Constitution. There should be a Special Officer for Linguistic Minorities. He is to be appointed by the President of India. It would be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.

Commissioner for Linguistic Minorities

In pursuance of the provision of Article 350-B of the Constitution, the office of the Special Officer for Linguistic Minorities was created in 1957. He is designated as the Commissioner for Linguistic Minorities.

The Commissioner has his headquarters at Allahabad (Uttar Pradesh). He has three regional offices at Belgaum (Karnataka), Chennai (Tamil Nadu) and Kolkata (West Bengal). Each is headed by an Assistant Commissioner.

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The Commissioner is assisted at headquarters by Deputy Commissioner and an Assistant Commissioner. He maintains liaison with the State Governments and Union Territories through nodal officers appointed by them.

At the Central level, the Commissioner falls under the Ministry of Minority Affairs. Hence, he submits the annual reports or other reports to the President through the Union Minority Affairs Minister

Comptroller and Auditor General of India:

The constitution of India (Article 148) provides for an independent office of the Comptroller and Auditor General of India (CAG).

- He is the head of the Indian Audit and Accounts Department.
- He is the guardian of the public purse. Appointed by the President.
- Holds office for 6 years or till 65 years of age.
- The President can remove him only on the recommendation of the two houses of Parliament (as in case of judge of Supreme Court).
- He is not eligible for further office, either under the Government of India or of any state, after he ceases to hold his office.
- His salary is equal to that of a judge of the Supreme Court.

Duties and Powers:

- His duties are to audit the accounts of the Union and the States and to ensure that nothing is spent out of the Consolidated Fund of India or of the States without the sanction of the Parliament or the respective State Legislatures.
- The Constitution (Article 149) authorises the Parliament to prescribe the duties and powers of the CAG in relation to the accounts of the Union and of the states and of any other authority or body.
- He advises the President with regard to prescription of the form in which the accounts of the centre and the states shall be kept (Article 150).
- He submits an audit report of the Union to the President who shall lay it before the Parliament and the audit reports of the States to the respective Governors who shall lay it before the respective State Legislatures (Article 151).

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- The CAG submits three audit reports to the President – audit report on appropriation accounts, audit report on finance accounts, and audit report on public undertakings. The president lays these reports before both the Houses of Parliament.
 - He is responsible only to the Parliament. In short the CAG acts as the custodian & trustee of public money.

NON-CONSTITUTIONAL BODIES

NITI AAYOG

The Government of India has replaced Planning Commission with a new institution named NITI Aayog (National Institution for Transforming India). The institution will serve as ‘Think Tank’ of the Government - a directional and policy dynamo.

NITI Aayog will provide Governments at the Central and State Levels with relevant strategic and technical advice across the spectrum of key elements of policy, which includes matters of national and international importance on the economic front, dissemination of best practices from within the country as well as from other nations, the infusion of new policy ideas and specific issue-based support.

Composition:

NITI Aayog will have Prime Minister as its chairman, one Vice-Chairman cum chief-executive officer, 3 full time members and 2 part time members, apart from 4 Central Government ministers.

Objectives of the NITI Aayog:

- To evolve a shared vision of national development priorities.
- To foster cooperative federalism.
- To develop mechanisms to formulate credible plans.
- To pay special attention to the sections of our society that may be at risk of not benefitting adequately from economic progress.
- To design strategic and long-term policy and programme frameworks and initiatives, and monitor their progress.

Knowledge Hub:

Resource Book in Good Practices in Social Sector Service Delivery 2015 is against effort between the former Planning Commission (Now NITI Aayog) and UNDP and is prepared in consultation with the State Governments and UT Administrations.

Specialised wings of NITI Aayog:

- Research Wing
- Consultancy Wing
- Team India Wing

Reports of NITI Aayog

- Performance of Health Outcome Index.
- Healthy States, Progressive India Report
- Composite Water Management Index.
- Transformation of Aspirational Districts.
- Sustainable Tourism in the Indian Himalayan Region.
- Strategy for New India.
- Urban Transformation Index.

NATIONAL COMMISSION FOR MINORITIES

National Commission for Minorities Act, 1992.

Quasi-Judicial body with powers of a civil court.

Nominated : Central Government

Members : Chairperson, Vice Chairperson and five members, all should be from minority

Term : 3 Years Functions

Evaluate the progress of the development of minorities under the Union and States
Suggest appropriate measures in respect of any minority to be undertaken by the Central or State.

Monitor the working of the safeguards provided in the constitution & in laws enacted by Parliament and State Government. Look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities.

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Make Periodical or special reports the Central Government on any matter pertaining to minorities and in particular difficulties confronted by them. Any other matter which may be referred to it by the Central Government

Report: Reports to Central Government, then it places in the Parliament

Minority Communities: 5 Religions Communities

- Muslims
- Christians
- Sikhs
- Buddhist
- Zoroastrians

NATIONAL HUMAN RIGHTS COMMISSION

The National Human Rights Commission is a statutory body. It was established in 1993 under a legislation enacted by the Parliament, namely, the Protecting of Human Rights Act, 1993. This Act was amended in 2006.

Composition:

The commission is a multi-member body consisting of a chairman and four members. The chairman should be a retired chief justice of India, and other members should be a serving or retired judge of the Supreme Court, a serving or retired chief justice of a high court and two persons having knowledge or practical experience with respect to human rights.

In addition to these full-time members, the commission also has four ex-officio members – the chairman of the National Commission for SCs, the National Commission for STs and the National Commission for Women.

Appointment:

By the president, on the recommendations of a six-member committee consisting of the Prime minister as its head, The speaker of the Lok Sabha, The Deputy Chairman of the Rajya Sabha Leaders of the Opposition in both the Houses of Parliament, Parliament and the Central home Ministers.

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Salary:

Determined by the Central Government.

Removal Procedure:

Adjudged an insolvent or engages during his term of office, in any paid employment outside the duties of his office. Unfit to continue, Unsound mind declared by a competent court, Convicted and sentenced to imprisonment for an offence.

The president can also remove the chairman or any member on the ground of proved misbehavior or incapacity.

However, in these cases, the President refer the matter to the Supreme Court for an inquiry. If the Supreme Court upholds the cause of removal and advises so, then the president can remove the chairman or any number.

Term and Tenure:

The chairman and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier.

Functions:

- To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant, either suomotu or on a petition presented to it or on an order of a court.
- To intervene in any proceeding involving allegation of violation of human rights pending before a court.
- To visit jails and detention places to study the living conditions of inmates and make recommendation thereon.

Working of the Commission:

The commission's headquarters is at Delhi and it can also establish offices at other places in India.

It has all the powers of a civil court and its proceedings have a judicial character.

The commission is not empowered to inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.



STATE HUMAN RIGHTS COMMISSION (SHRC)

A State Human Rights Commission can inquire into violation of human rights only in respect of subjects mentioned in the State List (List – II) and Concurrent List (List – III) of the Seventh Schedule of the Constitution.

Composition:

It is a multi-member body consisting of a chairperson and two members. The chairperson should be a retired Chief Justice of a High Court and members should be a serving or retired judge of a High Court or a District Judge in the state with a minimum of seven years' experience as District Judge and a person having knowledge or practical experience with respect to human rights.

Appointment:

By the Governor on the recommendations of a committee consisting of Chief Minister as its head, The Speaker of the Legislative Assembly, The State Home Minister, The Leader of opposition in the Legislative Assembly, the chairman of the Council and the Leader of the opposition in the Council (In case the state have legislative Council)

Term and Tenure:

The chairperson and members hold office for a term of five years or until they attain the age of 70 years, whichever is earlier.

Removal:

By the president.

Functions:

- To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant, either Suo moto or on a petition presented to it or on an order of a court.
- To intervene in any proceeding involving allegation of violation of human rights pending before a court.
- To visit jails and detention places to study the living conditions of inmates and make recommendation thereon.



WORLD ORGANISATIONS

League of Nations:

Amidst the carnage, President Woodrow Wilson in January 1918, outlined his idea of the League of Nations which received widespread support given the utter devastation caused by World War.

The League of Nations was dominated by the victors of World War I that included France and Great Britain along with Japan and Italy as the other two permanent members of the League Council.

There were twenty-eight founding members who were represented in the General Assembly who were mostly from Europe and Latin America. The League of Nations was one that was Eurocentric.

Virtually all of Africa, Asia and the Middle East were controlled by European imperial powers. The League also established the mandate system to prepare natives of different regions for self-government and independence.

The reasons for the League of Nations to fail were multiple. The absence of the United States was a significant factor in rendering the League ineffectual. Its importance was further minimized when Germany and the Soviet Union who were briefly members had undermined the significance of the organization.

Germany joined in 1926 and exited after the Nazis came to power in 1933. In the year 1933 Soviet Union entered the League and was expelled following their attack on Finland in 1939 which also made the USSR the only nation to be expelled from the League.

Japan left the League in 1933 following criticism by the league of its occupation of Manchuria and Italy too was equally dismissive of its membership obligations after its occupation of Ethiopia.

These acts of aggression were not adequately countered by the League and the global economic crisis of 1930s certainly curbed the enthusiasm of others and more particularly France and Britain who were not willing to fight distant wars that would

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not have an immediate effect on their national security. They thus turned to the policy of appeasement which also failed.

In 1938 at the Munich Conference, Britain and France agreed to the dismantling of Czechoslovakia by agreeing to the addition of Sudetenland to Hitler's Reich. Finally, Germany attacked Poland after concluding pact with the Soviet Union in 1939 which dashed all hopes that were placed on the League of Nations.

The League of Nations was not capable of applying sufficient pressure on the aggressor nations as it could only impose verbal or economic sanctions against them and these methods failed to intervene militarily.

The League of Nations did not have authority beyond its member nations and this made it possible for countries suffering from the pressure of economic sanctions to trade with non-members and the economic crisis of 1930s also contributed to such trade practices. Additionally, since the League did not have an army of its own, military intervention meant that member states (France and Britain) would have to supply necessary troops.

However, neither country was interested in engaging in potentially costly conflicts in Africa or Asia. The League expelled the Soviet Union in 1939, and it was known widely that the League had failed and did not become what President Woodrow Wilson had hoped as a 'definite guarantee of Peace'.

Nevertheless, the onset of the Second World War made it clear there was a definite need for an international organization that would safeguard the world from yet another world war in the future. It was also unanimously agreed that a repetition of the League of Nations could not be allowed.

The United Nations:

Although the League of Nations did not succeed in its objectives, it however, ignited the dream for a universal organization that would work to preserve peace in the world. With the end of the Second World War which witnessed around 72 million casualties, the idea of the United Nations was born.

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World leaders who had collaborated to bring the war to an end felt a strong need for a mechanism that would ensure lasting peace and prevent future wars. It was also felt that this was possible only through a global organization where all nations would work together.

The name 'United Nations' was coined by the then United States President Franklin D. Roosevelt and was first officially used in 1942 when representatives from twenty-six nations signed the Declaration by United Nations to continue to fight together against the axis powers in order to obtain just peace.

Thus, unlike the League of Nations, it began as an alliance that came into being soon after the United States' entry into the war following the attack on Pearl Harbour by Japan and Germany's declaration of war against the United States in December 1941.

In August 1944, delegates from China, Soviet Union, United Kingdom and the United States, met in Dumbarton Oaks to draw the basic blueprint for the new International Organization and by October the outline of the United Nations Charter was ready.

Following the surrender of Germany in the year 1945, representatives from fifty countries met in San Francisco on June 26, 1945 and signed the Charter. With the conclusion of the Pacific war in October 24, 1945, the United Nations officially came into existence.

While making the UN Charter, the drafters faced the same issue that the League of Nations faced which was to lay the foundation of an international organisation that would guarantee peace.

The simple solution that the drafters came up with was the veto power. Veto power was granted to the five founding members of the UN – China, France, Great Britain, the United States and the Soviet Union who are also known as the Permanent Five (P-5).

Although the founders of the UN were keenly aware of the failures of the League of nations, most of its ideals constituted the core element of the UN Charter.

Most evidently, the UN Charter and the League of Nations Covenant had promotion of international security and the peaceful settlement of disputes as its key goals, however, the Charter included two more elements that were also given importance.

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Although it was reflected briefly in article 23 of the League of Nations Covenant, the UN Charter included social and economic progress into its key goals. The emphasis laid on social and economic progress was rooted in the inter-war years.

Many saw the global economic crisis of the 1920s to the 1930s as the root cause of political upheavals that led to the rise of ultra-nationalism and acts of aggression that resulted in the Second World War.

Thus, the UN was created to be an active participant in world affairs such as

- (i) Military security,
- (ii) Economic and social progress
- (iii) Upholding of human rights and
- (iv) International justice.

In 1945, the six major organs of the UN were

- (i) the General Assembly,
- (ii) The Security Council,
- (iii) Economic and Social Council
- (iv) Trusteeship Council,
- (v) International Court of Justice and
- (vi) the Secretariat.

The Trusteeship Council became obsolete following the completion of the decolonization process which it oversaw. However, these organs constitute the basic superstructure of the UN.

All organs of the UN meet regularly and members vote to make decisions, issue declarations and discuss issues that are of prime importance.

Yet the functions of the organs differ significantly vis-à-vis each other. While the General Assembly is the Parliament of the UN, the Security Council is its executive committee, the secretariat is the operational body or the bureaucracy that runs the UN.



North Atlantic Treaty Organization (NATO), 1949

The North Atlantic Treaty Organization was created in 1949 by the United States, Canada, and several Western European nations to provide collective security against the Soviet Union.

NATO was the first peacetime military alliance the United States entered into outside of the Western Hemisphere. The nations of Western Europe wanted assurances that the United States would intervene automatically in the event of an attack. As a result of tense negotiations the North Atlantic Treaty was signed in 1949.

In this agreement, the United States, Canada, Belgium, Denmark, France, Iceland, Italy, Luxemburg, the Netherlands, Norway, Portugal, and the United Kingdom agreed to consider attack against one an attack against all, along with consultations about threats and defense matters.

The collective defense arrangements in NATO served to place the whole of Western Europe under the American “nuclear umbrella.” Although formed in response to the exigencies of the developing Cold War, NATO has lasted beyond the end of that conflict, with membership even expanding to include some former Soviet states. It remains the largest peacetime military alliance in the world.

About UN Global Counter-Terrorism Coordination Compact:

It is an agreement between the UN chief, 36 organizational entities, the International Criminal Police Organisation (INTERPOL) and the World Customs Organisation, to better serve the needs of Member States when it comes to tackling international terrorism.

Objective:

- To ensure that the United Nations system provides coordinated capacity-building support to Member States, at their request, in implementing the UN Global Counter-Terrorism Strategy and other relevant resolutions.
- To foster close collaboration between the Security Council mandated bodies and the rest of the United Nations system.
- The UN Global Counter-Terrorism.

Pacts and Summits

Comprehensive Nuclear Test Ban Treaty

- It is a multilateral treaty banning all nuclear explosions for both military and civilian purposes.
- It was negotiated at the Conference on Disarmament in Geneva and adopted by the United Nations General Assembly. It was opened for signature on 24 September 1996.
- The CTBT with its 183 signatories and 163 ratifications is one of the most widely supported arms-control treaties.
- It can only enter into force after it is ratified by eight countries with nuclear technology capacity, namely China, Egypt, India, Iran, Israel, North Korea, Pakistan and the United States.
- The Treaty establishes a CTBT Organization (CTBTO), located in Vienna, to ensure the implementation of its provisions, including provisions for international verification measures.

India's stand on CTBT

India did not support the Comprehensive Nuclear Test Ban Treaty in 1996 and still does not due to following reasons: CTBT does not address complete disarmament (supported by India), discriminatory in nature with permanent UNSC members.

Another major concern was the Entry-Into Force (EIF) clause, which India considered a violation of its right to voluntarily withhold participation in an international treaty.

The treaty initially made ratification by states that were to be a part of the CTBT's International Monitoring System (IMS) mandatory for the treaty's EIF. Because of this, India withdrew its participation from the IMS.

Treaty on the Non-Proliferation of Nuclear Weapons (NPT) 1968

Its objective is to prevent the spread of nuclear weapons and weapons technology, to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament and general and complete disarmament.

India, Israel, North Korea, Pakistan and South Sudan are not parties to this treaty.

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Basel Convention on Trans-boundary Movement of Hazardous Wastes, 1989

The Basel Convention which came into force in 1992, was a response to NIMBY (Not in My Back Yard) syndrome, that grappled the industrialized world in the 1980s with regard to the heightening concerns about the hazardous wastes and the public resistance to it resulting in an upsurge of disposal costs.

It created a market for hazardous wastes particularly in the environmentally-less-conscious Least Developed Countries (LDCs) which offered cheap disposal alternatives.

The Convention sought to reduce the trans- boundary movement of hazardous wastes by taking necessary steps to minimize the creation of such wastes along with measures to prohibit the shipment of such substances from the developed world to the LDCs.

Questions:

1. Write an essay about the Corruption in India.
2. Discuss in detail about Non-Constitutional bodies of India.
3. Write a note on League of Nations.

