

11. Civil services

Article 311

1. **Article 311** deals with **dismissal, removal or reduction in rank** of persons employed in civil capacities under the Union or a State.
2. **Case for deletion of Article 311**
 1. **Complicated procedures** have arisen out of this article which **have shielded the guilty**. This also lead to **inordinate delays** in prosecution of corrupt officers. **Procedure** has become **more important than the substance**.
 2. Deleting the article will act as **deterrence for dishonest officers** and hence potential to reduce corruption.
 3. Such a provision is **not available** in any of the **democratic countries** including the UK.
 4. With **judicial review now available**, the **protection** to Government employees is formidable even outside Article 311.
 5. This article **was drafted at a time** when it was necessary to prescribe **certain guarantees** to the bureaucracy. Government is **no longer the only significant source** of employment and the role of Government as a model employer cannot override public good.
 6. The main intention was **clearly to embolden senior civil servants** to render **impartial and frank advice** to the political executive. But the compulsions of **equal treatment of all public servants** and made such a protection applicable to everybody and this hampered efficiency and work culture.
3. **Case for retaining Article 311**
 1. It is argued that the **safeguards under Article 311** are focused and that the framers of the Constitution were mindful of the rare eventualities in which even such minimal safeguards would not be necessary.
 2. It **checks arbitrary action on executive part**. Political leaders most of the time exploit the power in their hands to punish those **public servants** who do not act as per their whims and fancies and dare to be upright.
 3. It **upholds the principle of natural justice** by giving a reasonable opportunity of being heard to the civil servant in respect of charges.

4. This article provides protection to **honest and ethical officers**. It helps them to work without undue political interference and fear of political backlashes.
 5. **Judicial review is an integral part of our Constitution** and a substantial portion of the appellate work of the Supreme Court concerns Article 311.
 6. The **rules governing disciplinary enquiries**, and not Article 311 itself, are responsible for the delays.
4. **Way forward**
1. It has accordingly become necessary to **revisit the issue of constitutional safeguards** under Article 311 and to amend it to ensure that the honest and efficient officials are given the **requisite protection** but the dishonest are not allowed prospering in office.
 2. A provision should be added through **amendment** that **prior sanction should not be necessary** for prosecuting a public servant who has been trapped red-handed or found in possession of disproportionate assets. **In the long run** it is desirable that **provision of ministerial responsibility** should also be added as in UK.

Civil services

1. **Arguments for all-India services**
 1. **National Integration:** They promote national integration as the members of these services possess an **all-India outlook**. As they are usually posted in states other than their own, they can **function beyond the regional, linguistic** and communal interests.
 2. **Efficiency:** They help in maintaining **high standard of administration** in terms of administrative efficiency because they attract the **best talent** in the country due to the wide field of recruitment, high remuneration, status and prestige.
 3. **Uniformity:** They help to ensure **uniformity of the administrative system** throughout the nation. The members of these services are rotated between the Centre and the states.
 4. **Cooperative federalism:** They **facilitate liaison, cooperation, coordination** and joint action on the issues and problems of common interest, between the Centre and the states.
 5. **President's rule:** When the President's Rule is in operation in any

state, he can depend on the loyalty and cooperation of these offices for efficient administration. This is because, they are appointed and removed only by the President of India.

6. **Independence:** They promote independence and impartiality of civil service at the highest level. As members of these services enjoy the constitutional safeguards, they are free from regional and local pressures and influences. Hence, they can afford to give free and frank advice to the state ministers.
7. **Beneficial to states:** The talent mobilised through national recruitment to these services is distributed among the states. Hence, the states which are deficient in their manpower supply to fill the high and strategic positions will be benefitted.
8. **Continuity:** Permanent civil service has provided continuity and stability during the transfer of power from one elected government to the other. This has contributed to the maturing of our democracy.
9. **Political neutrality:** Many important institutions which are politically neutral have evolved.

2. Criticism against all-India services

1. **Hang-over of the Past:** These services were created during the period of British rule in India. At that time, the structure of government was unitary and nature of state was authoritarian. After independence, the structure of government and the nature of state underwent a radical transformation.
2. **Against federation:** These services are against the federal system of government provided by the Constitution. They restrict the autonomy and patronage of the states. Rajamannar committee recommended for the abolition of IAS and IPS.
3. **No familiarity:** The members of the All-India Services who come from outside the state may not be familiar with the local language, culture and general environment. Hence, they cannot understand the problems of the people properly.
4. **Lacks specialisation:** It is said that the IAS officers are 'Jack of all trades but master of none'. This point is also recognised by the first ARC which recommended that a functional field should be carved out for the IAS.
5. **Unequal representation:** The states are not equally represented in these Services. The states of the Punjab, UP, Bihar, Tamil Nadu,

Andhra Pradesh are represented more than others. Thus they lack the national character due to **regional loyalties**.

6. **Financial burden:** These services involve larger expenditure on **state governments due to high salary scales**. This is done to attract the best talent from all over the country and to maintain their efficiency.

3. Weaknesses of the existing system

1. **Routine functions:** The Ministries are often unable to focus on their **policy analysis** and policy making functions due to the **undue emphasis on routine work**. This leads to national priorities **not receiving** due attention.
2. **Procedure orientation:** **Procedures and not outcomes** are important.
3. **Separation:** Lack of separation of **policy making, implementation and regulatory** functions.
4. **Ministries:** The creation of a large number of ministries and departments has led to **illogical division of work** and **lack of an integrated approach** even on closely related subjects. Ministries often carve out exclusive turfs and tend to work in isolated silos.
5. **Hierarchy with too many levels:** It leads to examination of issues at many levels causing **delays, corruption** and lack of accountability.
6. **Risk avoidance** and absence of coordination.

4. Structural changes needed in bureaucracy

1. **Separation of policy making from implementation.** Ministries should concentrate on policy making while delegating the implementation to specialized agencies.
2. Government should only focus on its core areas. **Decentralisation** based on the principle of **subsidiarity**.
3. **Increasing coordination of functions and subjects.** Subjects which are closely inter related should be dealt with together.
4. **Reducing hierarchies** will improve efficiency and accountability. **Flatter organisational structure** for enhanced team work.
5. It would also be **unrealistic** to expect for curtailment in the size of the Council of Ministers in an era of **coalition politics**. Instead, a more pragmatic approach would be to **retain the existing size** but increase the **level of coordination** among the departments.

5. Transfer policy

1. **Remove arbitrariness:** Each department must formulate and publicise comprehensive transfer policy.
2. **Continuity:** Term system must be put in place with maximum and minimum years so that no punishment transfer would happen and nexus will not build between them due to long term.
3. **Premature transfer:** Strong compelling reasons must be provided for premature transfers. IAS Ashok Khemka faced 45 transfers in 23 years.
4. **Appeal:** Officers must be provided a chance to appeal against transfer.

6. Ideal minister and civil servant relationship

1. Both should uphold the constitutional provisions and parliamentary laws while discharging their respective duties.
2. A civil servant should faithfully execute all policies and decisions of the minister even when they are against the advice tendered by him.
3. A civil servant enjoys full freedom to express himself frankly without fear in tendering advice to the minister.
4. A civil servant should observe the principles of neutrality, impartiality and anonymity.

7. Deterioration of relationship between both

1. The ministers generally do not encourage free, frank and impartial advice from the civil servants. This hinders mutual understanding and cooperation.
2. The emergence of personal affiliations between the minister and the civil servant leading to politicisation of the civil service.
3. Frequent use of transfer, suspension and disciplinary powers by ministers against civil servants who aren't pliable.
4. Factionalism, group rivalry and casteism among the ministers and the civil servants.
5. Lack of proper understanding with regard to their respective roles. Ministers usually interfere with day-to-day administration while the civil servants do not bring important matters to the notice of ministers.

8. Advantages of a Permanent civil service

1. The spoils system has the propensity to degenerate into a system

of **patronage**, **nepotism** and corruption.

2. Public policy is a **complex exercise requiring in depth knowledge** and expertise in public affairs. A permanent civil service develops expertise as well as institutional memory for effective policy making.
3. A permanent and impartial civil service is **more likely to assess the long term** social payoffs of any policy.
4. A permanent civil service helps to **ensure uniformity in public administration** and also acts as a unifying force particularly in vast and culturally diverse nations.

9. Why reforms are difficult in civil services

1. **Constitutional protection under Article 311**, which shields senior bureaucrats from punishments for corrupt actions. Section 19 of Prevention of Corruption Act also provides similar protection.
2. **Lack of proper legislation governing civil servants**, despite **article 309** providing for the same. Civil Services Bill 2009 was not made into an act.
3. Presence of a strong **civil servant lobby that resists change**. Politician- bureaucrat nexus plays an important role in furtherance of status quo, to the detriment of administration.
4. **Absence** of a fitness board and intense **mid-service reviews**, to weed out unproductive bureaucrats. At present, the rules only allow for performance reviews after **25 years** in service or 50 years of age.
5. **Automatic promotions** and **lack of merit based promotions**, which disincentivise proactive work. Lack of private sector competition due to lack of **lateral entry**.
6. **Increasing politician-bureaucratic nexus**. Lack of **political will** to implement most of the reforms as identified by several committees from time to time.

Challenges in civil services

1. Accountability

1. Civil servants in India are **accountable to the ministers**, but in practice, the accountability is **vague** and of a generalised nature.

The accountability relationship is left to the **incumbent minister to interpret** it in a manner that is most convenient to him/her.

2. This leads to either **collusive relationship or to discord**, both of which can adversely affect the administration. Thus there is an **urgent need to codify this relationship** preferably by enacting a law. The **life long job security** further leads to distorted incentive structure.
3. **Disciplinary action** against non performing officers is a rarity and is a long process.
4. While the performance of government organisations and their **sub-units are periodically subjected** to in depth reviews, seldom are efforts made to **link the organisational performance** to the performance of an individual civil servant.

2. Transfers and postings

1. **Arbitrary transfers and postings** of civil servants by the ministers concern implementation of developmental programmes. Such transfers are made on the basis of caste, religion, money, favouritism. This leads to splitting up of bureaucracy and its **demoralisation**.
2. **Transfer and tenure policies** must be developed in an independent manner and any premature transfer should be based on **publicly disclosed sound administrative grounds** which should be spelt out in the transfer order itself.
3. An officer should be given a **fixed tenure of at least three years** and given annual performance targets.
4. **Civil Services authorities should** be made statutory and autonomous. If the government does not agree with the recommendations of the authority, he will have to **record his reasons in writing**.
5. An officer transferred before his **normal tenure** can agitate the matter before an ombudsman.

3. Ministerial interference in operations

1. **Ministers** issue instructions, formal or informal, **to influence the decisions** of the bureaucracy often intruding in their domains. It has also been observed that officers, instead of **taking decisions on their own**, look up to the ministers for informal instructions.
2. Several states have created an **institution of District Incharge Minister** to review the development activities in the district **who**

routinely exceed their mandate intrude in the officer's domain. These practices are unhealthy.

4. **Appointments to the Civil Services**

1. While the **UPSC enjoys an untarnished reputation** for having developed a fair and transparent recruitment system, the same cannot be said for most of the **SPSCs**.
2. In addition, **large number of recruitments is done by departments** under their control of the government directly. It is essential to lay down certain norms for such recruitments.

5. **Poor incentives for advancement**

1. **Bias toward seniority in filling key posts** reduces the incentive for performing officers to swiftly obtain promotions.
2. Even **poorly performing** officers are **given promotion**.

6. **Lack of specialisation**

1. Some experts have questioned whether the IAS **can continue to exist** as a **generalist service** in a world that is increasingly complex and where domain knowledge has become more valuable.

7. **Human capital**

1. The government is finding it **hard to lure young talent away** from increasingly attractive private sector opportunities.
2. The combination of rising average age and lack of advanced academic qualifications implies that many **candidates spend a majority of their twenties** preparing for and taking **entrance examinations** for the elite civil services.

8. **Attitudinal issues**

1. Civil servants believe that their authority is derived not from the **mandate of the people** but from an immutable corpus of rules that it has prescribed for itself. It needs to give due regards to the **aspirations of the people** and rule of law.
2. With reforms, the role of **private sector and civil society** has increased immensely. So the civil servants need to view them as **partners** instead of asserting their own pre-eminence.

9. **Result orientation**

1. Civil Service in India is more **concerned with the internal processes than with results**. There is too much focus on amount of **inputs used** whether the **full budget is used or not**. As a result **outcomes** get **neglected** and civil servants are not held accountable

for the results.

2. The **structures are based on hierarchies** and there are a large number of veto points.
3. To compound it, the **size and the number of ministries** and departments have proliferated and diminished the **capacities** of the individual civil servants to fulfill their responsibilities.
4. Achievement of results would require substantial devolution of managerial authority to the implementing levels. This would require giving **civil servants in the implementing agencies** greater flexibility and incentives to achieve results as well as relaxing the existing central controls.
5. The **counterpart of devolution should be more accountability**. This can be achieved through agreements with the minister specifying the **performance targets**. These performance agreements should be put in the public domain. They should have clearly spelt out objective and measurable goals.

10. **Resistance to change**

1. The perception is that they **resist change** as **they are wedded to their privileges** and prospects. Thus they have prevented us from realising the full benefits of the 73rd and 74th Amendments since it clashes with their own authority.
2. They also **resist simplification of procedures** which is a pre-requisite for introduction of e-governance since it would undermine their importance.

11. **Exit mechanisms**

1. At present, **rarely does a civil servant get dismissed** from service or is punished on grounds of incompetence. It is necessary that all civil servants undergo a **rigorous assessment** of performance, at **regular intervals**, and compulsory retirement.
2. **New appointments** should be made only for a **fixed period**, say 20 years, after which if the performance is not satisfactory, he can be removed. Such provisions are there in armed forces.

12. **Reforms undertaken**

5) Reforms undertaken

(A) Institutional

- 1) End to VIP culture
- 2) CPC recommendations
- 3) Lateral entry
- 4) Civil service Board
- 5) Declaration of assets

(B) Functional

- 1) 360 degree appraisal
- 2) Compulsory retirement
- 3) Amendment to Prevention of Corruption Act to protect honest officers

13. Committee recommendations

2) 2nd ARC

- 1) Establish National Institute of Public Administration
- 2) Promotions should not be merely on seniority but on the completion of mandatory training programs
- 3) Fix minimum tenure for senior civil servants
- 4) Provide safeguards against arbitrary dismissal of civil servants

1) Recruitment

- i) Encourage lateral entry
- ii) Strengthen municipal corporation cadres

2) Training

- i) re-orient training to meet job-outcome oriented goals
- ii) Mid career training modules

3) Evaluation

- i) Replace ACRs with MSFC (Multi-stake holder feedback)
- ii) Compulsory retirement for underperforming officers

4) Governance

- i) Improve public access to information through the ICT and RTI Act
- ii) Introduce appropriate system of checks and balance, including for the process of suspension

14.

15. Other reforms

1. **Reduce the number of civil services:** The existing 60 plus separate civil services at the central and state level needs to be reduced through rationalization and harmonization of services.
2. **Encourage lateral entry:** Inducting specialists at higher levels of government will provide much needed expertise.
3. **Nurture specialisation:** The key to reform in the civil services is encouraging officers to cultivate specialisations based on their education and skills early on in their careers. Hota committee recommendations.
4. **Incentivise:** Review existing schemes and introduce new schemes of incentives for extraordinary performance.
5. Efforts need to be made to **outsource service delivery to reduce dependence** on the administrative machinery.

6. Introduce **mid-career training modules** for all services.
7. **Compulsory retirement for underperforming** officers.
8. **Citizen-centric** framework.
9. Institutionalise system for **effective monitoring of suo moto disclosures**.
16. **Effective, efficient and development oriented** civil services are necessary to achieve **goals envisaged in New India 2022**.

Generalist vs Specialist

1. The civil services in India can be grouped into two broad categories viz. **technical services** and **non-technical services**. The **technical services** are those to which recruitment is done on the basis of **specialised and professional qualifications** of the candidates. Ex: IES, Indian statistical service, etc.
2. The **non-technical services** are those to which recruitment is done on the basis of general educational qualifications and is open to all candidates who possess the **minimum required educational qualification**. Ex: IAS, IPS, etc.
3. **Controversy**
 1. The **pay and service conditions (including promotion) of the generalists** are **more attractive and favourable** than those of the specialists.
 2. The **majority of top posts** in the Union and state governments are **reserved for the members of IAS**. In other words, entry into these top posts is usually denied to the specialists.
 3. **Inter-organisational mobility** of generalists is much wider than that of specialists. The IAS officers move from **one department to another**, from a department to a public enterprise or local government and vice-versa. The **specialists move only within their respective departments** or fields of administration.
 4. The **performance appraisal** and assessment of specialists is done by generalist IAS officers.
4. **Case for generalists**
 1. The generalists are more suitable than specialists for the performance of **higher management level jobs** due to their wide and **rich experience**.

2. The tenure system of Secretariat staffing which is based on the concept of **district or field experience** favours a band of generalist administrators.
 3. A **generalist acts as a mediator** between a **amateur minister** and the **specialist**, between the people and the government, and between the pressure groups and public interest.
 4. The **specialists are narrow minded** and **parochial** as they know more and more about less and less. The generalists, on the other hand, have a broad out look and flexibility of approach.
5. **Case for specialists**
1. Sometimes **policies formulated** by the generalists are **unrealistic** as they are not fully aware of the problems faced by the specialists in the effective implementation of policies.
 2. Generalists cannot understand the **technical complexities** of the proposals forwarded by the specialists.
 3. **Functions of administration today** have become more complex, more technical and subject specific.
 4. In the present set up, a **minister is deprived of expert advice** and specialised knowledge of the specialists.

Lateral entry

1. DoPT has invited applications for **10 joint secretary level posts** in the departments of economic affairs, revenue, commerce and highways and others. Lateral Entry to higher positions in bureaucracy is **not new in India**. Ex: **Raghuram Rajan** as RBI head, **Montek Singh Ahluwalia** as PC chairman, etc.
2. **Benefits of lateral entry**
 1. The system of domain where a civil servant **specialises after 14 years of service** in any one field has been recommended by **2nd ARC** and **Hota committee**.
 2. In an era when **policymaking has become increasingly specialized**, there is a need for officials who are immersed in a particular area.
 3. **Bring in fresh ideas and augment manpower**. The lateral entry exercise is aimed at bringing in fresh ideas and new approaches to governance and also to augment manpower.
 4. They **provide an opportunity to attract and retain the best** from across the world that have a sector perspective and boost a

ministry's capabilities.

5. **Resolve issue of under staffing** at senior officer level. For instance, the **Foreign Ministry has fewer diplomats** to service India's global ambitions **than Singapore** has. This is true for other departments too where senior officials end up dealing with policy and operational matters.
6. **Lateral hiring is common practice in other democracies** such as the UK, US and Canada.

3. Challenges in lateral entry

1. **Nepotism** and **corruption** may creep in during selection process.
 2. The **civil services** administrative framework has integrated the diverse country into a coherent whole. Therefore, we **should not tamper with the framework**.
 3. The width and depth of **field experience** which the civil services provide is simply not available with outside talent.
 4. The **best talent** can be attracted in civil services only if there is **reasonable assurance of reaching top level** managerial positions.
 5. **Transparency and accountability in selection panel should be ensured**. Civil servants should be allowed to **compete** for the post with **lateral entrants**. Training the civil servant to help them acquire **specific skill** to make them competent and motivated.
4. Though, **lateral entry addresses the issue of lack of specialization in civil services**, the structural issues regarding bureaucratic rigidities and red tape, lack of transparency in working of bureaucracy, political interference etc. remains. Lateral entry needs to be coupled with other reforms to overhaul civil services.

5. Lateral exit

1. This is about showing the **door to the inefficient civil servants** or to those who **don't want to work**. This may be temporary or permanent.
2. Civil Servant may become **incompetent** with time. So, removing such officers can **reduce inefficiency** and can also leads to judicious usage of money. Training to civil servants in private sector to get domain specialisation.
3. By this they may **inculcate good practices and work culture** of the private sector, which will be later helpful. **Seeking for peace and rest** after exhaustive stay in service to get energised and continue later. **Personal commitments** to family, intellectual development

etc may also need lateral exit.

4. But challenges do exist in the form of **politics forcing civil servant to exit**, loss of information with them and **demoralisation** of civil service cadre.

Honest public servants

1. **Many times upright officers are victimised** through frequent **punitive transfers**, threat to their families and fabricating false cases.
2. **Following safeguard are available**
 1. The civil servant must be allowed sufficient **opportunities to challenge the charges framed against him/her**.
 2. He/she should not be **dismissed or removed from service** by an authority, that is **subordinate** to the one that had appointed him/her.
 3. **Only a special judge** is competent to take **cognisance of an offence of corruption**.
 4. **A case under PoCA** can only be registered by **CBI** or anti-corruption agency and not by police.
3. **Issues**
 1. The **power to initiate a preliminary inquiry** against an accused still needs **governmental sanction** in a number of cases.
 2. A **prolonged inquiry** offers sufficient leeway to the corrupt public servants.
 3. Often, honest public servants are the victims of **frivolous charges** framed against them.
 4. Chances of **witch hunting** as **Kelkar committee** recommend that to amend PoCA to distinguish genuine errors from malafide intention.
4. **ARC recommendation**
 1. **In-depth scrutiny of complaint** at initial stage.
 2. The process for departmental **inquiry should be time-bound** and should not prolong much.
 3. There should not arise the need for **prior sanction** for beginning a preliminary inquiry.
 4. The honest public servants **should not be harassed unnecessarily**, if they have functioned within the limits of their jurisdiction and

authority.

5. **Secrecy of the enquiry** to protect honest officer.
 6. **Competent personnel must handle** such cases.
5. The dire necessity is to fill in the existing gap by protecting the honest officers while making the corrupt officers realize that they are not above law. The protection to an honest public servant is required not only in his/her interest but in the **larger interest of society**.

Why some bureaucrats show courage?

- Personal level:
 - Conscience as their guide
 - Impartiality towards any political parties
 - Dedication to public services over personal gains
 - Maintaining integrity is important to them
 - Emotional support from colleagues and family
 - Commitment to public interest
- System level:
 - Strong belief in the efficacy of the system

• Why some bureaucrats do not show the required courage?

- Personal level:
 - Lack of moral conviction and character
 - Domination of materialistic values – Tangible (money) and intangible (posts after retirement) benefits offered for obeying corrupt masters
 - Fear of transfers if orders are not obeyed, which could unsettle one's family
 - No emotional support from either family or friends
- System level:
 - Politicisation of bureaucracy and criminalisation of politics
 - No belief in the system – thinks one person is insufficient to change it
 - No adequate protection for whistleblowers

-
- Change has to happen both at the individual and systemic level
 - Individual-
 - Moral training for bureaucrats
 - Attitudinal training to be more transparent, and accountable
 - Systemic-
 - 360-degree performance management system which should include taking courageous decisions as a parameter
 - Similar to the lateral entry, there should be a timely lateral exit for those who are found to be corrupt
 - Enhanced protection of identity of the whistleblower – strengthening the Whistleblowers' Act

District administration

1. Restrict the role of collector

1. With the **establishment of PRIs and municipal bodies** it is imperative that the devolution of decision making to local levels should be carried out in true spirit. The collector should be ultimately made responsible to the local bodies.
2. **Strong traditions** linked with this institution and its recognition in the public mind as the prime mover of governance at the district level would tend to **impede growth of other authorities**.
3. The office currently has **widespread functions** without well defined roles. This **results in lack of clarity** and diffusion of the Collector's responsibilities.
4. There is no need to assign any role to the Collector in respect of activities which are **transferred to the PRIs**.

2. Preserving the role of collector

1. It is equally imperative that the unique **administrative experience, expertise** and **credibility of the office** of the District Collector built up over a period of two hundred years is properly utilised.

Principle of Subsidiarity

1. It means that what can best be **done at the lower levels of Government** should **not be centralised at higher levels**. The citizen **must exercise as much authority as practicable**, and delegate upward the rest of the functions which require economies of scale and can be done **more efficiently at a higher level** only.

2. Advantages

1. **Local decision** making **improves efficiency**, promotes **self-reliance**, encourages **competition** and nurtures **innovation**.
2. There will also be **greater ownership by the local communities**.
3. Democracy is based on the fundamental assumptions that **citizen is the ultimate sovereign** and has the capacity to decide what is in his best interest. Subsidiarity is the concrete expression of this assumption.
4. Once decision-making is delegated lower, **people can better appreciate** that **hard choices** need to be made.

ARC recommendations on corruption

1. **Second ARC** report accepts that there is a **widespread level of corruption** existing in governance of the country owing to various **socio-political, economic** and **cultural** factors. Apart from the existing anti-corruption institutions at the central level such as CVC, CBI, it recommends various other ways to tackle the menace of corruption at different levels.
2. **ARC recommendations**
 1. **Passing of Lokpal and Lokayukta bill** in order to deal with cases of corruption on members of parliament and state legislatures.
 2. **Regulation on use of money and muscle power in elections** and providing for partial funding of election by state in kind.
 3. **Strengthening of anti-defection law** and giving primacy to the view of election commission on such matters.
 4. **Developing a model code of conduct** for Ministers and civil servants.
 5. Repealing **article 311** in order to end the practice of safeguarding corrupt civil servants.
 6. **Making civil services more empathetic** and responsive to the demands of citizens by building **citizen's charter** and ensuring time bound delivery of goods and services.
 7. Use of technology to bring more **transparency** in government through various **e-governance initiatives**.
 8. Passing **whistle blowers protection bill** in order to provide anonymity and security to whistle-blowers.

3. The ways suggested by ARC report has many **noble features** but it **needs strong political will and culture** to implement these in actual practice.
4. The **culture of steel frame**, still holds very strong in the mind of people and hence repels people away from participating in better governance. **Education and extensive involvement of people** in governance can go a long way in ensuring transparency and non partisanship.

Lokpal

➤ Lokpal will consist of a **chairperson and a maximum of 8 members**, 50% of who would have judicial background. 50% on the whole would be from SC, ST, OBC, minorities and women

➤ Selection of Lokpal members will be by a committee comprising the **PM, speaker, leader of Oppn in LS, CJI and eminent jurist**

➤ It will have **jurisdiction over all levels of public servants, including PM**. But Lokpal can't initiate any probe against PM without consent of two-thirds of its members. There can be no probe against PM on complaints relating to international relations, security, public order, atomic energy & space

➤ **No prior sanction required for launching prosecution in**

enquiry. If a prima facie case is established, Lokpal can refer the case for investigation to any agency, including the CBI. It will have power of superintendence and direction over any investigating agency for all cases referred by it

➤ Lokpal will have an **independent prosecution wing**. Once the investigation is completed, Lokpal may direct its prosecution wing or the agency concerned to initiate the prosecution

➤ Separating the CBI's investigation and prosecution functions, the Bill creates a **directorate of prosecution** linked to the agency. The directorate will be headed by a **prosecutor reporting to the CBI director**

➤ The Bill **enhances the**

cases probed by Lokpal or investigated at its instance.

Lokpal will be empowered to attach provisionally any ill-gotten wealth even while prosecution is pending. The attachment is subject to confirmation by court

➤ Lokpal will have its own inquiry wing for preliminary

maximum punishment for corruption from 7 years to 10 years. The minimum term for any conviction in a corruption case will be 2 years

➤ The Bill makes it **mandatory for every state to set up within a year a Lokayukta**, the corresponding ombudsman for public servants in states

Police reforms

1. According to BPRD 2017 report, there are **150 police per lakh population** in India. On an average, globally, there are **300 police per 1 lakh population**. Around 10% of all the crimes under IPC in India are women related.

2. Issues



A handwritten list of issues in police reforms, categorized into five main groups:

- 1) Legal
 - 1) colonial era laws
- 2) Infrastructure
 - 1) Lack of proper infrastructure
 - 2) lack of technology
- 3) Institutional
 - 1) lack of training
 - 2) no effective accountability
 - 3) rigid hierarchy
 - 4) cyber crimes
- 4) Social
 - 1) non friendly policing
 - 2) keeps away poor & vulnerable
 - 3) Suicide among police personnel
- 5) Functional
 - 1) Low quality investigation
 - 2) politicisation of police
 - 3) corruption
 - 4) overburdened police force
 - 5) custodial torture

3. Problems

1. They not only have to look after law and order but are also given **traffic duties, VIP duties**, etc. This further reduces their inefficiency.
 2. Police has been reduced to a **mere instrument in hands of politicians** to further their ends. It is itself a major partner in the crime. To go **slow on certain cases**, to thwart investigation, to deal with **political opponents**, police are needed for the politicians.
 3. **Training methods** of police personnel are **outdated**. Even in this digital age where crimes are becoming sophisticated, focus is on **physical fitness**, etc. **Cyber training is missing**. This reduces their effectiveness to control crime.
 4. There are **inefficiencies in criminal justice system** and police is just one part of this system. Main party responsible for this mess is **Judiciary's** lethargic performance. **Even for minor cases** there takes place hundreds of **hearings**, which unnecessarily increase workload of the police.
 5. Police is an exclusive subject under the **State List**. States can enact any law on the subject of police. But most of the states are following the archaic **Indian Police Act 1861** with a few modifications.
 6. In India, there is **overall low respect for police** unlike that in developed countries like England and Japan. **Corrupt image of police** results in fear and resentment in public which in turn results non-cooperation.
4. **SC Judgements in Prakash singh case**
1. **Separate the investigation and law and order** functions of the police.
 2. **DGP** should be appointed through merit based transparent process and should secure a **minimum tenure of two years**.
 3. Setup a **National Security Commission (NSC)** at the **union level** to prepare a panel for **selection and placement of chiefs** of the Central Police Organisations (CPO) with a minimum tenure of two years.
 4. Constitute a **State Security Commission (SSC)** at the state level to **reduce unwarranted influence on the police by the state**. It also should lay down broad **policy guideline** and should **evaluate performance** of the state police.
 5. Setup a **Police Establishment Board (PEB)** to decide **transfers**,

postings, promotions and other service related matters of and below rank of DSP.

6. Setup a **Police Complaints Authority (PCA)** at state and district levels to inquire into **public complaints against police officers** in cases of serious **misconduct**, including **custodial death**, grievous hurt, or rape in police custody.

5. **Other SC directives**

1. State govt should send their proposals for the appointment of DGP to UPSC three months before the incumbent is due to retire. Upsc will prepare a panel of officers fit to be DGP in the State concerned. State shall appoint one of the persons shortlisted.

6. **Issues**

1. As per **Justice Thomas** committee, **State Security Commissions (SSC)** are dominated by government and police officers.
2. The **composition** and **powers** of the State Security Commissions and the **Police Establishment Boards (PEB)** were at **variance** with the Supreme Court directions.
3. Many of these commissions **did not have the power** to issue **binding recommendations**.
4. **Duration of DIGs were not fixed** and thus, they were being removed midway on the most untenable and imaginary grounds. Ex: **TP Senkumar case in Kerala**.
5. The Supreme Court itself has expressed its **inability to ensure implementation** in the face of non-compliance by so many states.

7. **Other reforms**

1. **Model Police Act 2015** can serve as the basis for legislative reform.
2. **Identify non-core functions that can be outsourced**.
3. States should be encouraged to ensure **greater representation of women** in the police force.
4. It is important to consider introduction of remodelled **training modules**, **refresher courses** and **continuing education** for police personnel.
5. **Introduce filing e-FIRs for minor offences**.
6. A **separate cadre** for exclusively looking into **cyber crimes**, **cyber threats** and fraud needs to be developed.
7. The **CCTNS project** may be completed for **linking of crime**,

prosecution, court and prison databases.

8. In Kerala, there is system of **community policing** under which a small group of police officials pay regular house visits to listen to people's grievances and ideas. This can be implemented across all states.
9. There are internal appraisal systems in police department like '**monthly police report**' under which is submitted to senior authority. This **report should be made public** so as to better reflect performance of police.
10. Policing and maintenance of law and order are primary, but not sole, responsibility of police department. **Civil authorities have to ensure proper infrastructure** (street lightning) is in place, due to which crime is curtailed.

8. Indian police act, 1861

1. The Police Act, 1861 was based on the **recommendations** of a committee established post **sepoy mutiny of 1857**. Hence, automatically it laid the roots of an **authoritarian and coercive force**, unmindful of the rights of citizens. Post independence almost all the British era political and administrative structures were reformed, yet the **colonial system of policing** established by the Act did not change much.
2. **Goal clarity:** Police is still not sure whether it is a **coercive arm** of the state or **citizen centric** service.
3. **Role clarity:** **Over burdened** with all type of possible roles i.e. preventive, protective, investigative and non-core functions like **traffic management**.
4. **Structural:** Almost 85% police is constabulary with **middle level officers crunch**, unity of command missing due to **dual reporting** relationship both to the senior police officials and civilian bureaucracy.
5. **Operational:** **Failed** to establish police as independent **autonomous body** without **political intervention**, perceived as insensitive and violator of human rights.
6. **Training:** Flawed archaic process of recruitment and training that still gives undue **importance to physical fitness** especially for constabulary, while the crimes are becoming sophisticated.
7. **Poor infrastructure:** Lack of police stations with **basic amenities**, lack of good **R&D support**, poor armoury and weapons quality.

8. **Behavioural problems:** Lack of counselling, senior and **peer support** regarding stress generating factors during the entire service.

9. **FIR online**

1. Protecting the **accused** as he/she knows that he figures in an FIR. He/she will also know the **allegations** which formed the basis of his accusation.
2. This order is also a **shot in the arm for activists** who want to protect citizens from state harassment on flimsy grounds.
3. Makes it **difficult for station house** officers to **ignore crime**, a common practice adopted with a view to helping an offender. This will solve the problem of corruption involved in getting an FIR filed.
4. Makes it **difficult to dress up police statistics** so that rise in crime is concealed.
5. There will be an exemption from the directive when the alleged offence is **sensitive**, such as **sexual violence** or one in which there is an angle of national security, **insurgency** or terrorism.

10. **Reforms required to stop custodial death**

1. **Accountability:** The only way to thwart what goes on in these institutions is to make them **accountable**.
 2. **Surveillance:** Supreme court last year ordered to install **CCTV cameras** in all the prisons in the country.
 3. **Monitoring:** Prison monitors are mandated to regularly **visit jails**, listen to **prisoners grievances**, identify areas of concern, and seek resolution. These visitors include **magistrates** and **judges**, State human rights institutions, and non-official visitors drawn from society.
 4. **Psychological:** **Providing counselling** to inmates is crucial for them to deal with the ordeal they undergo in custody.
 5. **Registering and reporting cases:** **File FIR and report all** cases of **custodial death** to the **NHRC** within 24 hours of their occurrence.
 6. **Guidelines:** NHRC has repeatedly issued **guidelines** to prevent and respond to custodial deaths. It is time for the State governments to start taking these guidelines seriously.
11. We need **SMART Police**. Sensitive, mobile, Alert, Reliable and Tech-Savvy.