

Sound Legal Framework: Notes for UPSC Polity

For any robust society to function efficiently, a sound legal framework is required. The Constitution is one of the cornerstone of our legal framework. The Parliament has enacted a large number of laws to further the objectives enshrined in the Constitution. A dynamic society requires constant updating of existing laws as well as the enactment of such laws to meet emergent needs and challenges so that the welfare, protection and development needs of citizens is fully met.

Robust Institutional Mechanism for Establishing Rule of Law

The country has, over the years, created and sustained strong and effective institutional mechanisms to ensure that the rule of law is followed while the rights of its citizens are well protected. The establishment of some of these institutions have been enshrined in the Constitution and others through statutes and executive orders. A sound legal system and a robust institutional mechanism needs to be made stronger by ensuring that competent and motivated personnel run the system in order to provide a vibrant citizen centric administration.

Subsidiarity, Delegation and Accountability

The Oxford dictionary defines subsidiarity as “a principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed at a more local level.”

The principle of subsidiarity stipulates that the functions of administration shall be carried at the smallest unit of governance possible and delegated upwards only when the local unit cannot perform the task. The citizen delegates those functions he/she cannot perform, to the community, functions that the community cannot discharge are passed on to local governments in the smallest tiers, from smaller tiers to larger tiers, from local government to the State Governments, and from the States to the Union. In this scheme, the citizens and the community are the centre of governance. In place of traditional hierarchies, there will be ever-enlarging concentric circles of government and delegation is outward depending on necessity.” Each unit to which task is at first assigned to or delegated to, will be held accountable for its actions. With a proper system of accountability, these units will act even more responsibly in carrying out their duties to the full extent.

Adoption of Modern Technologies

Even in e-Governance projects, the focus has to be on governance reforms keeping the citizens at the centre stage and using the technological tools made available by the IT revolution to transform the interaction between the citizens and government. The Second Administrative Reforms Commission (ARC) has already made wide ranging recommendations on the subject in the light of both national and international experience.

Transparency and Right to Information

Transparency and Right to Information are an essential precondition for good governance. Access to information empowers the citizens to demand and get information about public policies and programmes, thus making the government more accountable and helps in the creation of a citizen-centric governance. It enables citizens to keep themselves informed about the policies of the government, the rights that they have and what they should expect as service from the government. These aspects have already been examined in detail by the ARC in its First Report on "Right to Information". In that Report, the Commission has made detailed recommendations on various aspects of the Right to Information Act and suggested various measures including changes in the Manual of Office Procedure, measures to strengthen the institution of Information Commissioners, the need for capacity building and awareness generation, etc, to facilitate the implementation of the Right to Information Act.

Accountability of Government Machinery

Accountability also means being held responsible for any actions taken by the government. It promotes transparency and reduces the chances of corruption in the government. The mechanisms that provide greater accountability of the government in question include citizens' charters, service delivery surveys, social audits, citizens' report cards and outcome surveys. Other mechanisms are as follows:

Focus on Outcomes – Evaluation and Monitoring

Monitoring and evaluation are important managerial functions in any organization. In government organizations these functions assume special significance because of their large size in terms of the workforce coupled with their wide reach. The success of the laws, policies and guidelines - which are implemented by a large number of field organizations - depend on their effective administration.

Grievance Redressal Mechanisms

In a welfare State like India, citizens have a variety of interactions with the Government in its myriad forms – as a service provider, a regulator, as a provider of social and physical infrastructure etc. Meeting the expectations of the citizens is a challenging task for any Government. Sometimes, the task is compounded due to internal inefficiencies while at other times, despite the best efforts of the public agency, external constraints prevent them from

meeting the expectations of the citizens. Addressing the grievances of those citizens whose expectations are not fulfilled is primarily the task of the Government agency concerned even though external accountability mechanisms, often having limited scope, do exist.

Relevant Questions regarding Legal Framework

What is a legal framework?

A legal framework is a set of laws that are more specific than constitutional provisions. They lay down general obligations and principles but leave to governing authorities the task of enacting further legislation and other specific measures, as may be required.

Why is a legal framework required?

A well-established legal framework is the foundation of an effective and well-functioning administrative system as It identifies and defines the national competent authority and the roles of governmental agencies in particular domains.