

7. Constitutional, statutory and regulatory bodies

Election commission

1. The Constitution of India has vested in the Election Commission (EC) of India the **superintendence, direction and control** of the **entire process for conduct of elections** to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

1.2 Composition and Conditions of Service:

1. **EC shall consist of the chief election commissioner** and such number of other election commissioners, if any, as the president may from time to time fix (presently CEC + 2 ECs)
2. The **appointment** of the chief election commissioner and other election commissioners shall be **made by the president**
3. The president may also appoint after consultation with the election commission such **regional commissioners** as he may consider necessary to assist the election commission
4. The **conditions of service and tenure of office** of the election commissioners and the regional commissioners shall be **determined by the president**
5. When any election commissioner is appointed, the **chief election commissioner acts as the Chairman** of the Election Commission
6. The chief election commissioner and the two election commissioners **draw salaries and allowances at par with those of the Judges** of the Supreme Court of India
7. The chief election commissioner or an election commissioner **holds office for a term of 6 years** from the date on which he assumes his office or till he attains the age of 65 years, whichever is earlier
8. Election commissioner or a regional commissioner **shall not be removed** from office **except on the recommendation of the chief election commissioner**

Q: Are the commissioners and the CEC equal?

In *S.S. Dhanoa vs Union of India (1991)*, the SC held: "The chief election commissioner does not appear to be primus inter pares, i.e. first among equals, but **he is intended to be placed in a distinctly higher position**"

In *T.N. Seshan vs Union of India (1995)*, the **SC held that the CEC and ECs are equal**. CEC is given the power of recommending the removal of ECs with the intention of shielding them and not to use it against them. CEC cannot use it suo moto as he is an equal to them

The Chief Election Commissioner and Other Election Commissioners (Conditions of Service) Act, 1991, as amended, provides that in case of difference of opinion on any matter, such matter shall be decided by the **opinion of the majority**. Thus the **CEC cannot over-ride any decision of the commission by himself**. As Chairman of the Election Commission he presides over the meetings, conducts the business of the day and ensures smooth transaction of business of the commission.

1.3 Independence of the Election Commission:

Article 324 of the Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of the election commission:

1. The **CEC is provided with the security of tenure**. He holds office for a term of 6 years from the date he assumes office or till he attains the age of 65 years, whichever is earlier
2. Art. 324(5) says that the **CEC cannot be removed from his office except in like manner** and on like grounds **as a Judge of the Supreme Court** i.e. he can be removed by the president on the basis of a **resolution passed to that effect by both the Houses** of Parliament with special majority, either on the ground of proved misbehaviour or incapacity
3. **Any other election commissioner** or a regional commissioner **cannot be removed from office except on the recommendation of the CEC**
4. The **service conditions of the CEC cannot be varied to his disadvantage** after his appointment

Some flaws:

1. The constitution has not prescribed the **qualifications** (legal, educational, administrative or judicial) of the members of the Election Commission
2. The constitution has not debarred the **retiring election commissioners from any further appointment by the government**
3. The administrative expenditure of the EC or the salaries, allowances and pensions of the CEC and ECs are **not charged on the Consolidated Fund of India**

1.4.1 Administrative Functions:

1. **Art. 324(1) vests in the Commission the powers of superintendence, direction and control** of the elections to the offices of the President and Vice-President, both Houses of the Parliament and both Houses of the State Legislature.
2. ECI appoints the following-
 - **Chief Electoral Officer-** ECI in consultation with State Government/Union Territory Administration nominates or designates an Officer of the said State/UT as the Chief Electoral Officer to supervise the election work in the State/UT
 - **District Election Officer-** ECI in consultation with the State Government/ Union Territory Administration designates an officer of the said State/UT as the District Election Officer to supervise the election work of a district
 - **Returning Officer-** ECI in consultation with State Government/Union Territory Administration nominates or designates an officer of the Government or a local authority as the Returning Officer for each assembly and parliamentary constituency. **Returning Officer is responsible for the conduct of elections in the parliamentary or assembly constituency and may be assisted by one or more Assistant Returning Officers (again appointed by ECI) in the performance of his functions**
 - **Electoral Registration Officer-** ECI appoints the officer of State or local government as Electoral Registration Officer for the preparation of Electoral rolls for a parliamentary/ assembly constituency
3. To **prepare and periodically revise electoral rolls** and to register all eligible voters
4. To **supervise the machinery of elections** throughout the country to ensure free and fair elections
5. To **notify the dates and schedules of elections** and to scrutinise nomination papers
6. To **register political parties for the purpose of elections** and grant them the status of national or state parties on the
7. To **grant recognition to political parties** and allot election symbols to them
8. To act as a court for settling disputed relating to **granting of recognition to political parties** and allotment of election symbols to them
9. To **enforce the Model Code of Electoral Conduct** that is mutually agreed upon by the political parties
10. To **prepare a roster for publicity of the policies** of the political parties on radio and TV in times of elections
11. To **enforce limits on expenditure on elections**
12. It has the power to postpone or order re-polls or countermand elections in the event of rigging, booth capturing, violence and other irregularities

1.4.2 Advisory Functions:

1. To **advise the President and the Governor** on matters **relating to the disqualifications of the members of parliament** and members of the state legislature respectively. The opinion of the Commission as given to the President or the Governor is **binding**.
2. **Cases of persons found guilty of corrupt practices** at elections which are dealt with by **SC and High Courts** are also referred to the Commission for its opinion on the question as to whether such a person is to be disqualified and, if so, for what period
3. **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 1 year

1.4.3 Quasi-Judicial Jurisdiction:

1. The commission has the **power to disqualify a candidate** who has not lodged an account of his election expenses within the time and in the manner prescribed by law. The commission also has the power to remove/reduce the period such disqualifications and any other disqualification under the law.
2. It has quasi-judicial jurisdiction in the case of **settlement of disputes** between the splinter groups of a recognised party.

CAG

1.

The Constitution of India 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** and controls the entire financial system of the country at both the levels- the centre and state. **His duty is to uphold the Constitution of India and the laws of Parliament in the field of financial administration.**

CAG helps the parliament/state legislatures hold their respective governments accountable. **He is one of the bulwarks of the democratic system of government in India**; the others being the SC, the ECI and the UPSC. It is for these reasons Dr. B R Ambedkar said that the CAG shall be the **most important Officer under the Constitution of India and his duties are far more important than the duties of even the judiciary.**

2.2 Constitutional provisions

- Art. 148: broadly speaks of the CAG, his appointment, oath and conditions of service
- Art. 149: broadly speaks of the **Duties and Powers of the CAG**
- Art. 150: **The accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the CAG, prescribe.**
- Art. 151: Audit Reports:- **The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the president,** who shall cause them to be laid before each House of Parliament.

2. Financial accountability and CAG

1. The **CAG submits three audit reports** to the President, namely, **audit report on appropriation accounts**, audit report on **finance accounts** and audit report on **public undertakings**.
2. **Public Accounts Committee** examines the annual audit reports of the **CAG**, which are laid before the Parliament by the President. In the fulfilment of its functions, the **committee is assisted by the CAG**. In fact, the CAG acts as a guide, friend and philosopher of the committee.

3. Independence of office of CAG

1. **CAG can be removed by the President only in accordance with the procedure mentioned in the Constitution.** Thus, he does not hold his office till the pleasure of the President, though he is appointed by him.
2. He is **not eligible for further office**, either under the Government of India or of any state, after he ceases to hold his office.

3. His **salary and other service conditions** though determined by the Parliament **cannot be varied to his disadvantage** after appointment.
4. His **administrative powers** and the **conditions of service of persons** serving in the Indian Audit and Accounts Department are **prescribed by the president after consultation with the CAG**.
5. The **administrative expenses** of the office of the CAG, including all **salaries**, allowances and **pensions** of persons serving in that office are charged upon the Consolidated Fund of India. Thus, they are not subject to the vote of Parliament.

4. **Functions of the CAG**

- He **audits all transactions of the Central and state governments** related to debt, sinking funds, deposits, advances, suspense accounts and remittance business
- He **audits the accounts of any other authority** when requested by the **President or Governor** e.g. Local bodies
- He **advises the President with regard to prescription of the form** in which the accounts of the Centre and states shall be kept
- He **submits his audit reports relating to the accounts of the Centre to the President**, who shall, in turn, place them before both the houses of Parliament
- He submits his audit reports relating to the accounts of a State to the Governor, who shall, in turn, place them before the state legislature
- He **ascertains and certifies the net proceeds of any tax** or duty and his certificate is final on the matter
- He **acts as a guide, friend and philosopher** of the Public Accounts Committee of the Parliament
- He **compiles and maintains the accounts of state governments**. In 1976, he was relieved of his responsibilities with regard to the compilation and maintenance of accounts of the Central government due to separation of accounts from audit

5. **Limitations of CAG**

1. **Its report is post-facto** i.e. after the expenditure is incurred and **has only prospective value** in improving systems and procedures.
2. **Secret service expenditure is outside the purview** of the CAG and he cannot call for particulars of expenditure incurred by the executive agencies, but has to accept a certificate from the competent administrative authority that the expenditure has been so incurred.
3. Since the legislation, the government has increased its **participation with the private sector** through the **PPT and BOT models**. However the rules have not undergone a significant change and CAG **does not** have the **power to audit PPP** (Public Private Partnership) investments.
4. There is **no provision for auditing of funds** that are given to an **NGO and elected local bodies**. Today when NGOs have become a

conduit for a multitude of government schemes.

5. CAG presently **does not have the full authority to audit the PRIs and ULBs**. In most states, the **examiners functioning** under the Finance Department audit the accounts of local bodies.
6. **DRDAs** (District Rural Development Authority) today are **managing large sums of money** for rural development yet they also are outside the purview of CAG audits.
6. **CAG's work should go beyond** the question of whether government **funds** are being spent appropriately to ask **whether programs and policies are meeting** their objectives and the needs of society.
7. **Issues in appointment**
 1. The **selection process** for the CAG is entirely **internal** to the Government machinery with opaque selection procedure. Thus there is **lack of clarity on the criteria**, the **definition of field of choice**, the procedures for selection, etc.
 2. Since 1966, **only one IAAS officer** has been chosen while all other postings went to senior civil servants. This has had a **demoralising effect** on the **IAAS cadre**. The field of choice should be wide to include IAAS, IAS, and other experts from outside Government.
 3. The **appointment of former secretaries as CAG** may compromise the independence of this institution because of apparent conflict of interest.
 4. There is a need to frame a **transparent selection** procedure based on definite criteria and constitute a broad-based **non-partisan selection committee**. There needs to be an institutionalised process of selection for the post of CAG, a selection committee as seen in the appointment of CVC (involving PM, Leader of Opposition and Home Minister) and the Chairman of the NHRC may be considered.
8. **Expanding role of CAG**
 1. **Newer infrastructure under PPP** (HAM), Air India turnaround plans, DISCOMS audits, etc., lead to increase in jurisdiction of CAG.
 2. **Jurisdiction expansion over private bodies** which **use public resources after 2014** judgement for telecom companies and **BCCI** after Lodha Committee recommendations.
 3. **Conducting of performance audits of schemes/policies** and questioning of Govt. regarding usage of **public money in 2G, coal**

allocation, NRHM implementation, crop insurance, etc.

4. Environmental audits regarding climate change, flood control, etc.
5. Economic audits regarding GST, demonetisation fallouts, etc also add to the burden.
6. International auditing of UN HQ.

9. Challenges associated with expanding powers

1. Appointment process recently is not neutral and transparent which may leave room for collusion
2. May create frequent strife with political class, which may act detrimental.
3. Overburdening of already pressurised CAG workforce may affect quality of audits.
4. Lack of sectoral experts inside CAG to study multiple links in varied areas like environment, sports and economy.
5. To garner cooperation from newer constitutional agencies like GST council, and revenue authorities regarding effective data-sharing (else may lead to exaggerated audit figures).
6. Executive slackness and high litigation rates in India may lead to ignorance of many recommendation (Power DISCOMS).

10. Can CAG go into policy decision

- In the recent past CAG's reports on 2G, Coal blocks allocation, Delhi Airport PPP have made the Government very uncomfortable with the audit findings. In order to defend its position, some members of the ruling party have raised questions about CAG's jurisdiction and observed that he has exceeded his mandate. What is the veracity of such criticism? The CAG's role should be viewed in the context of our constitutional scheme under which the executive is accountable to Parliament. CAG is an essential instrument for enforcing the accountability mechanism as the CAG's reports on government's stewardship of public finance are required to be placed in Parliament and state legislatures under Article 151 of the Constitution. To enable him to discharge this responsibility, without fear or favour, he has been given an independent status under Article 148 analogous to that of a Supreme Court judge.
- The word 'audit' has not been defined in either the Constitution or in the CAG Act, 1971. We have so far been going by 150 years of history, tradition, existing provisions and international practice. The CAG has not formulated his own policy in the above reports and has only gone by policy prescriptions recommended internally at various levels within the government. It is within the mandate of CAG to comment on a policy in cases wherein-
- The financial implications of a policy were not gone into at all before the decision was made
- The assessment of financial implications was quite clearly wrong
- The numbers were correct but the reasoning behind the decision was questionable

Further, the CAG is **bound by the oath of office to uphold the Constitution of India** and thus is bound to comment on policy matters that seem unconstitutional. If the government were to formulate a scheme or policy that selectively **confers benefits from public funds** on an individual or a group to the exclusion of others, **it is the CAG's duty to point this out**. Thus the CAG was well within his mandate to comment on the above policy decisions.

11. Consequences of making CAG accountable to parliament

1. According to the Constitution, the **CAG is meant to be autonomous**. With constant threat to its autonomy, reports of the CAG may not remain impartial and **lose credibility**. The legislature must not undermine the constitution to establish its supremacy.
2. **Political interference** in the functioning of the CAG **may increase**, resulting in erosion of its autonomy.
3. Recent **proactive interventions of the CAG** which brought out a series of scams and corruptions to the light made **immense faith** in the public and they view it as a proper unbiased check on the executive. This **trust should not be eroded**.
4. It may also trigger a **debate** on making other **constitutional bodies like EC, UPSC etc.**, accountable to the parliament.

12. Measures to strengthen the PAC-CAG relationship

1. The **Indian Parliament** could adopt a charter or **convention** outlining the broad contours of cooperation between the CAG and the PAC to adopt a mutually **reinforcing approach**. The **PAC may issue suo moto reports** to highlight failures in matters of financial governance which the CAG may follow up to **ensure probity**, accountability and transparency.
2. **Public Accounts Committee (PAC)** of Parliament could recommend legislative changes, to provide adequate **institutional support to the CAG** in order for him or her to discharge this vital, constitutionally enshrined role.

UPSC

1. Suggestions to improve UPSC

1. UPSC should try to go **beyond the recruitment role** to evolving answers to issues relating to civil services and their role in a rapidly changing society. It should serve as a **think tank on personnel issues**.
2. Services are often out of touch with new developments in

technology and knowledge. UPSC should liaison with such research institutions to conduct regular **pecially designed courses for administration**.

3. The increase in work of the commission has been manifold. There is a need of **decentralisation** to effectively align with this increase in workload.
4. UPSC so far has worked with **remarkable competence**, impartiality and **integrity**. However a new world based on openness, **accountability** and delivery has emerged. UPSC needs to be in sync with these changes.

2. UPSC and CVC

1. Since the emergence of CVC, the role of UPSC in **disciplinary matters has been affected**. Both are consulted by the government while taking disciplinary action against a civil servant. Here, **UPSC being an independent body has an edge over CVC** which got statutory status in 2003.
2. Recently, in order to ensure **speedy finalisation of disciplinary matters** and to avoid possibilities of difference of opinion between UPSC and CVC, it has been decided as a policy to prescribe only one consultation- either with CVC or UPSC. However, in disciplinary cases wherein UPSC is not required to be consulted, the consultation with CVC would continue to be made.

National Commission for Scheduled Castes

1. **65th Amendment** provides for the establishment of a high-level multi-member **National Commission for SCs and STs** in place of the single **Special Officer for SCs and STs**.
2. **89th Constitutional Amendment** bifurcated the combined National Commission for SCs and STs into 2 separate bodies, namely the **National Commission for SCs** (under **Article 338**) and the National Commission for STs (under **Article 338A**).
3. **Functions of the commission**

1. To **investigate and monitor all matters** relating to the **safeguards** provided for the **Scheduled Castes** under this Constitution or under any other law and to evaluate the working of such safeguards.
 2. To **inquire into specific complaints** with respect to the **deprivation of rights and safeguards** of the **Scheduled Castes**.
 3. To **participate and advise** on the **planning process** of **socio-economic development** of the **Scheduled Castes** and to evaluate the progress of their development under the Union and any State;
 4. To **present to the President**, annually and at such other times as the commission may deem fit, **reports** upon the working of those safeguards;
 5. To **make in such reports recommendations** as to the measures that should be taken by the Union or any State for the **effective implementation** of those safeguards and other **measures for the protection, welfare and socio-economic development** of the **Scheduled Castes**; and
 6. To **discharge such other functions** in relation to the **protection, welfare and development and advancement of the Scheduled Castes** as the President may specify.
 7. The Commission, while investigating any matter, **has all the powers of a civil court** trying a suit and in particular in respect of the following matters.
 8. The Union and every State Government shall consult the Commission on all major policy matters affecting **Scheduled Castes**
4. The **commission presents an annual report to the president**. The President places all such reports before the Parliament. The President also forwards any report of the Commission pertaining to a state government to the state governor. The governor then places it before the state legislature.

National Commission for Scheduled Tribes

1. The National Commission for Scheduled Tribes (NCST) was **established by amending Article 338** and inserting a new **Article 338A** in the Constitution through the Constitution (89th Amendment) Act, 2003. They are **appointed by the President by a warrant under his hand seal** and their conditions of service and tenure of office are also determined by the President.
2. 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. The President also forwards any report of the Commission pertaining to a state government to the state governor. The governor then places it before the state legislature.

Finance commission

1. The **Finance Commission** is constituted by the President as a **quasi-judicial body under article 280** of the **Constitution**, mainly to give its

recommendations on **distribution of tax revenues** between the Union and the States and amongst the States themselves. Two distinctive features of the Commission's work involve **redressing the vertical imbalances** between the taxation powers and expenditure responsibilities of the centre and the States and **equalization of all public services across the States**.

8.1 Composition

- The Finance Commission is **constituted by the President every fifth year** or at such earlier time as he considers necessary. It consists of a **chairman and four other members**. They hold office for such period as specified by the president in his order and 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 other members of the commission**. 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**.

8.2 Functions

It is the duty of the Commission to make recommendations to the President as to:

- **The distribution between the Union and the States of the net proceeds of taxes** which are to be, or may be, divided between them and the allocation between the States of the respective shares of such proceeds;
- The principles which should govern the **grants-in-aid of the revenues of the States** out of **the Consolidated Fund of India**;
 2. The measures needed to augment the Consolidated Fund of a **State to supplement the resources of the Panchayats** in the State on the basis of the recommendations made by the Finance Commission of the State;
 - The **measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities** in the State on the basis of the recommendations made by the Finance Commission of the State;
 - Any other matter referred to the Commission by the **President in the interests of sound finance**.
 - The Commission determines its procedure and has such powers in the performance of its functions as Parliament may by law confer on them.

3.

8.4 Finance Commission and Fiscal Federalism

Finance Commission has a crucial role in the following areas:

- **Cooperative financial relations** between the centre and states
- **Level the inequality** among the states- bridge horizontal imbalances by giving more to the backward states as a part of the mandate to create equity
- **Bridge the vertical imbalances between the centre and the states by recommending adequate devolution to the states**
- Promote **state fiscal autonomy** and efficiency
- Various **reforms**, on being referred by the President, for infrastructure and good governance

4.

13th FC on Local Bodies

- **Performance Grant:** The local grant recommended by the 13th FC has two components, a basic component and a performance-based component. The basic grant is equivalent to 1.5% of the previous year's divisible tax revenue. All states will have access to this grant for all the five years (2010-15). The performance grant allocated to each state is subject to them fulfilling a nine-point conditionality package. This should help promote results-based accountability.
- a. **Role of SFC :** One major contribution is the template prepared by 13th FC with the help of an expert committee to help future SFCs in preparing their reports. Although no SFC with a mind of its own will mechanically follow the template, this is a big step towards streamlining SFC reports in the future.
- b. **Amend Article 280:** The 13th FC has recommended to amend Article 280(3)(bb) and (c) of the Constitution so that the words "on the basis of the recommendations of the finance commission of the State" are changed to "after taking into consideration the recommendations of the finance commission of the State". This recommendation, already approved by several expert bodies fully appreciates the spirit of the clause that envisages an organic link in Indian fiscal federalism.
- c. **Parallel Agencies and bodies:** The 13th FC rightly points out that parallel agencies and bodies are "emasculating local governments both financially and operationally". Having constitutionally assigned a certain functional domain to local governments, which include "planning for economic development and social justice" and preparing a draft district development plan, it is for the union and state governments to help this process of decentralised planning and governance with funds, functionaries and technical support.

5.

8.11 Summary of Recommendations:

- Local bodies should be transferred 2.28% of the divisible pool of taxes after converting this share to grant-in-aid under Article 275.
- Article 280 (3) (bb) & (c) of the Constitution should be amended to make the recommendations of the State Finance Commissions less binding on state governments.
- Article 243(I) of the Constitution should be amended to empower states governments to constitute and direct state Finance Commissions to give their report before the National Finance Commission finalises its report.
- State governments should strengthen their local audit departments through capacity building.
- Bodies similar to the SFC should be set up in states which are not covered by Part IX of the Constitution (Panchayats).
- Local Bodies should be associated with city planning functions wherever other development authorities are mandated for this function.
- State governments will be eligible for the general performance grant and the special areas performance grant only if they comply with the prescribed stipulations.

Inter State Council (ISC)

1. **Article 263** contemplates the establishment of an Inter-State Council to improve cooperation, coordination and evolution of common policies. The President can establish such a council. However, it has been largely under utilised.
2. **Importance of ISC**
 1. It provides a forum for discussion of topics lingering between

states and centre. Ex: Water disputes.

2. Unlike other forums such as Niti Aayog, NDC, **ISC has a constitutional backing** thus give much more room, voice and space to states to bring out problematic areas on table.
 3. As it is chaired by **Prime Minister** himself along with respective Chief Ministers, the value of discussion get enhanced.
 4. ISC was crucial in the **implementation** of many of the **Sarkaria Commission's** recommendations, such as altering the **states share of central taxes**.
 5. Gradually subjects have been shifted from **state list to concurrent list**. ISC provide a platform for discussion of the legislation related to subjects so that State doesn't feel left out in the process.
- 3. Under-utilisation of ISC**
1. There is **no compulsion** on government of the day to accept the outcomes of the meetings.
 2. **No frequent meetings happen**. Recently meeting happened after 12 years.
 3. **Overlap of role between NITI and ISC**.
 4. **Clause-A of Article 263**, which gave the council the **power to investigate issues of inter-state conflict**, was dropped in the presidential ordinance establishing the ISC.
- 4. Changes required in ISC**
1. The **ISC needs to be given all the powers** contemplated in the Constitution.
 2. The Inter-State Council **must meet at least thrice in a year** on an agenda evolved after proper consultation with States.
 3. The council should have **experts in its organisational set up** drawn from the disciplines of Law, Management and Political Science besides the All India Services. It should provide greater **opportunities to civil society** institutions and the corporate sector to make their representations.
 4. The Council should have **functional independence** with a **professional Secretariat** or shift its secretariat to Rajya Sabha secretariat.
5. It should be strengthened as a forum for not just administrative but also **political and legislative give and take** between centre and states.

Zonal Council

1. Former Prime Minister Nehru suggested that the **States may be grouped into four or five zones** having an **advisory council** 'to develop the habit of cooperative working' among these States. This suggestion was made by Pandit Nehru at a time when **linguistic hostilities and bitterness** as a result of re-organisation of the States on linguistic pattern were threatening the very fabric of our nation.
2. **Role of Zonal Councils**
 1. The Zonal Councils provide an excellent forum where irritants between Centre and States and amongst States can be resolved through **free and frank discussions and consultations**. Being advisory bodies, there is full scope for free and frank exchange of views in their meetings.
 2. Though there are a large number of other fora like the NDC, ISC, the Zonal Councils are different, both in content and character. They are **regional fora of cooperative endeavour** for States linked with each other economically, politically and culturally. Being compact high level bodies they are **capable of focusing attention on specific issues** like border disputes, linguistic minorities, economic and social planning, inter-state transport and so on.
3. **The main objectives of setting up of Zonal Councils**
 1. Bringing out **national integration**.
 2. **Arresting the growth of acute State consciousness**, regionalism, linguism and particularistic tendencies.
 3. Enabling the **Centre and the States to co-operate** and exchange ideas and experiences.
 4. Establishing a climate of **co-operation amongst the States** for successful and **speedy execution of development projects**.
 5. To secure some kind of **political equilibrium** between different regions of the country.

CBI

1. The Central Bureau of Investigation (**CBI**) is the **premier investigating** police agency in India. It plays major role in **preservation of values in public life** and in ensuring the health of the national economy. The CBI has to investigate **major crimes** in the country having interstate and

international ramifications. It is involved in collection of **criminal intelligence** pertaining to **anti-corruption**, **economic crimes** and **special crimes** (Terrorism, kidnapping, etc).

2. The legal powers of investigation of **CBI are derived from the DSPE act 1946**. This act confers concurrent and **co-extensive powers**, duties, privileges and liabilities on the members of Delhi Special Police Establishment (**DSPE**) with police officers of the Union Territories. The Central Government may **extend to any area**, besides Union Territories, the powers and jurisdiction of members of the **CBI** for investigation subject to the **consent of the Government of the concerned State Govt.**

3. **Problems with CBI**

1. CBI can investigate only those cases which are referred to it by State. It **cannot suo motto take cases**. This gives a chance to political executive to target opposition members and dissenters.
2. **CBI also lacks financial autonomy**. It depends entirely on government even for small administrative expenses.
3. Lack of transparency in **selection procedure** of director and also no effective external monitoring system to check misuse of its power.

Challenges Faced By CBI

- **Overall Issues:** The CBI has been facing charges on various counts such as its **alleged politicization**, serious charges against its various chiefs, its **very poor conviction rate**, its delays in carrying out timely investigation, not to mention its lack of core competence and domain knowledge are indicative of a much more serious malaise.
- **Lack of legal backing:** The real problem for the CBI lies in its charter of duties. These are not protected by legislation. Instead, its **functions are based merely on a government resolution** that draws its powers from the *Delhi Special Police Establishment Act 1946*.
- **Caged parrot:** Excoriating the agency's investigation of the coal scam, the SC had in 2013, described it as a **caged parrot** who works according to the wishes of the government in power.
- **Professional impropriety:** The Verma-Asthana face-off is not the first time that the CBI's top brass has come under the scanner for professional impropriety. Former director, **Ranjit Sinha**, for instance, came under cloud in both the 2G and coal scams.
- **Manpower shortage:** **CBI is facing the staff shortage**, which is required to deal with the daily dealings of the CBI office. Further, Supreme Court and High Courts are handing over a large number of sensitive cases to the CBI for investigation without additional manpower.
- **Issue about CVC:** In the present case, many experts have pointed out that the CVC has acted in **partisan manner**. Moreover, it has also been claimed that the CVC usually acts as a postbox for forwarding complaints to the requisite government departments, without even bothering to ask for a reply from the department concerned. Moreover, the questions such as whether the CVC's power of superintendence extends to recommending stripping a Director of his powers and functions have also arisen.

5. **Reforms**

1. **Lok Pal** provides for appointment of director, **CBI through a collegium system** which is a step in right direction. **Lok Pal** should be allowed to **decide cases** which CBI takes up, not the executive. CBI to report to Lok Pal for investigation of such cases. Lok pal can supervise and oversee CBI.
2. **Substitute archaic DPSE act** by new CBI act. Define the **role, jurisdiction** and **legal powers** of CBI. Also give the CBI **financial autonomy** in the statutory law as has been given to supreme court, CAG, etc. More establishment in form of judges, prosecutors and support staff for CBI.
3. Have a **dedicated cadre for CBI**. The current practice of appointing **IPS** officers may show favouritism towards some political and permanent executive.
4. Improving functioning: There's a dire need to improve the **capability of the intelligence-collection machinery** and upgrade its resources, the intelligence-sharing mechanism.
5. There will be an **accountability commission** headed by three retired supreme court or high court judges. The committee will look into cases of **grievances** against the CBI.
6. **Why CBI shouldn't be an completely independent body**
 1. One cannot let an institution like **CBI go adrift and never reporting** to any other institution. Such aloofness of never submitting can be **dangerous to the society** by jeopardising the scheme of checks and balances.
 2. If an organization is not answerable to the sovereign authority, possibility of **corruption increases**.
7. **Why should CBI be autonomous**
 1. The CBI has been **used as an instrument of intimidation** and a tool of a **political bargain** with political opponents of a ruling party.
 2. In the last five and half decades of CBI's existence, **no substantive action** has taken place against the **political masters** and their close associates except in few cases.
 3. The **elitist and feudal bias of the CBI** is reflected in the socio-economic profile of those convicted in corruption cases. Most of these include **lower officials**, people without political patronage.
 4. It has no powers to take **suo-moto** action now.
8. CBI plays a pivotal role in **checking corruption at highest levels**. The need for autonomy for such an organisation is beyond any question and

must be ensured to cleanse our political system.

1) "CBI is a caged parrot" - Supreme Court

2) CBI vs CBI - the recent issue
 The CBI registered a case against special director Rakesh Ashana for bribery. Ashana in turn accused the director Mok Verma of corruption. It is said that in order to prevent further damage to the reputation of the CBI, the govt replaced Verma with an interim Director. Verma moved SC which ordered CVC to complete a time bound enquiry.

3) CBI (Ministry of Personnel)

- CBI is the premier investigating police agency in India
- Established in 1963, under Delhi Special Police Establishment Act 1946.
- CBI Director is appointed by a committee comprising the PM, CJI and Leader of Opposition

4) SC judgement

- Vineet Narain vs UOI 1997 case, SC laid down that CBI director shall be appointed on the recommendation of a committee comprising CVC, secretary (home) and Sec (personnel) and that he shall have a minimum tenure of 2 years

5) Issues

- Image of CBI as an impartial institution has been tarnished
- No clarity on the role of CVC - CVC lost its say in the appointments of CBI with the Lokpal Act 2013. CVC is just a supervisory body now. In this case CVC asked the govt to replace Mr. Verma.
- No security of tenure to the Director (2 year tenure but no security of tenure)
- Issues of political interference in the CBI and misuse → Culture of compromise
- Expansion of the roles and responsibilities of CBI
- CBI is subjected to various ministries and constitutional authorities
- SC is also now effectively monitoring the agency
- Internal conflicts
- Low conviction and delays in investigation (Many high profile cases - SE filed closure report, 26 spectrum case, Parasni case, Bafesa etc.)
- Internal conflicts
- Autonomy: Formed through executive resolution → lesser autonomy
- Inadequate legal provisions (cannot take suo-moto cognizance of a case)

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NHRC

- The Supreme Court recently said it **did not augur well for a democracy** like India to have a National Human Rights Commission (NHRC) which was **helpless to redress human rights violations** as states seldom

implement its recommendations.

2. Role

1. Investigating the violation of **human rights**.
2. Visiting the **jails** or any other such public institutions under state government to inquire about the **living conditions of inmates**.
3. NHRC has taken several measures to **promote right education in India** like a recent **inclusion of human right in curriculum** of schools and colleges.
4. Several success stories in its track record like **Hussainara khatoona** case, its judgement on **custodial deaths** etc.
5. NHRC helped bring out in open a **multi crore pension scam in Haryana**.

3. Success of NHRC

1. **NHRC opened the state to judicial and moral scrutiny:**
Commission has kept a watch on incidences of '**encounter killings**' and '**custodial deaths**'. It has issued guidelines wherein every death in police action has to be **reported to the NHRC** within **48 hours of the incident**.
2. **Vocal in its opinion against laws:** Such as the Terrorist and Disruptive Activities (Prevention) Act (**TADA**) and Prevention of Terrorism Act, 2002 (**POTA**), which had **scope for misuse and possible human rights violations**.
3. **Expanding Reach:** Over the years, as **awareness** about the **NHRC's existence and work increased**, so has its reach among the people.
4. **Suo motu cognisance of human rights violations:** **Based on media reports** or other sources of information and **investigate them**. For example, the NHRC issued a notice to the Home Ministry over the planned deportation of about Rohingya immigrants. Soon after its creation, the NHRC in 1994 had taken up the issue of safety of the Chakma community in Arunchal Pradesh.
5. **Enlarging its ambit/mandate:** The Commission has also gone **beyond the physical violation of human rights** to protect the economic, social and cultural rights of people. Being assigned to look into the **extreme poverty**, starvation in Kalahandi, Bolangir and Koraput regions of Odisha etc.

4. Why NHRC is tooth less tiger

1. NHRC can only recommend **remedial measures** or direct the state concerned to pay compensation. Its recommendations are **not binding** on the Government.
2. NHRC do not have any kind of contempt powers thus it **cannot penalise** authorities who **do not implement its recommendations** in a time bound manner.
3. The NHRC at times, has been **unable to take a critical stand** of the government of the day. For example, during the **Kairana exodus**, it submitted a report **vindicating the government stand**, without undertaking a thorough investigation.
4. The Act **does not extend to Jammu and Kashmir** and hence the commission has to keep its eyes closed to human rights violations there.
5. The Act does not categorically empower the NHRC to act when human rights **violations through private parties** take place.
6. Under the Act, human rights commissions **cannot investigate** an event if the **complaint was made more than one year after the incident**. Therefore, a large number of genuine grievances go unaddressed.
7. NHRC is deluged with too **many complaints**. Hence, in recent days, NHRC is finding it difficult to address the increasing number of complaints.
8. **Scarcity of resources** is another big problem. **Large chunks** of the budget of commissions go in **office expenses**, leaving disproportionately **small amounts for other crucial areas** such as research and rights awareness programmes.
9. It is often viewed as a **post-retirement destinations for judges**, police officers and bureaucrats with political clout. Bureaucratic functioning, inadequacy of funds also hamper the working of the commission.

5. Recent amendments

1. The **chairperson of the NHRC** is a person who has been a **chief justice of the Supreme Court** or Judge of supreme court.
2. The Act provides for **three persons having knowledge of human rights** to be appointed as members of the NHRC of which one being woman.
3. The Act provides for including the chairpersons of the **NCBC**, the National Commission for the Protection of Child Rights, and the

Chief Commissioner for Persons with Disabilities as members of the NHRC.

4. The **Act reduces the term of office to three years** or till the age of seventy years, whichever is earlier.
5. The **Act removes the five-year limit for reappointment**.

6. **Way forward**

1. The **effectiveness** of commissions will be greatly enhanced if their decisions are **immediately implemented** by Government. This will save considerable time and energy.
2. Governments should seriously consider the **recommendations made by NHRC** as NHRC's orders are passed by persons who had **long training** and **experience** as judges of the supreme court and high courts.
3. Also, a large number of **human rights violations occur** in areas where there is **insurgency and internal conflict**. Not allowing NHRC to independently investigate complaints against the military and security forces only compounds the problems.
4. As non-judicial member positions are **being filled by ex-bureaucrats**, credence is given to the contention that NHRC is more an extension of the government, rather than independent agency exercising oversight. NHRC also needs to develop an **independent cadre of staff** with appropriate.
5. A lot depends on the level of funding, functional independence, and institutional autonomy guaranteed to the HRC.

7. **Umbrella Human rights commission**

1. An **idea is to merge all commissions** into a comprehensive Human Rights Commission with **separate divisions** for Scheduled Castes, Scheduled Tribes, Women and Children. Chairpersons of the NCM, NCSC, NCST and NCW are members of **NHRC** for the discharge of various functions except inquiring into a complaint.
2. Multiplicity of commissions leads problems of **overlapping jurisdictions** and **even duplication of efforts**. Sometimes different commissions may even contradict each other. For example, there was a clash between NCM and NHRC on **Assam riots in 2013**.
3. To prevent overlapping jurisdictions and duplication, laws are there. For example, **NHRC** cannot inquire into any matter **which is pending before any other commission**. But in the absence of networking and **regular interaction** between different

- commissions, **implementation of the law is difficult** and **duplication exists** especially at the preliminary stage.
4. There is a need to provide a **more meaningful** and **continuous mode of interaction** between the various commissions both at the national and the state levels.
 5. The **existence of a different dedicated commissions** should enable each one of them to look into specific complaints and areas thereby ensuring **speedy action**. **Merger in larger states** and at the national level is **impracticable** and would fail to adequately address the special problems of different disadvantaged groups. However, such a merger may be possible in case of some of the smaller States.
 8. While the most important contribution of NHRC has been its ability to raise awareness through dialogue about the need for human rights protection in the country, its role in future would be **diversified towards new emerging concerns** like **business and human rights**, **environmental impact on human rights** and **LGBT rights**.

Issues with statutory organisations

1. Appointment issues

1. **Clear and objective criteria** are not laid down for the appointments to these commissions. Also the appointments are **solely the prerogative of the executive** with nobody outside knowing on what basis such appointments were made.
2. **Frequent removal and appointment** of personnel on ad-hoc basis, gives way to temporary structure to various commissions.
3. Over time, it has been observed that most of the appointments are **politically motivated**. There have also been issues like appointments of people with **serious corruption** allegations against them.
4. Activists with **long track record of social work** are **not appointed** while active politicians are. This compromises on the autonomy.
5. Being bureaucratic in structure, with **personnel chiefly drawn from Government** only have led to red tapism and delay in action in case of violations.

2. Functioning issues

1. These commissions **can only make recommendations** and usually have no powers to enforce them.
 2. There is **time lag between submission** of the reports and their **placement before the Parliament**. The time lag in case of National Commission for SCs and STs is as long as three years.
 3. Both regional and national institutions are **primarily funded by government** which make it potentially vulnerable to **political interference**. In addition to this these funds are inadequate for awareness programmes.
 4. The commissions do not have **independent investigating** agencies and they depend on government provided agencies which are not suitable for the independent investigations.
 5. Several commissions like National Commission for Women (**NCW**), National Commission for Minorities etc., have functions, which are **overlapping** with **NHRC**.
 6. These institutions are handicapped because they receive a **very large number of complaints** while their **capacity** to deal with them is very limited.
3. **Parliamentary apathy towards the reports**
1. By getting the reports laid down in the parliament, the idea was that during the discussion on the report, some **MPs may raise the question of non-acceptance** of important recommendations. The matter may even be **picked up by the Media or civil society** which may also build up public opinion for its acceptance.
 2. But the reality is that reports do **not come up for discussion at all**. This is partly because by the time **reports are submitted with ATRs**, they are dated and at times lose their **contextual relevance**. There is need for creating a separate Parliamentary Standing Committee for deliberating on the reports of these Commissions.

Regulatory authorities in India

1. **Regulation** is an effort by the state to address **market failure**, **anti-competitive pricing** and **public welfare** through **rule based** direction of social and individual action. The **regulatory role** of government stems from the provisions of the **constitution** which **empower the Union and State Legislatures** to make laws on various subjects.

2. Consequently, there is a **plethora of laws and rules** which seek to regulate the activities of individuals and groups of individuals. Article 53(1) of the Constitution regulates the **exercise of the executive powers** of the Union. Further, Article 53(3) authorises Parliament to confer by law regulatory functions to authorities.

3. **Need to prevent market failure**

1. Market failure is a condition in which the **market mechanism fails to allocate resources efficiently** to maximise social welfare. Market failures occur in the provision of public goods, in case of **natural monopolies** or asymmetric information, and in the presence of externalities.
2. In case of natural monopolies, **entry by other firms** tend to lead to **inefficient production** i.e. the average cost of output may rise than with the existence of just one firm. In India, the transmission and distribution of electricity is still natural monopoly.
3. **Asymmetric information** is a situation where one party to a **transaction** knows more about the product than another. This prevents the market mechanism from achieving an efficient allocation of resources. In India, considerable information asymmetries exist in the **health and education sector**.
4. **Externalities** constitute another source of market failure and are defined as the **positive or negative effects** of production or consumption activity. For example, an industrial plant discharging waste into a river imposes a negative externality (costs) on users downstream.

4. **Need to check anti-competitive practices**

1. Firms may resort to anti competitive practices such as **price fixing**, **market sharing** or abuse of dominant or **monopoly power**. Laws that empower officials to take action can help deter such practices.

5. **Need to promote the public interest**

1. A third set of justification arise from concerns about the **promotion of public interest** which is an important policy objective for governments. Ensuring **fair access**, non-discrimination, **affirmative action**, or any other matter of public importance can provide an important reason for regulation.
2. A **classic case is of health and safety**, where firms can fall short in protecting employees or the general public from harm. The **Bureau of Indian Standards (BIS)** created by the Bureau of Indian

Standards Act, 1986 has been **setting quality and safety standards** for various products, some of which are mandatory.

6. Independent agencies

1. **Regulation** by government through its own **departments** directly under its control has **always existed**. The last century has seen the **emergence of a special category** of regulatory systems known as the **Independent Statutory Regulating agencies**.
2. These agencies **differ from the conventional** regulating system as they are separated from the executive wing of the government and enjoy a certain degree of autonomy.

7. Why independent agencies

1. To **ensure a level playing field** to all and also to safeguard the larger public and national interest.
2. **Increasing complexities** and the advancement of technologies required handling of issues by experts.
3. **Public interest** is best served by **insulating** decision making from **political interference**.
4. The **entry of the corporate sector**, after 1991 reforms, necessitated certain measures to boost the **investor confidence** and to safeguard public interest.
5. **The traditional departmental structure** of government was not best suited to play the **dual role** of a policy making as well as regulating the sector concerned.

8. Various regulatory bodies in India

1. **RBI**: It was established in 1934 under RBI act. It is bank of issue of various notes, banker to Government, Lender of last resort and does various **supervisory functions** relating to **licensing** and establishments, branch expansion, management, and liquidation.
2. **SEBI**: It does **protective** (protect the interest of investor, provide safety of investment, check price rigging, prohibit insider trading), **developmental** (Increase the business in stock exchange) and **Regulatory functions** (To **frame rules, regulations** and a **code of conduct for the intermediaries** such as merchant bankers, underwriters).
3. **IRDA**: To safeguard the interest of and secure fair treatment to insurance policy holders. It issues a certificate of **registration, renew, modify, withdraw, suspend or cancel such registration**. It specifies the code of conduct for surveyors and loss assessors.

4. **TRAI:** To ensure technical compatibility and effective **inter-connection between different service providers**. To lay down the standards of quality of service to be provided to protect the interest of the consumers. To ensure **effective compliance** of universal service obligation.

9. Independence

1. One aspect of autonomy is **financial independence**.
2. Functional independence is often curbed by the dependence of regulators on concerned **line ministries** for **budgetary allocations** and sanctioning of staff appointments as well as the need for the former to **report to the latter**.
3. Independence also means having **fixed tenure** and immunity from removal except in the case of incompetence and moral turpitude. But **Government** continuously **meddles in changing tenure** of people in regulatory agencies.
4. Regulatory efficacy demands presence of **functional independence** which calls for the regulator maintaining an **arms length** relationship from interest groups.

10. Accountability

1. **Regulators do not answer questions** related to them during different Parliament discussions. It is the minister of the **associated ministry** who is answerable.
2. **Scrutiny of the regulators is often ignored**. In the 16th Lok Sabha, only 2 questions pertained to regulators. The regulator's actions are questioned only when there is an **impending crisis** or a serious debate in the country.
3. Regulators **do not submit annual report** to parliamentary standing committees. Ad-hoc committees are ineffective.
4. **Parliamentary supervision** seems to be the **ideal form** of political accountability as accountability to the **line ministry** can often be associated with pressure being exerted on the regulator to favour utilities being operated by the ministry.

11. Transparency

1. It is important to have a transparent regulatory process. For example, **stakeholders must be made aware** of the **regulatory process** and should be given opportunities to present their views freely.
2. In certain cases, regulatory legislation in India has made

provisions to guarantee a transparent regulatory process. For example, in the electricity and telecom sectors, it has been mandated that regulators should ensure transparency while exercising their powers and discharging functions.

12. Overlapping domains

1. Both SEBI and IRDA were claiming regulatory right over ULIPs thus harming consumer in process.
2. RBI and CCI (Competition commission of India) regulation tussle over merging of banks.

13. The Second ARC's recommendations

1. Setting up of a regulator should be preceded by a detailed review regarding need for it. It is necessary to have a regulations to regulate only where necessary.
2. In addition to the statutory framework each Ministry should evolve a Management Statement outlining the objectives and roles of each regulator.
3. There is need for transparency, fairness in the terms of appointment, tenure and removal of various regulatory authorities. There must be sufficient safeguards against arbitrary removal.
4. Parliamentary oversight of regulators should be ensured through the respective Departmentally Related Standing Parliamentary committees (DRSC).
5. There should be periodic evaluation of the independent regulators. The annual reports of the regulators should include a report on their performance in the context of these principles.
6. Involving citizens groups, professional organisations in the regulation activities.

14. FSLRC recommendations

1. FSLRC recommends financial independence through independent sourcing of finances from sources such as fees.
2. FSLRC recommends precise regulatory objectives, reporting to Parliament on how they fared on pursuing their regulatory objectives, etc.
3. It also recommends merging of Regulators like, for example, IRDA and PFRDA.
4. It also recommends establishing a comprehensive and enforceable code of conduct.

SEBI

1. **1991** was a great year for **SEBI**. It was in this year that the government announced the decision to give **statutory powers** to the Securities and Exchange Board of India to regulate India's **capital markets**. SEBI, which was established in 1988, got statutory backing in 1992 through the SEBI Act, 1992.

2. Problems

1. The successful cases of **grievance redressal** by SEBI have been risen rapidly. However, a survey shows that most of the **investors find the redressal ineffective**.

2. SEBI is not able to do much about 'fly by night' or 'sign-board' companies who **vanish** after collecting huge money.

3. It's **liberal use of interim orders**, without hearing the affected party, is always **criticised**. It turns out that in many such cases, the regulator takes its time to issue the final order.

4. Also, the **rules are often harsh**, involving **debarment** from securities markets and, at times, **freezing of bank accounts**.

5. SEBI has been too **busy in framing rules** and regulation give rise to too complex and **cumbersome framework** leaving scope of discretionary interpretation.

6. **It failed to punish** those who caused the abnormal fluctuations in the market. Due to this, **small investors** are losing the **confidence** in investing. The autonomy of SEBI has been compromised as it, more or less, functions as a branch of Union Finance Ministry.

3. Whats needs to be done

1. The government should revisit the **unbridled powers** it has given the regulator, and create some checks and balances. For instance, if an **investigation is taking longer than three months**, the regulator must be required to obtain court approval for continued attachment of properties.

2. The **executive should provide guidelines** on how long SEBI can take with its investigations, before passing its orders. The lack of accountability on this front and the fact that there is no concept of **performance appraisal** for SEBI members, have led to the many problems.

3. SEBI is need of a **performance audit by a peer**. For instance, every three years, **independent organisations** perform a peer review of the US Government Accountability Office (GAO), to determine whether it is suitably designed and operating effectively. Likewise, a suitable **overseas organisation** can help with a thorough review of SEBI's practices.

4. Finally, as recommended by the Financial Sector Legislative Reforms Commission (FSLRC), **SEBI** must publish a **performance report**, which incorporates global best practice systems of measuring the efficiency of the regulatory system.

5. Besides, as recommended by the FSLRC, a **review committee**, comprising the non-executive members of the **regulator's board**, should be formed. This committee is to **provide oversight of compliance** of the regulator with governing laws and ensure greater transparency in the functioning of the board of the regulator.

4. SEBI can embrace the above said reforms without waiting for the **Indian Financial Code to be passed**. It will go a long way in changing the perception of SEBI, which is getting eroded with every scathing SAT order. It is high time steps are taken to bring checks and balances on the regulator.

Umbrella regulator

1. Idea of a umbrella regulator has been **mooted** for long by **Mistry committee** to **financial sector reform committee** under Raghuram Rajan in 2007 to FSLRC in 2013 all recommending **single regulator** from security trading to commodity trading. FSLRC recommended merger of **SEBI, FMC, IRDA and PFRDA**. The process of merging FMC with SEBI has already started.

2. Merits

1. **Fragmented supervision** may raise concerns about the ability to come up with an overall **risk assessment** of the institution which should be **seamless** and free of gaps.

2. Unification improves **accountability** of regulation. Under a system of **multiple regulatory** agencies, it may be more **difficult to hold regulators** to account for their **performance** against their statutory objectives.

3. As the **lines** of demarcation between **products and institutions have blurred**, **different regulators** could set different regulations for the **same activity** for different players. Unified supervision could thus help achieve competitive neutrality.

4. The **unified approach** allows for the development of regulatory arrangements that are **more flexible**. The **problems of turf wars** or where respective enabling statutes leave doubts about their **jurisdiction** can be more easily limited and controlled in a unified organization. Ex: **NSEL crisis**.

5. Unified supervision **could generate economies of scale** as a larger organisation permits **finer specialisation of labour** and a more intensive utilization of inputs and unification which saves cost.

6. Unification may also permit the acquisition of **information technologies**,

which become **cost effective** only beyond a certain scale of operations and can **avoid duplication of research** and information-gathering efforts.

3. Demerits

1. Given the **diversity of objectives** ranging from **guarding against systemic risk** to protecting the individual consumer from fraud we may need different agencies for **better focus**.
2. A particular concern about a **monopoly regulator** is that its functions could be **more rigid and bureaucratic** than these separate specialised agencies.
3. The **cultures, focus and skills** of the various supervisors **vary markedly**. For example, it has been argued that the **sources of risks at banks** are on the **asset side**, while most of the risks at insurance companies are on the liability side. Single regulator cannot take all these into consideration.
4. Many **developed countries like USA** still have different regulators.

Quasi judicial bodies

1. A **quasi judicial** body is an organization on which powers **resembling a court of law** have been conferred. Such a body **can adjudicate and decide** upon a situation and **impose penalty** upon the **guilty**. But these are not courts. They deal basically with **disputes with the administration**. Their jurisdiction is specified unlike courts. For example, **Consumer disputes redressal commission** deals only with those disputes in which a consumer feels cheated by a service/product provider.
2. A presence of person from **administrative rather than purely judicial** background make a body quasi-judicial. As the body is looking into legal matter, procedure of court is followed.

3. Need

1. As the welfare state has grown up in size and functions, more and **more litigations are pending** in the judiciary, making it **over-burdened**. It requires having an **alternative justice** system.
2. Ordinary **judiciary** has become dilatory and **costly**.
3. With **scientific and economic development**, laws have become more **complex**, demanding more **technical knowledge** about various specific sectors.
4. The conventional judiciary is suffering from **procedural rigidity**, which delays the justice.
5. Further, a bulk of decisions, which **affect a private individual** come not from courts, but from administrative agencies exercising adjudicatory powers.

4. Shortcomings

1. **A person can again appeal in the court** against the decision of the Quasi

Judicial body. This fades away the advantage of cost and time provided by the Quasi Judicial body.

2. Their recommendations are mostly **advisory** in nature like **NHRC** and **CIC**. They **can't even award compensation** or relief to the victims directly, but can only recommend it.

3. Many Quasi Judicial bodies are **suffering with lack of strength**. So proper and quick investigation is not being done.

4. These are **not as independent as the judiciary**. Frequent interference from the executive is evident.

5. Quasi-judicial vs administrative

1. Acts which are required to be done on the **subjective satisfaction** of the administrative authority, are called **administrative acts**, while acts, which are required to be done on **objective satisfaction** of the administrative authority, can be termed as **quasi-judicial** acts.

2. Administrative decisions, which are founded on **pre-determined standards**, are called **objective** decisions whereas decisions which involve a choice, as there is no fixed standard to be applied are so called subjective decisions.

3. The former is quasi-judicial decision, while the latter is administrative decision. In case of **administrative decision** there **is no legal obligation**, upon the person charged with the duty of reaching the decision, to consider and **weigh submissions** and arguments or to collate any evidence.

4. The grounds upon which he acts, and the means which he takes to **inform himself before acting** are left entirely to his discretion.