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# Chapter One: The Nature of Public Administration

## 1.1. Introduction

Administration as an activity is as old as society itself. But as an area of study it originated, with the publication of Wilson's essay on study of Administration in 1887. As a process, administration occurs in both public and private organisations. It occurs in such diverse institution as settings as a business firm, labour unions, religious or charitable organisations, educational institutions, etc. Its nature is affected by the sphere with which it is concerned. Administration is commonly divided into two types, Public and Private Administration. As an aspect of government activity it has existed since the emergence of political system(s). While public administration relates to the activities carried out by government, private administration refers to the management of private business enterprises.

It is important to understand the functioning of administration for on this lies the understanding of the government. In this Unit an effort has been made to bring the concept of administration, public administration in particular. This understanding will take you through the entire course of Public Administration. In what follows, we will examine the meaning, nature and scope of public administration.

## 1.2. Chapter Objectives

After going through this chapter , you should be able to:

- ✓ define Administration and Public Administration
- ✓ describe the nature of Public Administration
- ✓ explain the scope of Public Administration
- ✓ distinguish between Private and Public Administration
- ✓ analyse the Role and functions of Public Administration

## 1.3. Administration Defined, Definitions and Scope of Public Administration

Public administration is an aspect of a more generic concept of administration. Therefore, before understanding the meaning of public administration, it is necessary to understand the meaning of the word "administration".

### 1.3.1. Definition of Administration

Public Administration is an aspect of the larger field of administration. The English word administer is derived from a combination of two Latin words**, 'ad' + 'ministrare',** which **means to serve, to direct, to control and to manage affairs. In its literal sense administration simply means management of affairs** – public or business affairs.
**"Administration** is a long and slightly pompous word but it has a humble meaning, for it means to care for or look after people, to manage affairs." – *E.N. Gladden.*
It refers to mobilization and proper utilization of material and human resources to achieve the desired ends. Administration may be defined as a **cooperative group effort to accomplish common goals**. It occurs even in such a simple activity as "when two men co-operating to roll a stone, that neither could have moved alone." In this example, the two men rolling a stone are mutually involved in a joint endeavor which is essential element of administration..
Administration is thus **a goal oriented, a purposive and co-operative activity** undertaken by a group of people in order to realize some common goal or goals.
Administration, therefore**, excludes non-purposive and non-cooperative group activities** such as two men fighting with each other or watching a stone. Similarly one man moving a stone is not an administrative activity as it lacks co-operative efforts by two or more people.

Administration, it may be noted, is **concerned with means to achieve prescribed ends**. It is a rational activity inherent in any social life.

Administrative activity is as old as organized social life. It is **universal process**, which is carried on in variety of public and private organization. It occurs in such diverse institutional settings as business firm, labor unions, church, charitable organization, educational institutions and government units. But its nature is variously affected according to the sphere with which it is concerned.

On the basis of its institutional settings, administration is commonly divided into two types: Pubic and Private Administration.

The concept of administration is defined by various writers:

*E.N. Gladden:* "Administration is a long and slightly pompous word, but it has a humble meaning, for it means, to care for or look after people, to manage affairs… is determined action taken in pursuit of a conscious purpose."

*Felix A. Nigro:* "Administration is the organisation and use of men and materials to accomplish a purpose."

*Herbert A. Simon:* "In its broadest sense, administration can be defined as the activities of groups cooperating to accomplish common goals."

*John A. Veig:* "Administration is determined action taken in pursuit of conscious purpose. It is the systematic ordering of affairs and the calculated use of resources, aimed at making those things happen which we want to happen and simultaneously preventing developments that fail to square with our intentions. It is the marshalling of available labour and materials in order to gain that which is desired at the lowest cost in energy, time and money."

*Pfiffner:* "Administration is the organisation and direction of human and material resources to achieve desired ends."

*L.D. White:* "The art of administration is the direction, coordination and control of many persons to achieve some purpose or objective."

*Luther Gulick:* "Administration has to do with getting things done; with the accomplishment of defined objectives."

*George E. Berkley:* "Administration is a process involving human beings jointly engaged in working towards common goals."

*Brooks Adams:* "Administration is the capacity of coordinating man and often conflicting social energies in a single organism, so adroitly that they shall operate as a unity."

*Keith Henderson:* "Administration is the arrangement of men and materials in the rational carrying out of purposes."

*Ordway Tead:* "Administration is a variety of component elements which, together in action, produce the result of a defined task done. Administration, primarily, is the direction of people in association to achieve some goal temporarily shared. It is the inclusively process of integrating human efforts so that a desired result is obtained."

He further adds, "Administration is the central power house of the motivational impulsion and spirit which makes the institution drive to fulfill its purpose."

*D. Waldo:* "Administration is a type of cooperative human effort that has a high degree of rationality."

*James McCanny:* "Administration is the organisation and use of men and materials to accomplish a purpose. It is the specialized vocation of managers who have skills of organizing and directing men and materials just as an engineer has the skill of building structures or a doctor has the skill of understanding the human ailments."

*F.M. Marx:* "Administration is a determined action taken in pursuit of a conscious purpose. It is the systematic ordering of affairs and the calculated use of resources aimed at making those things happen which one wants to happen and foretelling to the contrary."

The above definitions make it clear that administration has two essential elements that is, a collective effort and a common purpose. Thus, administration means a cooperative effort of a group of people in pursuit of a common objective.

Administration is a universal process and occurs in diverse institutional settings. Based on its institutional setting, administration is divided in public administration and private administration**.**

### 1.3.2. Definition of public Administration

Public administration is an aspect of the larger field of administration. It exists in a political system for the accomplishment of the goals and objectives formulated by the political decision-makers. It is also known as governmental administration because the adjective "public" in the word "public administration" means "government". Hence, the focus of public administration is

on public bureaucracy, that is, bureaucratic organization (or administrative organization) of the government is broader than the later.

- There is a lack of consensus on the scope of public administration has led to different approaches in the definition of the subject. As Ferrel Heady (1966) put it "Despite several decades of development, consensus about the scope of public administration is still lacking, and the field has been described as featuring heterodoxy rather than orthodoxy".

- Therefore, different writers have variously defined the subject. Some have a broader view about public administration. For them public administration includes both policymaking and policy execution. Public administration is any kind of administration in the public interest which in other words simply means governmental administration.

- Whereas others emphasize the role of public administration as only the executive branch of government. Those who advocate the latter approach include reputable writers such as Woodrow Wilson (labeled as a father of public administration), L.D.White, Marshal E.Dimock, Herbert Simon and John M. Pfiffner.

1. For instance, L.D. White views "Public administration as a field consisting of all those operations having the purpose of fulfilling or enforcing public policy."

2. Similarly, according to Woodrow Wilson, public administration is detailed and systematic application of law.

3. In the words of Marshal E. Dimock, "Public Administration is the fulfillment or enforcement of public policy as declared by competent authorities… Public administration is a law in action. It is the executive side of government"

4. Herbert Simon on his part says public administration is the government action, which coincides with the activities of the executive or administrative branch only.

5. Ferrel Heady views public administration as a "field concerned primarily with the carrying out of public policy decisions made by authoritative decision makers in the political system".

6.  J.M. P fiffner begins by defining administration. According to him," Administration is the organization and direction of human and material resources to achieve desired ends.
   Nigro (1965) defined public administration in a more comprehensive way to include, besides the above-mentioned aspects, the relationship between public administration and the political and social systems as well. For him public administration:

1. Is cooperative effort in a public setting

2. Covers all the three branches of the government; i.e. executive, legislative, and judiciary and their interrelationships

3. Has an important role in the formulation of public policy and is thus part of the political process

4. Is more important than, and also differs significantly from private administration

5. Has been much influenced in recent years by the "human relations approach" both as a field of study and practice

6. Is closely associated with numerous private groups and individuals in providing services to the community

There have been also attempt to define public administration with respect to its internal and external dimensions:

♦ Internal administration is defined to mean the management of an organization or agency that involves systems, processes and methods through which needed resources of personnel, material and technology are used to perform certain prescribed functions.

♦ External administration on the other hand refers to activities and processes of administration, which are needed to establish and to activate relationships with agencies and groups outside the administrative control of an organization to achieve its objectives.

A system of public administration is the composite of all the laws, regulations, practices, relationships, codes, and customs that prevail at any time in any jurisdiction for the fulfillment or execution of public policy. Functionally speakinog also, the art of administration is the direction, coordination, and control of many persons and other resources to achieve some purpose or objective. It is a dynamic art, taking the human and physical resources to the achievement of some required goals.

The study of public administration from the interdisciplinary point of view; in this approach, Public administrators are believed to operate in a complex set of environment. These include political, economic, social and more other settings. Cognizant of these factors, William H. Newell (2000) states the following:

• "If the world which public administrators face is so complex, what has a public administrator to do? It's believed the answer is that public administrators need to take an interdisciplinary approach to both understanding and addressing complex problems. Indeed, interdisciplinary matrix should be seen as the appropriate approach to understanding and addressing any portion of the world best modeled as a complex system. Interdisciplinary *study* (the academic activity) is

generally recognized to be the process of studying a problem by drawing critically on disciplines and integrating their insights into a more comprehensive understanding".

- Hence public administration took many concepts and paradigms from disciplines in the social sciences. For instance Charles F. Abel and Arthur J. Semenelli explain this as follows: "Currently, many practitioners and scholars of Public Administration view their field as encompassing a vast and heterogeneous range of paradigms, schools of thought, theories, narratives and guiding ideas".

- One can notice that the definitions given by different thinkers reveal the emphasis they lay on different aspects of public administration. This discourse is vibrant among academicians except that some writers emerged to have a more reconciling approach. One such writer who tried to balance the two ends is Rumki Basu (1994), a professor of political science.

- She begins with the action side of the field. Public administration is non-political bureaucratic machinery of the government for implementing its laws and policies in action, e.g. the collection of revenues, maintenance of law and order, running the railways and postal services, maintaining an army, running schools and hospitals. These are all acts of public administration.

- She continues arguing that meanwhile public administration operates within a political context.
It is a means by which the policy decisions made by the political decision makers are carried out. "Public administration is decision-making, planning the work to be done, formulating objectives and goals, working with the legislative and citizen organizations to gain public support and funds for government programs, establishing and revising organizations, directing and supervising employees, providing leadership, communicating and receiving communications, determining work methods and procedures, appraising performance, exercising controls, and other functions performed by government executives and supervisors. It is the action part of government executives and supervisors. It is the action part of government, the means by which the purposes and goals of government are realized.

When summarized, these definitions identify public administration with:
1. the formulation and implementation of public policies;
2. the executive branch of government;
3. organizational structures and machinery of administration;
4. administrative processes;
5. bureaucracy and its activities;

6. coordination of group activity or social relationship; and

7. Interaction between organizations and their environment.

This comprehensive definition and all points raised under this sub-topic could enable us to understand not only the meaning of public administration, but also its major concerns, aspects, purposes and scope. It is to mean that public administration is concerned with action in particular or concrete situation, but in accordance with long-range objectives.

The immediate objective of the art of public administration is the most efficient and effective utilization of resources at the disposal of officials and employees. The aspects of public administration are innumerable and its scope is generally wide. The scope of public administration has been broadening from time to time with the growing expectations of people.

In other words, what public administration is supposed to do vary with people's expectations of what they should get from the government?

As White said (1955:3), two centuries ago people expected little from government but oppression. A century ago they expected primarily to be let alone, let them free from intervening in their affairs. Now, they expect a wide range of services and protection from the government. Accordingly, government becomes the common agency to explore and preserve mutual interests, and to adjust competing interests through its machinery; i.e. Public administration.

Public administration is, therefore, the means by which these policy adjustments are made effective. In broad context, the ends of public administration are the ultimate objectives of the state itself-the attainment of the good life.

## 1.3.3. Scope of public administration

### A. Traditional view

The traditional view writers restricted the scope of public administration to the executive branch only. In this narrower sense public administration covers "primarily the organization, personnel, practices and procedure essential to effective performance of the civilian function entrusted to executive branch of government".

Thus, Public Administration is not given any role if legislative and judicial functions. This view is unduly restrictive as an explanation of the scope of Public Administration.

### B. Modern view

Modern writers have extended the scope of Public Administration to all the tree branches of government. According to them, Public Administration is the whole government in action. They argue that the activities to the legislature and the judiciary affect and shape the operation of public administration considerably.

In a democracy all major administrative polices emanate from the legislature in the form of law. The legislature also exercise control over administration with a view to sea that the policies are implemented as it intends. The judiciary has power to restrain public administration from unconstitutional, legal and arbitrary acts. In doing so the judiciary is determining what kind of public services can be rendered and under what condition.

## 1.3.3.1 Scope of Public Administration as an activity

The public administration is the handmaiden of government for carrying in its activities. Hence, as an activity the scope of public administration is no less than the scope of state activity.

In a modern welfare state people expect many things- a wide variety of services and protection from the government. Consequently, public administration of a welfare state provides a number of welfare and social security services to the people.

Beside it manages government owned industries; public administration in a welfare state is quite a complex affair. It covers every area and activities govern by public policies. It includes all operation of government ranging from the exploration of outer space to sweeping the streets.

Study of government is no doubt the staple food of public administration. But, public administration also covers all those operation and activities of institution in the corporate sector which depends on government funding.

The enormity of modern welfare state   activities means inevitably more administrative activities, more administrative agencies and more officials. Thus, the scope of public administration as an activity is very wide in modern state.

## 1.3.3.2 Scope of Public Administration as a Discipline

The scope of public administration as a discipline, that is subject of studies, comprises of the following:

**The POSDCoRB view**

Several writers have defined the scope of public administration in varying terms. Gullick sums up the scope of the subject by the letters of the word POSDCoRB which denote: Planning, Organisation, Staffing, Directing, Co-ordinating reporting the Budgeting.

**Planning** means the working out in broad outline the things to be done, the methods to be adopted to accomplish the purpose.

**Organisation** means the establishment of the formal structure of authority through which the work is sub-divided, arranged, defined and coordinated.

**Staffing** means the recruitment and training of the personnel and their conditions of work.

**Directing** means making decisions and issuing orders and instructions.

**Coordinating** means inter-relating the work of various divisions, sections and other parts of the organisation.

**Reporting** means informing the superiors within the agency to whom the executive is responsible about what is going on.

**Budgeting** means fiscal planning, control and accounting.

According to Gullick the POSDCoRB activities are common to all organisations. They are the common problems of management which are found in different agencies regardless of the nature of the work they do.

POSDCoRB gives unity, certainty, and definiteness and makes the study more systematic. The critics pointed out that the POSDCoRB activities were neither the whole of administration, nor even the most important part of it. The POSDCoRB view over looks the fact that deferent agencies are faced with different administrative problems, which are peculiar to the nature of the services, they render and the functions they performed. The POSDCoRB view takes into consideration only the common techniques of the administration and ignores the study of the 'subject matter' with which the agency is concerned. A major defect is that the POSDCoRB view does not contain any reference to the formulation and implementation of the policy. Therefore,

the scope of administration is defined very narrowly, being too inward looking and too conscious of the top management.

## 1.3.4. Nature of Public Administration

There are two views regarding the Nature of Public Administration, that is, Integral and Managerial.

### A. Integral View

According to the integral view, 'administration' is the sum total of all the activities – manual, clerical, managerial, etc., which are undertaken to realise the objectives of the organisation. In this view all the acts of officials of the government from the Attendant to the Secretaries to the government and Head of the State constitute Public Administration. Henri Fayol and L.D. White are the supporters of this view.

### B. Managerial view

According to the managerial view of administration, the managerial activities of people who are involved in planning, organising, commanding, coordinating and controlling constitute Public Administration. This view regards administration as getting things done and not doing things. Luther Gullick, Herbert Simon, Smithburg and Thompson are the supporters of this view. The managerial view excludes Public Administration from non-managerial activities such as manual, clerical and technical activities.

The two views differs from each other in many ways. According to Prof. M.P. Sharma the difference between the two views is fundamental. The integral view includes the activities of all the persons engaged in administration whereas the managerial view restricts itself only to the activities of the few persons at the top. The integral view depicts all types of activities from manual to managerial, from non-technical to technical whereas the managerial view takes into account only the managerial activities in an organisation. Furthermore, administration, according to the integral view would differ from one sphere to another depending upon the subject matter, but whereas that will not be the case according to the managerial point of view because the managerial view is identified with the managerial techniques common to all the fields of administration.

The difference between the two views relates to the difference between management and operation or we may say between getting things done and doing things. The correct meaning of

the term administration would however, depend upon the context in which it is used. Dimock, Dimock and Koening sum up in the following words:

"As a study public administration examines every aspect of government's efforts to discharge the laws and to give effect to public policy; as a process, it is all the steps taken between the time an enforcement agency assumes jurisdiction and the last break is placed (but includes also that agency's participation, if any, in the formulation of the programme in the first place); and as a vocation, it is organising and directing the activities of others in a public agency."

## 1.4. Role and Importance of Public Administration

In today' modern state and in developing countries functions and role of Public Administration is very important. The role and importance of Public Administration are as follows.

**1. It is the basis of Government -**

It is possible for a state to exist without a legislature or judiciary; but not even the most backward state can do without administrative machinery. The modern state cannot confine its field of activities to merely maintenance of law and order, dispensation of Justice, collection of revenue and taxes and participation in welfare activities. The modern welfare state is expected to provide more and more services and amenities to the people. Public Administration is the machinery used by the state to place itself in a position to make plans and programmes that can be carried out.

**2. It is the instrument of change in the society -**

Public Administration is regarded as an instrument of change and is expected to accelerate the process of development. In many country, the government has undertaken the task of leveling down the economic inequalities, spreading education among all abolishing untouchability securing equality of status, rights of women and effective and all round economic and industrial development. The burden of carrying out these social changes in a planned and orderly way rests upon the Public Administration of the country.

**3. It plays vital role in the life of the people -**

Today every aspect of human life comes within the range of Public Administration. Various departments of government such as education, social welfare, food, agriculture, health, sanitation, transport, communication etc. are run by the department of Public Administration.

Thus Public Administration is rendering various types of services to the people from birth to death of an individual.

**4. It is a stabilizing force in the society as it provides continuity**

Public Administration is carried on by the civil servants who are the permanent executives. Political executives i.e. ministers may come and go systems of government or constitutions may undergo change but administration goes on forever. Hence, Public Administration is a great stabilizing force in society. It is a preserver of the society and its culture.

## 1.5. The Art and Science Expositions of Public Administration

Public Administration holds two meanings; firstly it stands for the activity of administering governmental affairs, secondly it is also an academic discipline. The first is definitely an art. What needs analytical explanation is the science aspect of public administration; i.e. is it, as a subject of study of governmental affairs, a science?

There have been many people writing or arguing public administration as possessing an element of science since the 1880s. Woodrow Wilson, who was known as the pioneer of public administration as a subject of study, called it the "science of public administration" as early as 1887.

By the same token, W.F. Willoughby (1926) asserted that in administration there are certain fundamental principles of general application analogous to those characterizing any science. In 1937, a collection of papers on the subject made appearance under the significant title of 'Papers on the Science of Administration' edited by Luther Gulick and L. Urwick.

It is the existence of a body of principles in a discipline which entitles it to claim the status of science. If public administration can prove that it has developed a set of principles, it, obviously qualifies to be rated as science. Does public administration have a set of such principles?

The essential characteristics of science are the presence of normative (or ethical) value, predictability of behavior, and finally universal application. Hence, public administration can obviously be rated as a science if it proves that it has developed a set of principles and acquires all the above three features. However, according to Rumki Basu (1994:5), all these three features are as yet imperfectly present in public administration.

According to Rumki Basu, Public Administration is called a science if the following three conditions are fulfilled:

**First**, the place of normative values in public administration should be clearly identified and made clear.

**Second**, greater understanding should be gained of human nature in the field of public administration. And

**third**, the principles of administration could be derived from a body of cross-cultural studies, thereby making them relatively free from cultural bias.

Many writers agree in that counter arguments in public administration to deserve a science position are feeble and insufficient. Rather, the last hundred years have seen remarkable development of the science of public administration. Evidences of which are:

♦ The transformation of the laissez-faire (liberal, nonjudgmental) state into the modern welfare state has enlarged its sphere, added to the functions of government and aroused interest in the problems of efficiency in government, which remained to be an art for long proceeding by way of trial and error.

♦ The works of industrial engineers, like Taylor, pioneered the scientific methods with emphasis on experimentation, observation, collection of data, classification and analysis, and the formulation of laws and principles.

♦ The development of other administration components such as organizing, planning, personnel administration, and budgetary control as a result of the progress of the scientific method.

♦ The veritable (genuine) contributions of writers from different disciplines (backgrounds) to administration and management such as Fayol, Drucker, and others show that it is derived from a body of cross-cultural studies.

All these arguments are aimed to strengthen discussions in understanding and accepting public administration to be called as science.

The last few decades have witnessed mushrooming of writers on administration and management like Metcalfe, Henry Fayol, Harrington Emerson, Mary Parker Follett, Mooney, Peter Drucker and others. Gradually the contributions of these sources have been unified into the science and art of public administration. Public Administration is today a multi-dimensional study.

Public administration is concerned with the activities of all the three branches of government, but the widely accepted view is that public administration is connected with the activities of the executive branch only. In the words of Morstein Marx:

*At its fullest range, public administration embraces every area and activity under the jurisdiction of public policy… By established usage, however the term 'Public Administration' has come to signify primarily the organization, personnel, practices and procedures, essential to effective performance of the civilian functions entrusted to the execute branch of government.*

Pfiffner writes that public administration is concerned with 'the what' and 'the how' of government. The 'what' is the subject matter, technical knowledge of a field which enables an administrator to perform his tasks? The 'how' is the technique of management. The major divisions of the subject matter fall naturally into four groupings:

1. What a government does, determination of objectives, internal administrative policies and plans and a range of governmental business.

2. How a government organizes its staff, and finances its work, that is the structure of government organization.

3. How administrators secure cooperation and team-work? Study of such problems as administrative responsibility, leadership, direction, coordination, delegation, headquarters field relationships, supervision and public relations.

4. How administration is held accountable? This means study of internal controls, and control of administrative activities by the legislature and the courts.

## 1.6. PUBLIC ADMINISTRATION vs. PRIVATE ADMINISTRATION

There are two different views on the relationship between public and private administration. One group of thinkers like Urwick L., Mary Parker Follett and Henri Fayol are of the view that administration is an indivisible entity, and its basic principles are applicable equally to all organizations whether public or private. This view is obviously based on certain clearly observable similarities in the practice of public and private administration.

In the first place, it is difficult to clearly demarcate the spheres of the two types of administrative activity. Though the activities performed by government agencies are defined as public administration, there are many private agencies which also perform tasks which are strictly public service or welfare oriented. Conversely, there are many tasks performed by the government bureaucracy which may be of a private nature.

Secondly, methods and work procedures may be common to both public and private administration. Accounting, statistics, office management and procedures and stocktaking are problems of administrative management common to both public and private administration.

With the continuous expansion of the public sector in industrial enterprises and the steady growth of public corporation, government has been drawing heavily upon the business knowledge and expertise of private administration to run these enterprises. In fact, in many countries there is a growing interaction between the public and private sectors. In many places candidates from private establishments have often been recruited to senior administrative positions in the government. Ever since private enterprises have been developing into huge administrative giants, with widening network of offices, private administration has become as impersonal as public administration. Also with the popularization of the concept of democratic welfare state, the principles of democratic control, public accountability and popular checks on administrative behavior are increasing in all private organizations.

However important the similarities may be, it cannot be denied that there still remain fundamental differences between the two. The popular idea of public administration is that it is bureaucratic, characterized by red tape, inefficiency and inertia, whereas private administration is efficient and businesslike. The following are the differences between the two types of administration.

1. **Political Direction or Ministerial Responsibility**

   Unlike private administration, public administration is subjected to political direction in most policy matters. It is the minister who lays down broad policy outlines, under which the bureaucrat has to implement the policy.

2. **Profit Motive or Marginal Return:**

   Public administration is service oriented and profit-making is not its goal. A businessman will never undertake a ventrue which is not likely to yield any profit to him. In public administration, there is no correlation between income and expenditure, since most government departments are spending departments and even in the so-called revenue-producing departments, the primary motive is always public service. Public utility services of most governments often run at a loss, yet the governments are duty bound to spend on them.

3. **Social Necessity:**

Public administration caters to social needs and public utilities. For example, it maintains transport to facilitate movement of goods and passengers; the post and telegraph network facilitates communication; hospitals and pharmacies are meant to provide medical aid and public health services to the people. The scope of private administration is narrower. It is mostly concerned with providing marketable consumer goods to the public, catering to the economic needs of citizens. Besides, the nature of some of the government services is so wide, comprehensive and expensive that no private administration can undertake them, e.g., maintaining a vast network of police, army, railways or post and telegraph.

4. **Public Responsibility:**

The public administrators are trained and duty-bound to respect the wishes of the public and cater to their needs. In the words of Appleby, "Government administration differs from all other administrative work by virtue of its public nature, the way in which it is subject to public scrutiny and outcry." Private administration has no such obligation; its main objective is to secure its own ends.

5. **Uniformity of Treatment**:

Public administration should be consistent in procedure and uniform in its public dealings. This principle is more applicable to public administration than the other, because the former is mostly regulated by common and uniform laws and regulations. Public administration is subject to the principle of external financial control. Government revenues are controlled by the people's representatives through the legislature. In private administration finances are not controlled by any outside agency.

6. **Conformity to Laws and Regulations**

The public administrators cannot do anything contrary to, or in excess of legal power. It has to function within the legal framework, it can never break law. If it does so, its actions can be declared invalid or, ultra-vires by the courts. Private administration has no such responsibility.

## 1.7. APPROACHES TO THE STUDY OF PUBLIC ADMINISTRATION

There have been different approaches to the study of public administration since 1887, since the subject was born as a separate academic discipline. Concise reviews of the different approaches are presented as follows:

### 1.7.1. HISTORICAL APPROCH

The historical approach is essentially based on the belief that knowledge of history is important for an in-depth study of the subject. For a proper understanding of the subject, the study of public administration of the past particular periods is necessary to link-up with the present administrative system.

### 1.7.2 LEGAL APPROCH

Exponents of this approach would like to study public administration as part of law and concentrate on the formal legal structure and organization of public bodies. Its chief concern has been with power-its structure and functions. Its main sources are constitutions, codes of laws, office manuals of rules and regulations, and judicial decisions.

### 1.7.3 INSTITUTIONAL APPROACH

This approach tried to establish linkages between the study of public administration and government institutions. It approached the study of administration through the study of structure, and functioning of separate institutions of the state such as the executive, legislature, departments, boards and commissions.

### 1.7.4 BEHAVIORAL APPROACH

This approach is mainly concerned with the scientific study of human behavior in diverse social environments. It started as a protest against the traditional, historical, normative and largely descriptive approaches in the social sciences. In public administration, behavioral study started in the 1930s with the "*Human Relations Movement*". For this approach "*administrative behavior*" is part of the behavioral sciences and the study of public administration should involve the study of individual and collective human behavior in administrative situations or settings.

### 1.7.5 SYSTEMS APPROACH

One of the most significant landmarks in the evolution of organization theory is the development of general systems concept for organizational analysis. The term "*system*" has been defined as a complex whole, a set of connected things or parts. According to this approach in organizational

analysis, an organization can be considered as a social system to be studied in its totality. In other words, a system is a collection of interrelated parts, which receives inputs and produces certain results.

## 1.7.6 STRUCTURAL/FUNCTIONAL APPROACH

The two basic concepts to this approach are *structure and function.* All social structures exist to perform certain functions. While functions concern the consequences of patterns of action, structure refers to the patterns of actions and the resultant institutions of the systems themselves.

## 1.7.7 ECOLOGICAL APPROACH

Various scholars and administrators have often referred to the need to relate public administration to the environment in which it functions. The ecological perspective in the study of PA included such factors as people, institution, scientific technology, social technology, wishes and ideas, catastrophe and personality.

## 1.8. THE ENVIRONMENT OF PUBLIC ADMINISTRATION

Environment in the context of this topic refers to actors and forces that affect or determine public administration. The environment under which public administration operates, that would have major implications on its success or failure as well as in shaping its basic features, can generally be classified as internal and external.

Internal environment refers to those conditions, which are in most cases within the control of the administration, yet having their own challenges and/or advantages. This may include the organization itself and groups and individuals within the organization, the material, financial, and other resources available for the organization and so on.

The organizational structure and the pattern of authority in the formal hierarchy, the purpose and tradition of the organization, historical legacies or traditional practices of the administrative systems, the internal network and working procedures, etc have influences on the administrative efficiency and effectiveness of a given organization or country. The behavior and structure of formal and informal groups like peer groups, labor unions, and advisory council have also strong influence on the style of administration.   The type and sufficiency of materials, skill, knowledge, and finance are considered as internal environmental factors to the organization that highly determines the administrative style and the accompanying success or failure of administration.

External environment on the other hand is that, which is outside the control of the administration but having major impact in shaping the features and determining the success or failures of the overall objectives that public administration wants to achieve. The external environment can be generalized as political, economic/ecological, social, and technological (PEST) each of which reflected in many ways. For example we can consider:

♦ Politically, the type of government and the resultant constitution, policies, laws and directives; national and international political trends and changes; bilateral and multilateral agreements and policies;

♦ Economically, national economic trends and level of growth and development; the global market and economic situation as well as the extent of mutual economic assistance and cooperation;

♦ Socially, population/demographic trends and changes; societal beliefs, values, attitudes, cultures, and lifestyles; public expectations and demands;

♦ Technologically, ability or access to use the type of technology being used elsewhere in the world, such as in communication and production;

All these have their own effects on the administrative system of a given country or organization. Thus, public administration has always to keep on with close scrutiny and be aware of what is going on or what exists in both the internal and external environment.

As the internal and external environments do have influences on the features, structures and goals of public administration, there are apparent differences in developed and developing countries in these regards.

## 1.9. PUBLIC ADMINISTRATION IN DEVELOPED (INDUSTRIAL) COUNTRIES

In the context of this note, the term "developed" or "industrial" societies refer to those countries of Western Europe and USA where industrialization has brought about major changes in economic structure and growth accompanied by political and administrative modernization.

Nevertheless, it should be noted that administrative modernization is a typical or exclusive feature of developed countries. Because some developed countries might not have modern administrative system, while we could find a developing country that employs modern administration.

Despite individual differences, the following are some of the important features of administrative systems of developed countries as a group that differentiates them from the developing ones:

1. Government organization is highly distinguished and functionally specific and the roles are based on achievement criteria than on attribute or assumed power. The bureaucracy is marked by a high degree of specialization. Recruitment of personnel is generally based on merits.

2. Laws and political decisions are largely rational. Public policy making is effectively made by professional public administrators.

3. Administration has become to take all-encompassing functions that affect major spheres of the lives of citizens.

4. There is high correlation (association) between political power and legitimacy (legality) and there is an extensive popular interest and involvement in public affairs.

5. Incumbent of political or governmental offices are generally considered as lawful or reasonable holders of those positions, and transfer of power and positions tend to occur in accordance with prescribed rules and procedures.

Some of the characteristics have been reflected in the nature of the public administration of these industrial societies.

1. Public bureaucracies are large, and organizationally complex with diverse functions, divided as they are in numerous units and sub-units. These units require personnel both of a generalist and technical character, and together they represent the full range of occupational specializations that are found in those societies. Structurally and functionally the bureaucracies tend to resemble the Weberian type.

2. The bureaucracy exhibits to a marked degree of professionalism both in the sense of identification with the public service as a profession and in the sense of belonging to a narrower field of professional or technical specialization within the service, such as law, engineering or social work. This professional outlook is the result of various factors, such as educational background, career orientation and standards of competence applied in recruitment to the public service as against private sector.

3. Due to the relative stability of political systems, in these societies, the bureaucracy is more fully developed, its role in the political process is fairly clear and it is generally accepted in practice as an autonomous institution. In functional terms, the bureaucracy is primarily involved in rule

application, performing secondary functions of rule-making and interest aggregation to a limited extent.

4. The bureaucracy in a modernized polity will be subject to effective policy control by other functionally specific political institutions.

The tasks of public administration in industrial societies do not differ in theory from other societies where the primary task of public administration is to implement public laws and policies. However, as empirical studies have proved that numerous linkages exist between the features of an administrative system and their environment, the role and challenges of public administration in industrial societies have to be viewed in their particular socio-economic and cultural context. The history of public administration as an activity and as a discipline is inextricably linked with the administrative evolution of industrial societies. The development of modern sciences and technology in industrial societies has led to a tremendous impact on the life of the people and the activities of the government. Industrialization has created huge organizations. These in turn, have created complex problems of social cooperation and administrative coordination, which if not met in time, may cause the ruin of society. Unless the structure and functions of social organizations and management practices keep pace with the increased powers, science and technology have placed into the hands of man, these inventions may bring the doom of man.

The great extension of the basic communication network in these societies has greatly widened the effective scope of administrative activity, while simultaneously increasing the responsibilities of public administration and causing it to reach out for new means of fulfilling its new duties and growing role. The public services in industrial societies do not differ in theory, organization or technique from the administration in developing societies but in practice differences inevitably crop up due to the difference in environment. Most of the industrial societies are democratic welfare states, where the public administration has a challenging role to play in order to fulfill its democratic and welfare tasks. It has to be both responsive and responsible to the public. The citizens of advanced industrial societies are used to effective and efficient public services. Bureaucracies have to perform both routine and welfare tasks as efficiently and economically as possible, within a specific time framework.

The citizens of these societies have increasingly come to view public administrators as an impartial and expert body of professionals intellectually equipped to cope with their

administrative needs. In fact the entire discipline of public administration has evolved and grown with the changing public administrative culture of the industrial societies. As stated earlier, there was and still is a close relationship between the various theoretical concepts and approaches of public administration as a subject and the actual social and technical problems of industrial societies.

Commenting on the special administrative problems of industrial societies Ira Sharkansky writes: A problem that appears widely in more developed countries is a lack of coherence in relations between numerous service and regulatory agencies. The problem is often pronounced at local levels, where authorities design and implement their own programmes, as well as implement programmes designed and funded in part by national authorities. "Who controls what?" is a topic of some concern when many units share policy design, funding and implementation. A typical result is control by bureaucratic elites who operate within their specialize domains. There is occasional dominance by politicians who take an interest in a particular matter, but there is also a lack of general integration of programmes by elected officials.

Most of the industrial societies especially in Europe are typical examples of the 'Administrative State'. The bureaucracy in these states mainly performs three types of functions:

1. Regulatory and preventive functions, enforcing laws, collecting revenue, and protecting the state against external aggression.
2. Service Functions, making provisions for education, health, culture and recreation, social insurance, unemployment relief, housing, transportation, and communication.
3. Entrepreneurial functions operating industrial enterprises, loaning funds etc. In industrial countries with planned economies, the public administration acts as the chief agent of planned economic development and social change. To maintain the existing level or even to increase the economic growth and development of their societies. The public bureaucracies are being continuously asked to live up to the role and meet the challenges posed before them.

## 2. PUBLIC ADMINISTRATION IN DEVELOPING COUNTRIES

Many of the developing countries have got their independency from colonialists immediately after the Second World War. Despite a wide range of differences in terms of the location,

resources, history, culture, political systems, and development patterns of these countries, they as a group can be called (characterized) as "developing".

Most of these new self-governing states have been in the process of transitions, facing serious problems of social turmoil and disturbances, economic depression (downturn) and administrative chaos (confusions). Yet, a great degree of reliance has been made on the staggering state and bureaucracy for achieving developmental goals and solving all sorts of social dilemmas and problems.

These realities have been seriously challenging public administration of developing countries. The following points are indicative of general administrative patterns currently found in developing (third world) countries.

1. The basic pattern of public administration is imitative (copied) rather than indigenous (original). All developing (third world) counties, including those that were not colonized have deliberately tried to introduce some version or style of the bureaucratic model of administration from developed countries, most notably from colonial masters. Hence, it would be predictable for ex-colonies to resemble in terms of their administrative pattern.

2. The bureaucracies are deficient (lacking) in the requisite skills necessary for development programs. In spite of abundance (plenty) of labor (employable manpower) in relation to other resources in most of the developing countries, trained administrators with management capacity, developmental skills, and technical proficiency are extremely in shortfall.

3. Emphasis to non-productive orientations is another tendency (trend) of the bureaucracies of these countries. Much bureaucratic activity is channeled towards the realization of non-developmental goals. According to Riggs, bureaucrats prefer to personal expediency or convenience as against principled public interest. This in turn may include practices like:

♦ Non-merit considerations influence greatly assignments, promotions, dismissals, and other personnel practices,

♦ Widespread corruptions,

♦ Using the public service as a substitute for a social security program, or to relieve the problem of unemployment. Thus, there is always a surplus of employees in the public services,

4. Extensive (huge) discrepancy or disagreement between form and reality, which Riggs has called it "*formalism*", is another distinguishing characteristic of administrative trends of developing

countries. In other words, bureaucrats pretend as if they make things they ought to be done while the reality tells different from what they say.

They try to fill partially the gap between expectation and reality by:

♦ enact laws that cannot be enforced,

♦ Adopting personnel regulations that are peacefully by-passed,

♦ Announcing programs for delegation of administrative authority while keeping tight control over decision-making at the center,

♦ Reporting as is production targets are met, which in fact remain only partially fulfilled,

5. The bureaucracy in developing countries is likely to have high degree of operational autonomy as a result of several operating forces in newly independent states. These operating forces could be factions created by colonialists within a given country, national and international organizations etc. Political role of the bureaucracy in these countries vary significantly.

Regardless of the aforementioned limitations of the current administrative patterns of developing countries, the immensity of the developmental problems and the urgency to look for solutions have thrust upon (or forced) the state to bear or shoulder the principal responsibility of achieving developmental goals.

In other words, despite sever handicaps like shortage of capital, skilled manpower, and lack of developmental infrastructure that they inherited from colonialists, the Third World governments are confronted with rising expectations of the people they have to administer. Besides, Third World governments have been expected to deal with curtailing social dislocations such as mass rural-urban migration, sever unemployment, riots (social unrest) and community clashes.

With such challenges and confrontations, public administration still becomes the main agency of socio-economic changes; changes not only in terms of formulating and implementing long-term plans, but also in the context of establishing modern institutions or organizations equipped with the necessary skills.

## CHAPTER TWO: DEFINITION, NATURE, PURPOSE AND FUNCTION OF LAW

## 2.1. INTRODUCTION

Public law concerns the relationships between citizens and governments and rules that govern how public institutions work. This simple definition is complicated by the variation and complexity of public laws and how the development of public law has varied greatly among different countries and their associated legal traditions. Those states with a common-law tradition may have public law that intersections and overlaps private law, while civil law often include two separate systems of law for public and private. In both types of system, defining what public means is complicated. It might mean simply legal matters concerning entities that are themselves public; while this is simple when considering purely governmental entities, it is difficult to separate out when private or civil society actors act in a public capacity or in coordination with a public entity. Or the concept of the public may have a normative and shared conception of a legal and political order and its incumbent sense of flourishing. To understand

some of these tensions, the development of public law in relation to broader material trends and the history of political thought is useful.

In general, administrative and constitutional law form the two central categories of public law and shape public institutions and the behavior of public officials. Within these categories, and sometimes overlapping, are other domains like civil liberties or criminal law and particular instantiations in a place or system like European Union law or international law. Although the development of public law follows a broad growth narrative of secularization and judicial creep into broader areas of society and politics, recent developments challenge this narrative as the boundaries between public and private law are blurred, both conceptually and by global development. The future of public law, both as it exists in the world and as a subject of intellectual inquiry, is uncertain given the pluralistic sources and the mutual imbrication of the public and private that continues to gain in complexity.

## 2.2. Objectives

After reading this chapter, students will be able to:
- ✓ Explain the meaning and definition of law
- ✓ Discuss the basic features of law those make difference law from other normative orders.
- ✓ Distinguish the various types and classifications of laws
- ✓ Identify and analyze the philosophical foundations of law

## 2.3. MEANING AND DEFINITION OF LAW

Definition of the term law may vary due to the different types of purposes sought to be achieved. According to Black's Law Dictionary law consists of rules of action or conduct. These rules are issued by an authority. In addition, these rules have binding force and are obeyed and followed by citizens. Sanction or other legal consequence may help the law to be abided by citizens.

Law, in its broadest and most comprehensive sense, means a set of rules, norms and a standard of pattern of behavior to which every individual in society has to conform to. Another often quoted, although not widely believed, definition of Law is of that given by Austin according to which Law is the command of the 'sovereign.'

There is no single universally accepted framework and perspective in the understanding and conceptualization of law. Thus, the purpose of this lesson is to shade light on the meaning and definition of law. No doubt we all are familiar with the word. However, much scholarship has been devoted to this question without producing either perfect definition or a broad consensus on how to best define the term. Indeed the search for perfect definition may well be an exercise in the futility because of the complex nature of the concept and the varied perspectives adopted by scholars.

So Law has been equated with the will of God, as a mirror of a divine world order. It has also been viewed as an expression of human nature, pure reason, general will and class ideology. Law has been seen as a historical fact and as a command.

From the pragmatic point of view, American jurist, Benjanin Nation Cordazo defines law as "a principle or rule of conduct so established as to justify a production with reasonable certainty that it will be enforced by the courts if its authority is challenged." He argues that law has three features that distinguish it from other normative orders such as custom or convention. There must be a pressure that comes from external in the form of actions or threats of action by others regardless of the person wants to  obey the law or not; These external actions or threats of action always involve coercion or force;

## 2.4. The Origin of Law

In this respect there are three different perspectives on the origin of law. These Are value/consensus, rational/contract and power/ coercion. In the subsequent discussion we will elaborate the major arguments of each approach in brief.

**A. Value/ Consensus perspective**

Law is seen as a formalization of deeply held and widely shared values. This view has several different versions. First there is natural law theory which holds that law is or surely ought to be based on divinely ordained rules, or natural rights to which human beings are entitled. This version has both religious and secular aspects. In either case, however, the emphasis is on rules or rights that every one ought to be able to recognize and honor. Such scholars as Thomas Aquinas and John Lock belong to this perspective. For Lock, government and its rules and institutions come out of free contract among people and are legitimated only as long as it enjoys the consent of the governed. In such Contract commonly shared basic values and principles are

implicit. Second, an alternative view regards law as the crystallization of the traditions or a formalization of customs that emerged within a particular society over a long period of time. A 19th century legal scholar Frederich von Savigny belongs to this version. A third view has a distinctly modern theme and emphasizes that law is a product of democratization: that is, law reflects the values of the popular majority as expressed through the political process. Of course, any such account is only applicable to laws created in societies that have a democratic system. Jergun Habermas(1998) held a position that societies should be moving towards the creation of institutional arrangements and legal frameworks wherein citizens can in a truly meaningful and well-informed manner engage in a dialogue leading to consensus and the adoption of agreed-upon rules and laws.

## B. Rational/Contract Perspective

A second view on the origin of law shifts attention away from values to agreements based on contract. The English philosopher Thomas Hobbes advanced such version of social contract theory. He held that human beings in a state of nature were engaging in a war of all against all. In such a condition, the life of each person would be solitary, short, nasty and poor. Although human beings in a state of nature live like animals, they also have one important faculty, reason, which makes them different form other creatures. And through reason they arrive at the realization that it is in the long-term interest of all individuals to form a social contract with others.

## C. Power/ Coercion Perspective

A third basic view adopts a position fundamentally different from the previous conceptions. In this view, law is an expression of the will (and interest) of the sovereign or the powerful elite. One classical version of this assertion was advanced by the Italian philosopher Machiavelli who postulated the proposition that the end justifies the means and power (might) makes right. He specifically advised rulers to adopt cynical, manipulative means to achieve their political ends and the law is an important instrument of this enterprise. Karl Marx regarded law as a creation of the privileged class to maintain an inherently exploitative system. With his emphasis on class conflict, he underlined that law serves the economic interest of the property- owner class. Law is an instrument of exploitation.

## 2.5. BASIC FEATURES OF LAW

### I) GENERALITY

 "Everyone has the right to life, liberty and the security of a person." This law is made to be applicable to every person on this world. Therefore, it is universal.

"Every person has the inviolable and inalienable right to life, the security of person and liberty." [Article 14 of the 1995 Constitution of the Federal Democratic Republic of Ethiopia]. This constitutional provision is made to be applicable to every person in Ethiopia. So the extent of its generality is national. This is less general than the first illustration. ""Whoever intentionally spreads or transmits a communicable human disease is punishable with rigorous imprisonment not exceeding ten years." [Article 514 (1) of the 2004 Criminal Code of the Federal Democratic Republic of Ethiopia]. This law is made to be applicable only on a person who commits the crime. Therefore, it is even less general than the second illustration.

"The term of office of the presidents shall be six years. No person shall be selected president for more than two terms" - This law is made to be applicable only to a person who becomes a president in Ethiopia. Under all these illustrations, the subjects of laws are given in general terms.  However, the extents of the generalities decrease from universality to an individual person. Generality of the subject of the law may serve two purposes.

 Firstly, it promotes uniformity and equality before the law because any person falling under the group governed by the law will be equally treated under the same law. Secondly, it gives relative permanence to the law. Since it does not specify the names of the persons governed,

### II) NORMATIVITY

Law does not simply describe or explain the human conduct it is made to control. It is created with the intention to create some norms in the society. Law creates norms by allowing, ordering or prohibiting the social behaviour. This shows the normative feature of the law. Based on this feature, law can be classified as permissive, directive or prohibitive.

A) Permissive Law

Permissive laws allow or permit their subjects to do the act they provide. They give right or option to their subjects whether to act or not to act. Most of the time such laws use phrases like:

has/ have the right to is/are permitted/allowed to shall have the right shall be entitled to is/are free to

B) Directive law

Directive law orders, directs or commands the subject to do the act provided in the law. It is not optional. Therefore, the subject has legal duty to do it whether s/he likes it or not, otherwise, there is an evil consequence that s/he incurs unless s/he does it as directed by the law.

Directive law usually uses phrases like: must /shall has/have the obligation is/are obliged to is/are ordered to shall have the obligation/duty. In general, directive laws are mandatory provisions of laws. They oblige the subject to act, as they require him/her to act.

C) Prohibitive law

Prohibitive law discourages the subject from doing the act required not to be done. If the subject does the act against the prohibition, an evil follows as the consequence of the violation. All criminal code provisions are prohibitive laws. Prohibitive laws usually use phrases like: must not; shall not; should not; no one shall/should; no person shall/should; may not; is/are not permitted/allowed; is/are prohibited; is/are punishable; and is a crime.

There is no agreement among scholars as to the functions of law. Jurists have expressed different views about the purpose and function of law. It is well known that law is a dynamic concept, which keeps on changing with time and place. It must change with changes in the society. Law, in the modern sense, is considered not as an end in itself, but is a means to an end. The end is securing of social justice. Almost all theorists agree that law is an instrument of securing justice. As Salmond rightly pointed out, "law is a body of principles recognized and applied by the State in the administration of justice." Even Hobbes and Locke recognised the positive role of law when they said, "the end of law is not to abolish or restrain but to preserve or enlarge freedom and liberty."

For Kant, the aim of law is the adjustment of one's freedom to those of other members of the community. Bentham gave a very practical version of the purpose of law, which according to him, is maximization of the happiness of the greatest number of the members of the community.

According to Holland, the function of law is to ensure the well-being of the society. Thus it is something more than an institution for the protection of individuals' rights.

Roscoe Pound attributed four major functions of law, namely: (1) maintenance of law and order in society; (2) to maintain status quo in society; (3) to ensure maximum freedom of individuals; and (4) to satisfy the basic needs of the people. He treats law as a species of social engineering.

## 2.6. FUNCTIONS OF LAW

The Realist view about the purpose and function of law is that for the pursuit of highest good of the individuals and the state as such controlling agency. The object of law is to ensure justice. The justice may be either distributive or corrective. Distributive justice seeks to ensure fair distribution of social benefits and burden among the members of the community. Corrective justice, on the other hand, seeks to remedy the wrong. Thus if a person wrongfully takes possession of another's property, the court shall direct the former to restore it to the latter. This is corrective justice.

Rule of law is *sine qua non* for even-handed dispensation of justice. It implies that everyone is equal before law and law extends equal protection to everyone; judges should impart justice without fear or favour and like cases should be treated alike. It must, however, be stated that justice alone is not the only goal of law.

The notion of law represents a basic conflict between two different needs, namely, the need for uniformity and the need for flexibility. Uniformity is needed to provide certainty and predictability. That is, where laws are fixed and generalized, the citizen can plan his/her activities with a measure of certainty and predict the legal consequence of his/her conducts. This is even more necessary in case of certain laws, notably, the law of contract or property. Uniformity and certainty of rules of law also bring stability and security in the social order. Today the following are taken as important functions of law.

### A. Social control

Social control – members of the society may have different social values, various behaviours and interests. It is important to control those behaviours and to inculcate socially acceptable social

norms among the members of the society.  There are informal and formal social controls. Law is one of the forms of formal social controls. As to Roscoe Pound, law is a highly specialized form of social control in developed politically organized society. Lawrence M. Freedman explains the following two ways in which law plays important role in social control:

- First, law clearly specifies rules and norms that are essential for the society and punishes deviant behavior.
- Secondly, the legal system carries out many rules of social control. Police arrest burglars, prosecutors prosecute them, courts sentence them, prison guards watch them, and parole broads release them.

**B) Dispute settlement**

Disputes are unavoidable in the life of society and it is the role of the law to settle disputes. Thus, disagreements that are justiciable will be resolved by law in court or out of court using alternative dispute settlement mechanisms.

**C) Social change**

A number of scholars agree about the role of law in modern society as instrument to social change. Law enables us to have purposive, planned, and directed social change. Flexibility of law   provides some measure of discretion in law to make it adaptable to social conditions. If law is rigid and unalterable, it may not respond to changes spontaneously which may lead to resentment and dissatisfaction among the subjects and may even result into violence or revolution.  Therefore, some amount of flexibility is inevitable in law

## 2.7. CLASSIFICATION OF LAWS

Classification is a shaping and developing of traditional systematic conceptions and traditional systematic categories in order to organize the body of legal precepts, so that they may be: stated effectively with a minimum of repetition, over lapping and potential conflict; administered effectively; taught effectively, and developed effectively for new situations.  Under this unit, classification of laws into public and private will be dealt. Next, the classification of law into

international and national, substantive and procedural, civil and criminal will be considered respectively.

## I.     PUBLIC AND PRIVATE LAW

Public law regulates the acts of persons who act in the general interest, in virtue of a direct or mediate delegation emanating from the sovereign.

As Salmond propounded 'public law' is not the whole of the law that is applicable to the state in its relations with its subjects, but only those parts of it which are different from the private law concerning the subjects of the state and their relations to each other Private law is thus the residue of the law after we subtract public law. Private law regulates the acts, which individuals do in their own names for their own individual interest.

## II.     INTERNATIONAL AND NATIONAL LAW

Law may be classified into international and local law:

A) **International law** – The law of nations of the 18th century was named as international law by Bentham in 1780. It consists of rules which regulate relations between State *inter se.* Oppenheim has defined international law as "the body of customary and conventional rules which are considered legally binding by civilised States in their intercourse with each other."

Starke defines International law as "rules of conduct which states feel themselves bound to observe and therefore do commonly observe in their relations with each other and which includes also:

(a) the rules of law relating to functioning of international institutions and organisations, their relations with each other and their relations with States and individuals; and

(b) Certain rules of law relating to individuals so far as the rights and duties of such individuals are the concern of the international community."

Salmond, however, believes that international law is essentially a species of conventional law and has its source in international agreements. These international agreements may be of two kinds, namely – (1) express agreements as contained in treaties and conventions; and (2) implied

agreements as found in customary practices of the States. John Austin, Willouthby and Holland consider international law as positive morality and do not agree that it is law properly so-called. Austin defines law as a body of rules for human conduct set and enforced by a sovereign political authority.

Since international law is not set or enforced by a political sovereign authority, it is not law. Also, there is no common superior over sovereign states.

In the absence of any binding force, the validity of international law is solely dependent on the voluntary acceptance of the States and, therefore, it cannot be called as "law" in true sense of the term.

Dr. Holland subscribes to this view of John Austin. He observed, "the rules of international law are voluntary, though habitually observed by every state in its dealings with the rest, can be called "law" only by courtesy".  According to him, international law is a vanishing point of jurisprudence since it lacks any arbiter of disputed questions save public opinion, beyond and above the disputant parties themselves.

Professor Dias suggests that there is no doubt that the respect which States pay to International Law is less than what individuals pay to municipal law, but still it is called "law" to inspire a sense of obligation among States to follow it.

Therefore, it is a weak law. Although there is International Court of justice functioning at Hague, it does not have any universal compulsory jurisdiction for settling legal disputes between States. Again, international law having not yet been codified, suffers from uncertainty. However, Dr. Oppenheim defends international law as "Law" and says, "a weak law nevertheless is still a law".

Salmond, however, agrees that Private law branch of International Law be regarded as law in strict sense of the word. In the ultimate analysis, it may be suggested that despite criticism against international law being treated as law proper, it has assumed great importance in modern world.

A large part of this law is based on natural justice and principles of right reason which the States are expected to follow in their dealings with one another.

Although this law does not have any binding force behind it but the positive morality, underlying it does inspire States to feel obliged to follow it . As one can observe from the above discussion, international law is classified into public international law and private international law. Public international law regulates the relation between states. For example the relations between Ethiopia and Sudan are governed by public international law. Private international law, on the other hand, governs the relations between individuals of different nationals.

Different nationals involve in commercial and other civil transactions beyond their countries. Since the laws of different countries are not the same, the problem arises as to which law should be applied to the relations of different nationals.  For example, let us assume that Ethiopian national and Chinese are married in Addis, and they live in Beijing. Let us further assume that a dispute arises between them with regard to the administration of their household.  Whose law is to apply to solve their dispute: the Ethiopian or Chinese law?  Private international law solves this problem. Private international law is known by different names. For instance it is called conflict of laws

B) **National law**- law that pertains to a particular nation (as opposed to international law) [Roger and Frank; 2002: 17]. It is a law of a nation, for example the law of the United States of America, France, or Ethiopia.  Such law is applicable all over a country in question. It is also known as law of the land. It is in effect in a country and applicable to its members. The law may be statutory, i.e. enacted law, administrative or case law [Garner; 2004: 904].

Local Law [Paranjape; 2001: 157] - Local law is the law of a particular locality and not the general law of the whole country. They may be of two kinds – local customary law and local enacted law. Local customary law has its roots in those immemorial customs, which prevail in a particular part of the State and therefore, have the force of law.  The local enacted law, on the other hand, has its source in the local legislative authority of municipalities of other corporate bodies empowered to govern their spheres by by-laws, supplementary to general law.

III.    SUBSTANTIVE AND PROCEDURAL LAW

According to Salmond, substantive law is that which defines a right while procedural law determined the remedies. Procedural law is also called 'law in action' as it governs the process of litigation. Substantive law is concerned with the administration of justice seeks to achieve while procedural law deals with the means by which those ends can be achieved. For example, law of contract, transfer of property, crimes etc… are substantive laws whereas the laws of civil procedure or criminal procedure are procedural laws. The rules that are provided under procedural law are inseparable from the substantive law. For example, civil procedure law is inseparable from the civil; code that deals about contract, filiations, adoption, and the like. Substantive law defines the rights and duties of persons; procedural law defines and deals with procedures for enforcing those rights and duties. Substantive law determines a wide variety of matters—for example, what is required to form a contract, what the difference is between larceny and robbery, when one is entitled to compensation for an injury, and so on. The rules of procedure and jurisdiction determine the court or administrative agencies that may handle a claim or dispute; the form of the trial, hearing, or appeal; the time limits involved; and so on.

## IV. EVIDENCE LAW

Law of Evidence is the law that consists of the rules and principles, which govern the relevancy, admissibility, weight and competency of evidence. It compress the legal rules regulating those means by which any alleged matter of fast, the truth of which is submitted to investigation is established or disproved.. In a few cases formal rules are enforced. Treason must be proved by the testimony of two witnesses, and in several states two witnesses are required for a perjury conviction. Some transactions, such as wills, transfers of land, and the sale of very valuable goods, must be evidenced by written documents

## V. CIVIL AND CRIMINAL LAW

Civil law is that branch of law dealing with the definition and enforcement of all private or public rights, as opposed to criminal matters. The law enforced by the State is called civil law. In Ethiopia, we have a civil law codified in 1960, which is known as Civil Code. The force of State is the sanction behind this law. Civil law is essentially territorial in nature as it applies within the territory of the State concerned. The term civil law is derived from the Roman word *jus civile.* Austin and Holland prefer to call civil law as 'positive law' because it is enforced by the

sovereign political authority. However, Salmond justifies the term 'civil law' as the law of the land. He argues that positive law is not necessarily confined to the law of the land. For example, international law is a kind of jus positivism but it is not a civil law.

On the other hand, Penal law unquestionably forms part of public law. The state alone, representing the nation, has the right to punish.  Prosecutions and condemnations are carried out in its name. The application of penalties is a part of the administration of a state. Today we have a criminal law enacted in 2004 which is a revision of the 1957 Penal; Code of Ethiopia. The designation is changed to criminal law because penal law has negative connotation which carries penalty only.

**Public Law**

Public law regulates the acts of persons who act in the general interest, in virtue of a direct or mediate delegation emanating from the sovereign.

As Salmond propounded 'public law' is not the whole of the law that is applicable to the state in its relations with its subjects, but only those parts of it which are different from the private law concerning the subjects of the state and their relations to each other.

 Private law is thus the residue of the law after we subtract public law.  Public law is sub divided into constitutional and administrative law. Constitutional law defines the organization of the state, its fundamental rules, mode of government, and the attributions of its political organs, their limits and their relations.  Constitutional law deals with the ultimate questions of the distribution of legal power and of the functions of the organs of the State.

Administrative law regulates the operation of the executive power in all its degrees, beginning with cabinet ministers and descending to its most humble representatives.  It also regulates such local, departmental and communal administrations. Very wide in its application administrative law comprises many matters, which impinge upon private law.   This is because the administration often takes individuals under its tutelage.

It is thus that the operation of mines, of waterfalls, and of railways is governed by provisions of administrative law. In addition, the creation and functioning of certain groups of persons, such as

labour unions, associations, and mutual aid societies are governed by administrative law, even though private persons may be acting in their own private interest

Criminal law, the infliction of punishment directly by the organs of the state, is also usually regarded as falling under the head of public law. Some would say that civil procedure should also be placed in this section, since these rules regulate the activities of courts, which are mere agencies of the State; but civil procedure is so linked with the enforcement of private rights that it is more convenient to regard it as belonging to both public and private law.

Private law governs in principle all the acts of individuals in their private capacity. However, in France and in most civilized states, it is at present divided into three sections. They are civil law, procedure, and commercial law.

## 2.8. ADMINISTRATIVE LAW AND AGENCIES

## 2.8.1.DEFINITION, SOURCES AND PURPOSES OF ADMINISTRATIVE LAW

### 2.8.1.1. INTRODUCTION

This chapter presents you some highlights of the nature, meaning, scope and sources of administrative law. Administrative law, as a branch of public law, governs the relationship of the state and its citizens. Specifically, it regulates the manner of exercising power by the executive branch of government and administrative agencies so as to ensure its legal limits. Ultimately, by controlling power, it provides protection to the citizen against ultravires acts, abuse of power and arbitrariness.

**Objectives**

After a successful accomplishment of this lesson, you will be able to:
- ✓ Grasp the meaning and nature of administrative law;
- ✓ Recognize the scope of administrative law;
- ✓ Appreciate the purposes and objectives achieved by administrative law;
- ✓ Differentiate between administrative law and other kinds of laws such as the constitutional law;

✓ Be familiar with different sources of administrative Law.

## 2.8.1.2. Definition of Administrative Law

There is a great divergence of opinion regarding the definition of concept of the administrative law. The is because of the tremendous increase in the administrative process that it makes impossible to attempt any precise definition of administrative law which can cover the entire range of the administrative process. Hence one has to expect differences of scope and emphasis in defining administrative law. This is true not only due to the divergence of the administrative process within a given country, but also because of the divergence of the scope of the subject in the continental and Anglo – American legal systems.

However, two important facts should be taken into account in an attempt of understanding and defining administrative law. Firstly, administrative law is primarily concerned with the manner of exercising governmental power. The decision making process is more important than the decision itself. Secondly, administrative law cannot fully be defined without due regard to the functional approach. This is to mean that the function (purpose) of administrative law should be the underlying element of any definition. The ultimate purpose of administrative law is controlling exercise of governmental power. The ‗control aspect' impliedly shades some light on the other components of its definition. Bearing in mind these two factors, let us now try to analyze some definitions given by scholars and administrative lawyers.

Austin has defined administrative law, as the law which determines the ends and modes to which the sovereign power shall be exercised. In his view, the sovereign power shall be exercised either directly by the monarch or indirectly by the subordinate political superiors to whom portions of those powers are delegated or committed in trust.

Schwartz has defined administrative law as ―the law applicable to those administrative agencies, which possess delegated legislation and adjudicative authority.' This definition is a narrower one. Among other things, it is silent as to the control mechanisms and those remedies available to parties affected by an administrative action.

Jennings has defined Administrative law as ―the law relating to the administration. It determines the organization, powers and duties of administrative authorities. Massey criticizes

this definition because it fails to differentiate administrative and constitutional law. It lays entire emphasis on the organization, power and duties to the exclusion of the manner of their exercise. In other words, this definition does not give due regard to the administrative process, i.e. the manner of agency decision making, including the rules, procedures and principles it should comply with.

Dicey like Jennings with out differencing administrative law from constitutional law defines it in the following way. ‗Firstly, it relates to that portion of a nation's legal systems which determines the legal status and liabilities of all state officials. Secondly, defines the rights and liabilities of private individuals in their dealings with public officials. Thirdly, specifies the procedures by which those rights and liabilities are enforced.'

This definition is mainly concerned with one aspect of administrative law, namely judicial control of public officials. It should be noted, that the administrative law, also governs legislative and institutional control mechanisms of power. Dicey's definition also limits itself to the study of state officials. However, in the modern administrative state, administrative law touches other types of quasi- administrative agencies like corporations, commissions, universities and sometimes, even private domestic organizations. Davis who represents the American approach defines administrative law as; ―The law that concerns the powers and procedures of administrative agencies, specially the law governing judicial review of administrative action.‖ The shortcoming of this definition according to, Massey is that it excludes rule - application or purely administrative power of administrative agencies. However, it should be remembered that purely administrative functions are not strictly within the domain of administrative law, just like rule making (legislative) and adjudicative (judicial) powers. Davis's definition is indicative of the approach towards administrative law, which lays great emphasis on detailed, and specific rule-making and adjudicative procedures and judicial review through the courts for any irregularity. He excludes control mechanisms through the lawmaker and institution like the ombudsman.

Massey gives a wider and working definition of administrative law in the following way.

*" Administrative law is that branch of public law which deals with the organization and powers of administrative and quasi administrative agencies and prescribes the principles and rules by which an official action is reached and reviewed in relation to individual liberty and freedom"*

From this and the previous definitions we may discern that the following are the concerns of administrative law:

- It studies powers of administrative agencies. The nature and extent of such powers is relevant to determine whether any administrative action is ultravires or there is an abuse of power.

- It studies the rules, procedures and principles of exercising these powers. Parliament, when conferring legislative or adjudicative power on administrative agencies, usually prescribes specific rules governing manner of exercising such powers. In some cases, the procedure may be provided as a codified act applicable to all administrative agencies.

- It also studies rules and principles applicable to the manner of exercising governmental powers such as principles of fairness, reasonableness, rationality and the rules of natural justice.

- It studies the controlling mechanism of power. Administrative agencies while exercising their powers may exceed the legal limit abuse their power or fail to comply with minimum procedural requirements. Administrative law studies control mechanisms like legislative & institutional control and control by the courts through judicial review.

- Lastly it studies remedies available to aggrieved parties whose rights and interests may be affected by unlawful and unjust administrative actions. Administrative law is concerned with effective redress mechanisms to aggrieved parties. Mainly it is concerned with remedies through judicial review, such as certiorari, mandamus, injunction and habeaus corpus.

## 2.7.1.2. Purpose of Administrative Law

There has never been any serious doubt that administrative law is primarily concerned with the control of power. With the increase in level of state involvement in many aspects of everyday life during the first 80 years of the twentieth century, the need for a coherent and effective body of rules to govern relations between individuals and the state became essential. The 20th century

saw the rise of the —regulatory state and a consequent growth in administrative agencies of various kinds engaged in the delivery of a wide variety of public programs under statutory authority. This means, in effect, the state nowadays controls and supervises the lives, conduct and business of individuals in so many ways. Hence controlling the manner of exercise of public power so as to ensure rule of law and respect for the right and liberty of individuals may be taken as the key purpose of administrative law.

According to Peer Leyland and Tery Woods (Peter Leyland and Terry Woods, Textbook on Administrative Law, 4th ed. ) Administrative law embodies general principles applicable to the exercise of the powers and duties of authorities in order to ensure that the myriad and discretionary powers available to the executive conform to basic standards of legality and fairness. The ostensible purpose of these principles is to ensure that there is accountability, transparency and effectiveness in exercising of power in the public domain, as well as the observance of rule of law.

Peer Leyland and Tery Woods have identified the following as the underlying purposes of administrative law.

- It has a control function, acting in a negative sense as a brake or check in respect of the unlawful exercise or abuse of governmental/ administrative power.
- It can have a command function by making public bodies perform their statutory duties, including the exercise of discretion under a statute.
- It embodies positive principles to facilitate good administrative practice; for example, in ensuring that the rules of natural justice or fairness are adhered to.
- It operates to provide accountability and transparency, including participation by interested individuals and parties in the process of government.
- It may provide a remedy for grievances at the hands of public authorities.

Similarly I.P. Massey (**I.P. Massey, Administrative Law, 5th ed.**) identifies the four basic bricks of the foundation of administrative law as:

- To check abuse of administrative power.
- To ensure to citizens an impartial determination of their disputes by officials so as to protect them from unauthorized encroachment of their rights and interests.
- To make those who exercise public power accountable to the people.

- To realize these basic purposes, it is necessary to have a system of administrative law rooted in basic principles of rule of law and good administration. A comprehensive, advanced and effective system of administrative law is underpinned by the following three broad principles:

**Administrative justice-**which at its core, is a philosophy that in administrative decision- making the rights and interests of individuals should be properly safe guarded.

**Executive accountability-**which has the aim of ensuring that those who exercise the executive (and coercive) powers of the state can be called on to explain and justify the way in which they have gone about that task.

**Good administration-** Administrative decision and action should conform to universally accepted standards, such as rationality, fairness, consistency and transparency.

## 2.7.1.3. Scope of Administrative Law

**A) Public Law/Private Law Divide**

The boundaries of administrative law extend only when administrative agencies and public officials exercise statutory or public powers, or when performing public duties. In both civil and common-law countries, these types of functions are sometimes called-public law functions to distinguish them from private law functions. The former govern the relationship between the state and the individual, whereas the later governs the relationship between individual citizens and some forms of relationships with the state, like relationship based on government contract.

For example, if a citizen works in a state owned factory and is dismissed, he or she would sue as a ―private law function. However, if he is a civil servant, he or she would sue as a ―public law function. Similarly, if residents of the surrounding community were concerned about a decision to enlarge the state- owned factory because of environmental pollution, the legality of the decision could be reviewed by the courts as a ―public law function. It is also to be noted that a contract between an individual or business organization with a certain administrative agency is a private law function governed by rules of contract applicable to any individual – individual relationship. However, if it is an administrative contract it is subject to different rules.

The point here is that the rules and principles of administrative law are applicable in a relationship between citizens and the state; they do not extend to cases where the nature of the relationship is characterized by a private law function.

**B) Substance vs. Procedure**

Many of the definition and approaches to administrative law are limited to procedural aspects of the subject. The focus of administrative law is mainly on the manner and procedure of exercising power granted to administrative agencies by the legislature. Fox describes the trend and interaction between substance and procedure as:

It is the unifying force of the administrative process – in dramatic contrast to the wide variety of substantive problems with which agencies deal- that has persuaded most administrative law professors to concentrate on agency procedure rather than agency substance. Hence, to a wider extent, the study of administrative law has been limited to analyzing the manner in which matters move through an agency, rather than the wisdom of the matters themselves.'

With respect to judicial review, the basic question asked is not whether a particular decision is "right", or whether the judge, or a the Minister, or officials have come to a different decision. The questions are what is the legal limit of power or reasonable limit of discretion the law has conferred on the official? that power been exceeded, or otherwise unlawfully exercised? Therefore, administrative law is not concerned with the merits of the decision, but with the decision making process.

## 2.7.1.4. Sources of Administration Law

Administrative law principles and rules are to be found in many sources. The followings are the main sources of administrative law in Ethiopia:

### A) The Constitution

The F.D.R.E constitution contains some provisions dealing with the manner and principle of government administration and accountability of public bodies and officials. It mainly provides broad principles as to the conduct and accountability of government, the principle of direct democratic participation by citizens and the rule of law. It also embodies the principle of separation of powers by allocating lawmaking power to the house of people's representatives, executive power cumulatively to the Prime Minister and Council of Ministers, and finally the power to interpret the laws to the judiciary. Art, 77(2) talks about the power of Council of Ministers to determine the internal organizational structure of ministries and other organs of government, and also Art 77(3) envisages the possibility of delegation of legislative power are also relevant provisions for the study of the administrative law, (see also Articles 9(1), 12, 19(4),

25, 26,37,40, 50(9), 54(6)(7) 55(7), (14)(15), (17),(18),58,66(2),72-77,82,83,93,101-103 of F.D.R.E constitution).

**B) Legislation**

Laws adopted by parliament, which may have the effect of creating an administrative agency, or specify specific procedure to be complied by the specific authority in exercising its powers, can be considered a primary sources for the study of administrative law. The statute creating an agency known as enabling act or parent act, clearly determines the limit of power conferred on a certain agency. An administrative action exceeding such limit is an ultra virus, and in most countries the courts will be ready to intervene and invalidate such action. Moreover, parliament, when granting a certain power, is expected to formulate minimum procedure as to how that power can be exercised to ensure fairness in public administration. This can be done, on the one hand, by imposing a general procedural requirement in taking any administrative action mainly administrative rule making and administrative adjudication just like the American Administrative Procedure Act (APA). And on the other hand, parliament in every case may promulgate specific statutes applicable in different situations.

**C) Delegated Legislation**

Rules, directives and regulations issued by Council of Ministers and each administrative agencies are also the main focus of administrative law. Administrative law scholarship is concerned with delegated legislation to determine its constitutionality and legality or validity and ensure that it hasn't encroached the fundamental rights of citizens. One aspect of such guarantee is subjecting the regulation and directive to comply with some minimum procedural requirements like consultation (public participation) and publication (openness in government administration). Arbitrary exercise of power leads to arbitrary administrative action, which in turn, leads to violation of citizen's rights and liberty. Hence, the substance and procedure of delegated legislation is an important source of administrative law.

**D) Judicial Opinion**

Much, but not most, of the doctrine that envelops and controls administrative power is found in judicial analysis of other sources. However, much of administrative law will not be found solely in judicial opinions. Furthermore, the opinions themselves must be carefully pursued to avoid generalizations about controls on agency behavior that may not be appropriate, as the outcome of

many cases may turn on particular statutory language that may not necessarily reflect the nature of disputes in other agencies.

The American experience as to judicial opinion influencing administrative law is characterized by lack of generalization and fluctuating impacts. These may be due to two reasons. First, cases coming before the courts through judicial review are insignificant compared to the magnitude of government bureaucracy and the administrative process. Second, even as between two apparently similar cases, there is a possibility for points of departure.

In Ethiopia, judicial opinion is far from being considered even as the least source of administrative law. Only cases less than 1% go to court thr ough judicial reviews. The subject is not known by judges, lawyers, the legal profession and administrative officials, let alone by the poor and laypersons who are expected to seek judicial remedy for unlawful administrative acts and abuse of power by public officials. However given the fact that presently the rule of precedent is applicable, judicial opinion, it is hoped, may have a limited role as one of the sources of administrative law in Ethiopia.

In work areas the jobs we do, and the premises on which we work are subject to licensing approvals and permits

That is why administrative law involves a challenge to the exercise of power by the executive government

## 2.8.2. NATURE, MEANING, AND CLASSIFICATION OF ADMINISTRATIVE AGENCIES

There is hardly any function of modern government that does not involve, in some way, an administrative agency. The 20th century has witnessed an unprecedented proliferation of agencies with varying size, structure, functions and powers charged with the task of day – to- day governing. Their existence and growth have been the typical characteristics of the modern administrative state (welfare state.) For this reason, they have been responsible for the expansion and development of administrative law greatly influencing its content, scope and future.

In the broadest sense, administrative law does not involve the study of how those parts of our system that is neither legislature nor courts make decisions. It is concerned with the study of the

procedures, powers and control mechanisms of the administrative agencies. For this reason, the complex web of the administrative process of agencies constitutes an essential aspect of administrative law. Administrative agencies have become a major part of every system of government in the world.  In Ethiopia, for instance, they are the primary tools through which local, states and the federal government performs regulatory functions.

## 2.8.2.1. The Meaning of Administrative Agency

Due to the lack a precise definition of an administrative agency in Ethiopia, every government entity partially or fully funded by the government is considered to be an administrative agency. Their wide ranging and complex functions and their power to legislate and adjudicate, in addition, to their normal executive powers, makes it challenging and difficult to precisely provide a precise and concise definition covering all these aspects of the administrative process.

## 2.8.2.2. CLASSIFICATION OF ADMINISTRATIVE AGENCIES

Agencies are classified or categorized based on such mode of accountability.  Accordingly, those agencies directly accountable to the executive branch are known as executive agencies, where those accountable to parliament are called independent agencies. In Ethiopia, executive agencies are usually accountable to a certain ministry, or council of ministries, or the prime minister. Even though the enabling act may subject an agency to the control of another ministry, it    has also to be noted   that they   are ultimately accountable to either the council of ministers, or to the prime minister. This is true because the F.D.R.E constitution    grants the highest executive authority to the Prime Minister and the Council of Ministers (Article 72 sub 1 of F.D.R.E constitution). The constitution  clearly  imposes  a  duty  to  establish  independent  agencies  indicated  in  the constitution. There are times agencies falling under this category are listed below.

- The Federal Ombudsman
- The Human Right Commission
- The National Election Board
- The Auditor General
- The Population and Census Commission

With respect to these agencies parliament has the right to appoint heads and remove them if there are valid reasons.

## 2.8.3. Reasons for the Creation of Agencies

### A. Providing Specificity

The house of the people's representatives cannot possibly legislate in minute detail and, as a consequence, it uses more and more general language in stating its regulatory aims and purposes. For instance, the house of people's representatives cannot enact a tax law that covers every possible issue that might arise. Therefore, it delegates to the council of ministers and ministry of revenue the power to make rules and regulations to fill in the gaps, and create the necessary detail to make tax laws workable. In many areas, the agency has to develop detailed rules and regulations to carry out the legislative policy.

### B. Providing Protection

Many government agencies exist to protect the public, especially from the business community. For instance, the Environmental Protection Agency is created to regulate environmental pollution. Most of the time, an agency protects the public from the negative impacts of business through regulation. Similarly, agencies also regulate transportation, banking and insurance because of the disparity in bargaining power between the companies and consumers. The ministry of transport for instance determines the rate taxi and bus owners may charge the customer for their service. The National Bank of Ethiopia is given wider power to regulate banking and insurance due to the difference in bargaining power between bankers and customers.

### C. Providing Services

Many agencies are created simply out of necessity. If we are to have roads, the Ethiopian Roads Authority is necessary. Welfare programs require government personnel to administer them. Social security programs necessitate that there should be a federal agency to determine eligibility and pay benefits. The Ethiopian Social Security Authority is established to process pension payment and to determine entitlement to such benefit. The mere existence of most government programs automatically creates new agencies or expands the function of the existing ones.

## 2.8.4. Purpose of Administrative Agencies

### A) Regulation

One of the key reasons for regulating economic activities by the government is the inability of business to regulate itself some of the justifications for regulation include:

**To control monopoly power**

Business is not collecting excess profit, which may endanger the laws of free market and also may pose a danger to consumers.

**To compensate for externalities**

Externalities" occasionally referred to as "spillovers", that occur when the cost of producing something does not reflect the true cost to society for producing the goods. One example is manufacturing process that creates air pollution for which society pays the cleanup costs.

**To compensate for inadequate information**

Compensating for inadequate information is a justification for a great deal of legislation for consumer protection. Purchasers of food, for instance, cannot analyze the nutritional content or the health hazards of various food products so that there has to be some organ that ensures these tests are fulfilled.

**To compensate for unequal bargaining of powers**

Contracts between banks & customers, insurers & the insured, employees & employers are adhesive in their nature. Either the consumer has to take it or leave it. Hence, it becomes self-evident to regulate and set minimum standards to minimize the effect of unequal bargaining of power.

### B) Government exactions

Such functions include collection of tax and military conscription.

### C) Disbursement of money or other commodities

This purpose of administrative agencies is also the prominent one which characterizes the welfare state. In this regard, through the social security program and other government systems of insurance or compensation, agencies disburse public money as payment of pensions for veterans or assistance for the aged, the disabled, the unemployed and generally the needy. The payments may be directly through cash or food rations

**D) Provision of goods and services**

Nowadays, the government is in charge of building and maintaining roads, high ways and dams, the provision of police force and other protective services. Funding public education and the health service may also be mentioned as additional examples. More recent additions include mass transit communications, satellite systems, government research and development program, public hospitals and public housing.

## 2.8.5. Powers of Administrative Agencies

At federal and state levels, administrative agencies gain whatever power they have by delegation-that is to say, that they don't have inherent, constitutionally mandated power to act. Rather, a, higher level of government, normally the legislature, must delegate some of its own power to the agency. How much power is that? It depends. In order for an agency to exist, it must first be created by the enabling legislation

Since the delegating body has such a wide degree of latitude in deciding how much power to delegate, there is no absolute rule as to how much power an agency has. If the question arises, the first step is to read the enabling legislation or decree, and subsequently granting or restricting its authority. These define the parameters of the agency's power. However, since, in most cases, the whole point of creating the agency is to get the legislature out of the business of day-to day management of some area of activity, delegations of power tend to be fairly broad.

## 2.8.6. Classification of Powers of Administrative Agencies

The following is a brief discussion of the nature of the three powers of the administrative agencies.

## 2.8.6.1. Legislative (Rule Making) Power

Delegated legislation is the power of agencies to enact binding rules through the power delegated to them by the legislator. Thus the lawmaker when delegating power should simultaneously introduce controlling mechanisms to ensure that individual's liberty and freedom is not violated by the administration.

## 2.8.6.2. Judicial (Decision – Making) Power

Enforcement of law demands imposition of sanction and taking administrative measures and decisions. When agencies exercise their judicial powers, they are in effect applying the facts to the law just like a court. Whether an applicant is entitled to pension, imposition of administrative fines for non- compliance, dismissal of a civil servant, dismissal of a university student, etc … are judicial decisions that by nature that affect the rights of individuals.

Still there is likelihood that agencies may abuse their decision- making power. As a result, the lawmaker, while granting such powers, is expected to provide minimum procedures applicable in the adjudication process.

## 2.9. Crime

## 2.9.1. Definition of Crime

## 2.9.1.1. Literal Meaning of Crime:

The word "Crime" was originally taken from a Latin term "Crimen" which means "to charge". The Greek expression "Krimos" is synonymous to a Sanskrit word 'Krama' which means "Social order". Therefore, in common parlance the word crime is applied to *those acts that go against social order and are worthy of serious condemnation.*

## 2.9.1.2. General Meaning of Crime:

The Oxford English Dictionary defines crime as "an act punishable by law as forbidden by statute or injurious to public welfare". It is a very wide definition including many things in the present day complex society. Any act like selling adulterated food, molestation of women or

young children in buses and railways, misleading advertisements can be said to be injurious to public welfare. It is too wide a definition and fails to precisely identify the thing it purports to define. Though there is no precise definition for crime, we can still have an understanding of the word by examining different definitions put forward by different jurists.

- **Crime is a "Public Wrong"—Blackstone:**

Blackstone, (1968) has defined crime as **"***an act committed or omitted in violation of a public law either forbidding or commanding it"***. Thus, according to Blackstone crime is an act in violation of public law.

**CRIME is A "Moral wrong" – Stephen:**

According to Stephen (year) crime is "an act forbidden by law and which is at the same time revolting to the moral sentiments of the society".

**Crime is a "Creation of Government Policy":**

Criminal offences are basically the creation of a criminal policy adopted from time to time by those sections of the community who are powerful or astute enough to safeguard their own security and comfort by causing sovereign power in the state to repress conduct which they feel may endanger their position

**Crime Is A "Legal Wrong":**

*A crime is an act which is prohibited and made punishable by law.*

*In this Code, an act consists of the commission of what is prohibited or omission of what is prescribed by law.*

## 2.9.2. Nature and Scope of Criminal Law

Laws can be classified into different branches. For instance**,** *Civil law* spells out the duties that exist between persons or between citizens and their government, excluding the duty not to commit crimes, *Contract law* for example is a part of civil law. The whole body of *tort law* or the law relating to Extra Contractual Liability, which deals with the infringement by one person

on the legally recognized right of another, is also an area of civil law. Criminal law has to do with crimes, which are different from other wrongful acts such as torts and breaches of contract.

The distinct nature of Criminal Law can be understood by defining some of its unique features. According to Edwin Sutherland, Criminal Law of a place can be defined as "a body of special rules regulating human conduct promulgated by state and uniformly applicable to all classes to which it refers and is enforced by punishment." It means the whole body of criminal law to be efficient must have four important elements: Politically, Specificity, Uniformity, and Penal sanction.

*Politicality* implies that only the violations of rules made by the state are regarded as crimes. *Specificity* of criminal law connotes that it strictly defines the act to be treated as crime. In other words, the provisions of criminal law should be stated in specific terms. *Uniformity* of criminal law implies its uniform application to all alike without any discrimination, thus imparting even-handed justice to all alike. Finally, it is through '*Penal sanctions'* imposed under the criminal law that the members of society are deterred from committing crimes. It is, therefore, obvious that no law can be effective without adequate penal sanctions. Criminal law exists and it is studied in order to ensure true knowledge of the law by the people, to be familiar with the nature of crime, the proceedings to be adopted in prosecution and the punishments which the law has put in place against the offenders.

## 2.9.3. General Objectives of Criminal Law:

The objectives of Criminal law are the protection of persons and property, the deterrence of criminal behavior, the punishment of criminal activity and rehabilitation of the criminal.

**a. Protection of Persons and Property:**

Safety and a sense of security are the most important things for the survival of any society. Safety of a society includes personal safety i.e. safety of life and liberty and safety of property.

To ensure safety there is the necessity of maintaining peace and order. This is possible only by an effective penal system, which is strong enough to deal with the violators of the law and enable the people to live peacefully and without fear of injury to their lives and property.

Thus, the prime objective of criminal law is protection of the public by maintenance of law and order.

"Tort law", a branch of civil law, also protects persons and property. The difference between tort law and criminal law is that tort law results in money damages, whereas criminal law results in loss of freedom by sending a person to jail or prison. Private interests are served through the awarding of damages. The public interests are served by punishing criminal activity. If all persons respected everyone else's person or property, there would be very little reason for criminal law.

**b. Deterrence of Criminal Behavior:**

A key to the hoped-for reduction in criminal behavior is that our criminal laws present a sufficient deterrent to antisocial behavior. A "deterrent" is a danger, difficulty or other consideration that stops or prevents a person from acting. The presumption inherent in criminal law is that if we make the punishment sufficiently harsh, persons who might do something criminal are prevented from doing so because they fear punishment. If enough people fear punishment, there will be considerable reduction in criminal activity.

**c. Punishment of Criminal Activity:**

Since we will most likely be unable to deter all criminal activity, our laws accept that a certain level of criminal activity will exist in society. Accordingly, we punish criminal activity for punishment's sake. If a criminal takes something without paying for it or injures other without a justification, the criminal law makes that individual pay for it through deprivation of liberty for a period of time.

**d. Rehabilitation of the Criminal**:

Once convicted, a criminal will begin to serve a sentence in a prison. But that is not where our criminal justice system ends. Our government has designed various programs to educate and train criminals in legitimate occupations during the period of incarceration. Upon release, therefore, there should be no reason to return to a life of crime.

## 2.10. Constitutional Law

Constitutional law, being the supreme law of the land, formulates fundamental rights which are inviolable and inalienable. Hence, it supersedes all other laws including administrative law. Administrative law does not provide rights. Its purpose is providing principles, rules and procedures and remedies to protect and safeguard fundamental rights. This point, although relevant to their differences, can also be taken as a common ground shared by constitutional and administrative law. To put it in simple terms, administrative law is a tool for implementing the constitution.  Constitutional law lays down principles like separation of power and the rule of law.

Judicial review, is the primary mechanism of ensuring the observance of rule of law although, mostly an issue within the domain of administrative law, should look in the constitutional structure for its justification and scope. In most countries, the judicial power of the ordinary courts to review the legality of the actions of the executive and administrative   agencies emanates from the constitution. The constitution is the supreme document, which confers the mandate on the ordinary courts. Most written constitutions contain specific provisions allocating judicial review power to the high courts, or the Supreme Court, including the grounds of review and the nature    and type of remedies, which could be granted to the aggrieved parties by the respective courts.

A basic issue for constitutional law is the scope of judicial review. The debate over scope is still continuing and is showing a dynamic fluctuation, greatly influenced by the ever changing and ever expanding features of the form and structure of government   and public administration. The ultimate mission of the role of the courts as 'custodians of liberty', unless counter balanced against the need for power and discretion of the executive, may ultimately result in unwarranted encroachment, which may have the effect of paralyzing the administration and endangering the basic constitutional principle of separation of powers.

Lastly, constitutional law, share its mission to bring about administrative justice. Concern for the rights of the individual has been identified as a fundamental concern of administrative law. It ultimately tries to attain administrative justice. Sometimes, the constitution may clearly provide right to administrative justice. Recognition of the principles of administrative justice is given in

few bills of rights or constitutional documents. Australia and South Africa may be mentioned in this respect.

Constitutional law needs to be understood to include more than the jurisprudence surrounding the express and implied provisions of any constitution. In its broader sense, constitutional law connotes "the laws and legal principles that determine the allocation of decision-making functions amongst the legislative, executive and judicial branches of government, and that define the essential elements of the relationship between the individual and agencies of the state". Wade has observed that administrative law is a branch of constitutional law and that the "connecting thread" is "the quest for administrative justice".

# CHAPTER THREE: OVERVIEW OF MAJOR AREAS OF PUBLIC ADMINISTRATION AND PUBLIC LAW

## 3.1.    Introduction

Public administration is composed of some major areas such as public policy, public personnel administration and financial administration.

Over the past decades, many reforms in government have been aimed at increasing efficiency, effectiveness and value for money with very little focus on the actual policy process and the way it affects the ability of policy makers to meet the needs of constituents in an increasingly complex, uncertain and unpredictable world.

Public policy making can be characterized as a complex, dynamic, constantly evolving interactive and adaptive system. The process is stakeholder-driven. Policies can be regarded as political, management, financial, and administrative mechanisms that are arranged to achieve

explicit goals. Policies may apply to government, to private sector organizations and groups, and to individuals.

We define public policy as -a choice that government makes in response to a political issue or a public problem.' This choice is based on values and norms. Policies are aimed at bridging the gap between these values and norms and a situation. Policy guides decisions and actions towards those decisions and actions that are most likely to achieve a desired outcome.

The main process of policy making consists of four -phases': initiation, formulation, implementation and evaluation. The process starts by setting an agenda based on an issue or previous decision and ends by handing over the implemented policy to an execution and enforcement layer.

## 3.2.   Objectives

At the end of this chapter, students will be able to;

✓  Understand the concept and meaning  of public policy

✓  Be familiar with the importance of public policy

✓  realizing public policy within public administration and public finance administration

✓  Explain and discuss terms like personnel administration, civil service, public finance and its sources, and government expenditure

✓  Know how to evaluate a proposed public policy

## 3.3. PUBLIC POLICY

Public administration theorists have been concerned with attempts conceptually to distinguish **policy** and **administration**. The distinction, which was probably based on a confusion of politics and administration, has always been somewhat fictional.   There are therefore two principle features of policy:

(1)   Policy is concerned with either change (its dynamic aspect), or with the preservation of the *status quo* (its static aspect), and

(2)   There is no clear distinction between policy and administration and both contain dynamic elements. The existence of a passive executor administration is no longer a justifiable assumption.

Policy formulation is necessary prior to every action in every form of organization, be it private or public. It is thus a prerequisite for all management. The different definitions of public policy

reflects its multi-faceted nature, yet all draw elements of public decisions, choices, positions and statements of intents.

### 3.3.1. The Meaning of (Public) Policy

According to Rumki Basu (1994:270), **Policy** can be broadly defined as a "*proposed course of action of an individual, a group, an institution or government, to realize a specific objective or purpose within a given environment*".

**Policy** is a set of interrelated decisions taken by a political actor or group of actors concerning the selection of goals and the means of achieving them within a specified situation.

**Policy** has been defined as "a matter of either the desire for change or the desire to protect something from change" (Barber (1983:59). Barber further added, "Policy making occurs in the determination of major objectives, in the selection of methods of achieving these objectives, and in the continuous adaptation of existing policies to the problems that face the government".

**Public policy** can be comprehensively defined as a "purposive and consistent course of action produces as a response to a perceived problem of constituency, formulated by a specific political process; adopted, implemented and enforced by a public agency".

**Policy lays** down the framework within which organizational goals are set to be accomplished. The objectives of an organization, which are often vague and general, are concretized in the policy goals that set the administrative wheels in motion. Policy formulation is one of the vital tasks of any form of government. As Basu (1994:270) puts it, "*the essence of public administration is policy-making*". Dimock defines policy formulation as "*the consciously acknowledged rules of conduct that guide administrative decisions*".

Public policies are those, which are developed by governmental bodies and officials. The special characteristics of public policies as differentiated from other policies emanate from the fact that they are by "*authorities*" in a political system namely, "elders, chiefs, executives, legislatures, judges, administrators, councilors, monarchs, and the like".

The following are implications of the concept of public policy:

   (i)   Purposive or result oriented action rather than random behavior or chance happenings is the hallmark (characteristic" of public policy,

(ii) Public policy refers to the action or decisional pattern by public administrators on a particular issue over a period rather than their separate discrete decisions on that matter in an *ad hoc* fashion,

(iii) Policy is what governments actually do and what subsequently happens, rather than what they intend to do or say they are going to do,

(iv) Public policy may be either positive or negative in form. Positively, it may involve some form of government action regarding any issue or problem; negatively, it may involve a decision by government officials not to take action on a matter on which governmental opinion, attitude, or action is asked for,

(v) Public policy in its positive form is based on law and is authoritative; it has a legal sanction behind it, which is potentially coercive in nature and is binding on all citizens,

## 3.3.2. Why Studying Public Policy

The question here is that, why do we study public policy? There are both academic and political reasons for studying public policy or engaging in policy analysis. Among a number of specific reasons for why we devote greater attention to the study of public policy, the following deserve worth mentioning:

**(i) Scientific Reasoning/Understanding:** First, public policy can be studied for *purely scientific reasons*: understanding the causes and consequences of policy decisions improves the knowledge of society. The study of public policy formulation processes may help to gain greater knowledge and understanding of the complexities of the interacting social, economic and political processes and their implications for society. Public policy can be viewed as a dependent variable, and we can ask what socio-economic conditions and political system characteristics operate to shape the content of policy. In this case, then attention is placed on the political and environmental factors that help to determine the content of policy. Alternatively, public policy can be viewed as an independent variable, and the focus shifts to the impact of policy on the political system and the environment. In this case, we can ask what impact public policy has on society and its political system. By asking such questions we can improve our understanding of the linkages among socio-economic forces, political

processes, and public policy. An understanding of these linkages contributes to the breadth, significance, reliability, and theoretical development of social science.

**(ii) Professional Reasons/ Problem solving.** Public policy can also be studied for *professional reasons*: understanding the causes and consequences of public policy permits us to apply social science knowledge to the solution of practical problems. Factual knowledge about the policy-making process and its outcomes is a prerequisite for prescribing the ills of society or dealing with social problems normatively. If certain ends are desired, the question of what policies would best implement them is a factual question requiring scientific study. In other words, policy studies can produce professional advice, in terms of "if…then…" statements, about how to achieve desired goals. The study of public policy should be directed towards ensuring that governments adopt appropriate policies to attain certain desirable social goals. It is not to deny, however, that substantial disagreements may exist in society over what constitutes **"*desirable*"** or the **"*appropriate*"** goals of policy**.**

**(iii) Political Reasons/ Policy Recommendations.** Finally, public policy can be studied for *political purposes*: to ensure that the nation adopts the "right" policies to achieve the "right" goals. It is frequently argued that political science should not be silent or impotent in the face of great social and political crises and that political scientist have a moral obligation to advance specific public policies. An exclusive focus on institutions, processes, or behaviours is frequently looked on as "dry," "irrelevant and "amoral because it does not direct attention to the really important policy questions facing societies. Policy studies can be undertaken not only for scientific and professional purposes but also to inform political discussion, advance the level of political awareness, and improve the a quality of public policy. Of course, these are very subjective purposes-citizens do not always agree on what constitutes the "right" policies or the "right" goals-but it is assumed that knowledge is preferable to ignorance, even in politics.

In practice, policy formulation overlaps with policy decision in the policy-making process. Policy formulation aims at getting a preferred policy alternative approved. A policy decision on the other hand involves action by some official person or body to approve, modify, or reject a preferred policy alternative. Policy decision when approving a preferred policy alternative takes such forms as the enactment of legislation or the issuance of an executive order. Therefore, what

is typically involved in the policy decision stage is not selection from among a number of policy alternatives, but action on the preferred policy alternative.

Another point of discussion in the study of public policy is about the factors determining policy formulation. Policy-making cannot be adequately understood apart from the environment in which it takes place. Demands for policy actions are generated in the environment and transmitted to the political system. At the same time, the environment places limits and constraints upon what can be done by policy makers. Hence, environment is a decisive factor on public policy formulation.

Environment, in turn, includes geographical characteristics as natural resources, climate and topography; demographic variables like population size, age and sex ratio distribution and spatial location; political culture; social structure; and the economic system. Of these environmental aspects, political culture and socioeconomic variables are considered as the more influential factors in public policy formulation:

**A) Political Culture:** culture has been defined as the entire pattern of social life, the inherited modes of living and conduct that the individual acquires from the community or environment. Most social scientists agree that culture is one of the many factors that shape or influence social action. Political culture is also part of the general culture, which denotes widely held values, beliefs, and attitudes concerning governmental policies and actions. What is relevant here is therefore to see some of the implications and significance of this culture for policy formulation.

Differences in public policy making of various countries can be partly explained in terms of variations in their political culture. For example, the time orientation of people-their view of the relative importance of the past, the present and the future has implications for policy formulation. A political culture oriented more to the past may recognize age-old traditions, customs and social moves, while future oriented political culture comprehends to change and innovation.

Rumki Basu (1994:273) further identified three types of political cultures as *parochial, subject,* and *participant*.

a) In a parochial political culture, citizens have little awareness of or orientation towards either the political system as a whole or the citizen as a political participant. Citizen's participation in the policy formulation in a parochial political culture is essentially non-existent, and government will be of little concern to most citizens.

b) In a subject political culture as that of in many developing countries, citizens are oriented towards the political system, yet they have little awareness of themselves as a participant. They are aware of governmental authority and they may have political views, but they are essentially passive. In the subject political culture, an individual may believe that he/she can do little to influence public policy, which may lead to his/her passive acceptance of governmental action.

c) In the participant political culture, like that is evidenced in the United States, citizens have a high level of political awareness and information and have explicit orientations towards the political system as a whole, and a notion of meaningful citizen's participation in politics. Such orientation includes understanding of how individuals and groups can influence decision-making.

In the participant political culture, individuals may organize into groups to influence government action to rectify their grievances. Government and public policy are viewed as controllable by citizens. It is also assumed that more demands will be made on government in a participatory political culture than in the other two types.

In general, the study of political culture is important because values, beliefs, and attitudes could inform, guide, and constrain the actions of both decision makers and citizens.

**B) Socio-economic variables:** The term socioeconomic condition or variable is used here in the widest sense to include geographical characteristics and demographic variables as being economic resources. Public policies can be seen as emanating from conflicts between different groups often with opposing interests and attitudes. Groups that are underprivileged, dissatisfied, or threatened by economic changes often seek governmental intervention or assistance to improve their lot or status through some sort of policy decision.

It is recognized that society's level of economic development will impose limits on what the government can do in providing public goods and services to the community. The ways in which socioeconomic conditions influence or constrain public policies have been subjected to considerable analysis. Economic development shapes both political processes and policy outcomes.

In other words, differences in the policy choices of governments with different political systems turn out to be largely a product of differing socioeconomic levels rather than a direct product of political variables. Levels of urbanization, industrialization, income and education appear to be

more influential in shaping public policy outcomes than purely political variables like voters' participation, inter-party rivalry, and political party strength.

Charles Lindblom (1959) has noted the differences between the ways policy-making has been described in theory (the rational comprehensive approach) and the way it is actually made (incremental steps).

## 3.4. The rational comprehensive approach

In the rational comprehensive method, an administrator has to follow certain principles such as identifying a priority objective, rationally ranking all the relevant "values" or "advantages" to pursue the best policy, formulating several possible alternatives to achieve the stated objective, selecting the best alternative, and so on.

This approach to decision-making is rational and comprehensive, because all alternatives and values are taken into account and logically selected and weighed in their relative importance. But rational decision-making is difficult in practice since there are a variety of factors that complicate the task of the policy maker.

The rational method has been criticized as being impracticable for a number of reasons:

(a) It is practically impossible to collect all information and make a complete list of policy options,

(b) The process involved in this approach is time consuming and expensive,

(c) The assumptions that values can be ranked and classified is erroneous, since there are always differences among the legislatures, administrators and the public on the values that a nation should pursue,

(d) The assumptions to consider everything before a new policy is decided is impossible since the consequences of adopting a new policy is in most cases unknown

## 3.5. The incremental approach

Although the rational comprehensive approach is theoretically good, what actually occurs in administrative decisions is quite different; i.e. "*successive limited comparison*" technique or incremental step. Firstly, administrators operating under limited resources take up on priority bases programs of immediate relevance. Secondly, they do not outline a wide range of possibilities in selecting appropriate policies, but only a few "incremental" steps that appear to them feasible on the basis of their experiences.

Two advantages of incrementalism are identified, namely:

(1) Decision-makers could proceed through a succession of small incremental changes, thereby have the advantage of avoiding serious alterations in case of mistakes in decision making,

(2) This method is truly reflective of the policy-making process by means of consensus and gradualism and contemplates possible changes in public policies,

Though it is widely accepted that *incrementalism* describes the reality of the policy making process, it has its own disadvantages or weaknesses, among which:

(1) Icrementalism can result in important policy options being overlooked,

(2) Icrementalism discourages social innovation and is partisan in approach, which in reality means the interests of the most powerful get maximum attention by policy-makers,

(3) Icrementalism cannot be applied to fundamental decisions such as declaration of war, hence cannot be considered as an approach without flaws or mistakes,

Another important topic in the study of public policy is that who is the official policy makers are? Official policy-makers are those who are legally empowered to formulate public policy. These include legislatures, executives, administrators, and judges.

**Legislature**: The legislature formally performs the task of law making in a political system. This doesn't necessarily mean that the legislature has an independent decision-making power or actually frames the official policy since political parties, pressure groups, and so forth can influence it. But it can safely be concluded that the legislature is more important in policy formulation in democratic than in dictatorial systems, and within the democratic systems, it tends to have greater independency in policy formulation in presidential systems (USA) than in the parliamentary (British) systems.

**Executive**: Modern governments everywhere mainly depend upon executive leadership both in policy formulation and execution. In developing countries in particular, the executive has even more influence in policy making than in developed countries because of the greater concentration of power in the hands of the government with less responsiveness to the legislature.

**Administrative Agencies**: although it has been an accepted doctrine in political science that administrators were merely implementers of policies determined by other organs of the

government, such distinctions are now found to be fallacious as politics and administration are blended, and as administrators are highly involved in policy formulation in the modern world.

The technical complexity of many policy matters, legislature's lack of time and information are among the major reasons for administrative agencies to have a formally recognized discretionary authority to formulate policies. Public officials are associated with policy formulation in three important ways:

(a) They have to supply facts, data and criticism about the workability of the policy to the legislature if the initiative for policy-making comes from them. In addition, since members of the parliament might have lack of administrative acumen (intelligence) or experience on technical or purely professional matters, they have to give due recognitions and rely on the suggestions of the officials,

(b) Since the administrations are supposed have constant contact with the general public and thereby to be in a better position to understand the difficulties that arise in the implementation of policies, the initiative for policy legislation or amendments originates very often from the administration.

(c) On account of lack of time and knowledge, the legislature passes skeleton acts and leaves the details to the administration.

**The Courts**: in countries where the courts have the power of judicial review, they have (as in the US) played an important role in policy formulation. They can affect the nature and content of public policy through exercising their judicial review and statutory interpretation power in cases brought before them. Determining the constitutionality of actions by legislative and executive branches of the government is basically the functions of the judiciary. The courts also specify the government's limits to actions and states what it must do to meet legal or constitutional obligations.

Besides the official policy makers, many unofficial bodies may participate in the policy making process. These may include political parties, interest groups, and individual citizens. These unofficial bodies could participate in public policy making in terms of expressing demands, supplying official policy makers with much technical information about specific issues and possible consequences of a policy proposal, and presenting alternatives for policy actions.

Once we make public policy and implement it, it is imperative that the effects of such policies have to be evaluated and analyzed. Public policy evaluation is concerned with the analysis of the

effects of governmental decisions on the target public. In other words, it is an attempt to assess the content and effects of policy on those for whom it is intended. It means commenting on the merits and demerits of a policy. Often policy evaluation occurs throughout the policy process, not necessarily at its termination stage.

There are generally three recognized methods of policy evaluation; namely:

(a) **Policy impact evaluation**: It is an assessment of program (policy) impact and effectiveness, the extent to which programs are successful in achieving the intended objectives,

(b) **Policy strategy evaluation**: This refers to the assessment of the relative effectiveness of program strategies and variables with emphasis on determining the most effective and productive strategies, methods and procedures,

(c) **Policy project appraisal**: It is a process of assessing individual projects through site visits and other means with emphasis on managerial and operational efficiency.

In discussing policy evaluation, we need also to understand the differences between **policy output and policy outcome**. Policy output refers to the quantifiable actions of the government that can be measured in concrete terms, while policy outcomes refers to the qualitative impacts of public policies on the lives of the people.

## 3.6.  PERSONNEL ADMINISTRATION (MANAGEMENT)

Personnel administration or management is that part of administration concerned with the management of people at work. In other words the central concern of personnel management is the efficient utilization of employees of an organization. Some people would argue that personnel management is simply a collection of people-management techniques, which can be used in all organizations. However, as Margaret Attwood and Stuart Dimmock (1996) noted, the validity of this definition or understanding is doubtful since techniques applied in one organization for the effective utilization of staff may fail elsewhere.

In recent years, the term "human resource management" has been frequently being used in reference to "personnel management". Most organizations have a specialist personnel department that gives support to managers and supervisors who have direct responsibility for the management of people. Thus, the function of a personnel department is to assist with the

acquisition, development and retention of the human resources necessary for the success of the organization.

Ideally, we may sometimes find differences of administrative systems within the "public sector" as the "*civil service*" and "*public corporations*" or "*public enterprises*" distinguished on the ground of their basic functions or engagements, the former largely engaged in regulatory function or services while the later in production or service provision activities. However, in the context of our discussion; i.e. public personnel administration (management), "civil service" came to encompass the other segment of the public sector (public corporation/enterprise) since the principle are essentially the similar. Therefore, discussions of this topic hereunder will be in view of the *civil service* and would adequately serve our purpose.

### 3.6.1. The Concept of a Career Civil Service

Herman Finer, quoted in Rumki Basu (1994:295), defines the civil service as a "professional body of officials, permanent, paid and skilled". In this connection, a civil servant may be understood as a "servant of the general public (not being the holder of a political or judicial office), who is employed in a civil capacity and whose remuneration is wholly paid from the budget provided by the parliament any legitimatised body of the government". This excludes members of the armed forces and judicial services.

The civil service constitutes the "permanent" executive in the modern state. With the increasing variety in the functions of the civil service, the new category of employees (both technical and generalist in character) working under the public sector are being gradually added to the category of civil servants everywhere. The major requirement of the civil service is that it shall be "impartially selected, administratively competent, politically neutral, and imbued (instilled) with the spirit of service to the community".

Willoughby defined **career civil service** as:

> "A *system that offers equal opportunities to all citizens to enter the government service, equal pay to all employees doing work requiring the same degree of intelligence and capacity, equal opportunities for advancement, equal favorable conditions and equal participation in retirement allowances and makes equal demands upon the employees*".

**Career civil service** has been understood as a system aimed at recruiting young people having the talent and ambition, with capacity for learning and growth, training them in order to develop their potentialities for the service of the state.

Despite there have been historical traces for the existence of some sort of a rudimentary civil service, for example in ancient china and Egypt, concept of civil service as a career is comparatively a recent origin even in those developed countries. England had no permanent civil service until the middle of the 19th century and USA until the end of that century. The "patronage system" and the "spoils system" that prevailed in England and the USA respectively have delayed the development of a merit-based public career system until those mentioned periods.

According to Dr. Finer, the growth of the cardinal principles of modern civilization brought about the establishment and growth of a professional civil service. Some of those principles were the principles of specialization and division of labor, the democratic ideas of "career open to talents", etc.

The Civil service is the chief instrument for the implementation of the will of the state as expressed through public policy. It is indispensable to the functioning of the modern state. With the change in the philosophy of the state from the *laissez faire* to that of the *social welfare,* the modern state involved itself in multifarious tasks, which are performed by the civil service.

The basic task of the civil servants is to transform politics into action. Besides, the higher echelons of the civil service assist their political superiors in policy-formulation through expertise advice, assistance, and information. With the diversification of the nature of the civil service personnel, civil servants of the technical category engaged in various productive and public sector organizations are rendering useful social and economic services to the people.

Therefore, the tasks of the civil servants became comprehensive, directly impinging on the lives and welfare of citizens. Due to the increasing significance of the civil service in modern societies and the assumption of responsibility by the state for the performance of various socioeconomic functions, it has become necessary or imperative to recruit persons and thereby build competence for the civil service.

Professionalization of the civil service became absolutely necessary to attract the best available talent to government jobs and enable them to make a rewarding career of it. For example a Commission established in 1933 in the US defined the concept of career civil service and identified its main characteristics as:

(1)    High prestige and status attached to government service,

(2)    Appropriate recruitment procedures,

(3)    Broad avenues for promotion and transfer of personnel,

(4)    Clear pay scales, and

(5)    Adequate retirement and pension system

In addition/similar to the above outlined ones, the main characteristics of a career civil service that have got common acceptance are:

(1)  Permanence of tenure and stability of service,

(2)  Equal opportunity of competing for government services,

(3)  Merit to be the sole criteria of recruitment with due recognition to ability and personal efficiency in a sound promotion system,

(4)  Fairly large extent of territorial jurisdiction of public employees to enlarge their scope of activity and improve their avenues for promotions, and

(5)  Adequate steps taken to provide in-service training to civil servants to keep them in touch with the latest trends and developments in administrative theory and practice.

Powell also suggested the incorporation of (a) planned and continuing upward progression system, and (b) planning of staff needs to be included in the provisions of a career civil service. The system of career civil service is applicable to all ranks of administration from the highest to the lowest grades and to all levels of government.

Ideally, a career civil service is a system of service, with recruitment on merit, security of tenure, and due recognition of service and merit through timely promotions. Every organization has its own service systems comprising permanent civil service groups, whose size and function depend on the nature of the organization. Modern civil service constitutes people with both general and technical qualifications.

Personnel administration involves a number of tasks that range from recruitment to retirement and pensioning. The most identifiable tasks of personnel management (administration) are discussed in brief as follows.

## 3.6.2. Recruitment of Personnel

Recruitment of personnel is one of the crucial tasks of modern governments and lies at the heart of the problem of personnel administration. The main test of any machinery of recruitment of

personnel lies in its ability to recruit the right type of persons to the right job. An effective recruitment process is that attracts the best available talent.

Public recruitment may be defined as that process through which suitable candidates are included to compete for appointments to the public service. It is thus an inclusive process-selection, which in turn includes the process of examination and certification. Inclusiveness of the recruitment process refers also to the emphasis not only on finding, but also on building of people who are capable of performing the complex tasks. The recruitment and selection process includes a number of different steps, which are as follows:

1. Develop/obtain accurate job description: management should ensure that clear, concise and accurate job descriptions are available for every position. Accurate job descriptions are the basic building blocks on which advertisements, interviews and other aspects of fair selection are constructed.

2. Defining the ideal candidate: having prepared the job description for the vacancy under consideration, we now need to match the characteristics of the job with the characteristics of candidates who may apply for it. In order to undertake this process successfully, we need to have what is known as a "*person specification*" that defines the knowledge, skills, and experiences required for the successful accomplishment of the tasks summarized in the job descriptions. Hence, criteria used in the person specification must be related strictly to job requirements.

3. Announcement of vacancies (invitation of candidates) through newspapers, journals, and any other appropriate media,

4. Short-listing of the most appropriate applicants: short-listing is sorting the best potential candidates by eliminating inappropriate applicants simply by referring to their curricula vitae, application letters, and filled-out forms and so on without the need to see them in person. This process has to be followed by notifying short-listed applicants to appear for exams or necessary tests,

5. Holding of examinations for testing or determining the abilities of recruits (exams would be in the form of interviews, written tests, or practical tests),

6. Selecting the best or eligible candidate/s from among those who have been examined or tested

7. Placement or appointment of selected recruits. Appointment could be permanent, temporary, provisional, or probationary.

8. Induction or orientation of the employee: this in general has to do with the new employee's early "life" with the organization. Line managers, fellow workers, personnel and training staff have a role to play in the induction of new employees. In addition to orienting new employees about the jobs, the organization, and the working environment, many organizations provide also induction training as a formal mechanism before the new entrant is engaged in performing the task.

   The aims of the induction process are: (i) to make the new employee efficient as quickly as possible, (ii) to encourage new employees to become committed to the organization, (iii) to familiarize new employees with the job.

One of the main problems in the recruitment system of modern civil service is laying down proper qualifications to suit the needs of the diverse tasks of administration. Broadly, there are two types of qualifications required of public servants; general and special.

General qualifications relate to the civil status, domicile, sex and age, while special qualification may include educational background, technical experience, and personal qualifications. We may need some clarification only about what personal qualifications, since all other items of qualifications included in the general and special qualifications are self-explanatory.

A public servant is required to posses many personal qualifications like integrity, resourcefulness, tact and sincerity. Besides devotion to public duty, other desirable personal qualifications are:

   (a) Flexible and recognition of the need for coordination,

   (b)  Familiarity with the subject matter of organization and management,

   (c) Facility at problem solving,

   (d)  Highly developed reading and writing ability,

   (e)  Ability to settle vexing situations through interpersonal contact,


There are also various ways of determining qualifications, which have been adopted in most countries today; such as:

   ♦    Personal judgment of the appointing authority,

   ♦    Certificates of character, ability, and educational qualification,

♦     Record of various experiences-educational and occupational,

♦     Examinations (written, oral, practical or performance demonstration),

♦     Psychometric tests,

### Training

Training is another crucial task in personnel management (administration). The terms *training* and *education* are often used as if they are synonymous. But they are not, and an understanding of the differences between them is important to understand the training process in organizations. Both training and education are processes, which help people to learn, but they differ in orientation and objectives. Attwood and Dimmock (1996:96) simply described:

♦  **Training** as *"...oriented towards the needs of the organization, specific to the employee's work situation, aimed at making workers more effective in their jobs, relatively short in timescale, and often fairly narrow in content".*

♦  **Education** as *"...oriented to the needs of the individual, more abstract in nature, geared to the needs of the individual and to the society generally, generally a long-term process in terms of timescale, and widely drawn in content".*

In the words of Basu, training is the systematic imposition of skilled knowledge to all categories of civil servants for their advancement and efficiency in service. The training of civil servants has got special significance today, and an indication of this is the gradual proliferation of training programs and institutions to train public servants in many countries.

The general conception of training is a mixture of many elements. For example, training means imparting of specialized knowledge of facts and their interrelationships or teaching of techniques that require the coordinated handling of tools, appliances and physical faculties; or the formation of mental and physical habit patterns to ensure automatic responses to work efficiency.

Because of the increasing importance of training, many countries have adopted training policy. Training policies must be supportive of organizational policies and goals. To ensure the effectiveness of the organization's workforce, the training function is suggested to be acquainted with or involved with the strategic planning process. Training, as one of the personnel administration activity, should be preceded by a training need assessment and analysis and should be conducted on a continuous basis.

### Performance Appraisal

The term "performance appraisal" implies the process of valuing the employee's worth to the organization, with a view to increasing it. In other words, performance appraisal is the evaluation of the performance of the employee against agreed upon standards. Management's objectives in performance appraisal may include:

♦ To help improve current performance,

♦ To set objectives for individual performance,

♦ To assess training and development needs,

♦ To assess future potential for promotion,

♦ To give employees feedback on their performances,

♦ To counsel employees for career opportunities,

♦ To rate employees' performance for salary review purposes,

♦ To encourage managers to think carefully about the general factors that influence the performance of their employees, including their own leadership style and behavior

There are different types of appraisal systems. These may include: personality-based (trait-based) appraisal, performance-based (result-based) appraisal, and critical incident appraisal methods.

(a)   Trait-based or personality-based performance appraisal system largely depends on the judgments of managers about their subordinates on such dimensions or personality characteristics as intelligence, initiative or loyalty. In this appraisal system, the roots of prejudice tend to be very close to the surface. The appraisal criteria involved in this system are more of behavioral, personality related rather than actual job performance. Further, the appraised person may not have the chance for feedback since evaluation results will be kept confidential in most cases.

(b)   Result-oriented or performance-based appraisal system concentrates on the actual performance of an employee measured on the basis of agreed upon plans between the manager and subordinate and specific objectives or performance targets. In other words, this method focuses on specific outcomes achieved as a result of job performed by employees as measured by predetermined success criteria. It is also more transparent, hence provides an opportunity for subordinates to get feedback about how their result has been rated. Many experienced practitioners argue that result-based appraisal is more objective and effective.

(c)   Critical incident appraisal system is more of an ideal type, hence seldom used in practice. It refers to the rating of an employee when he/she produces an extra-ordinary result that might not be part of the plan in the normal task job. In this system, employees will be rewarded only if they show exceptional performance other than their normal duty for which they are paid regular salaries or wages.

**Promotion**

A sound promotion system is of vital importance for the continued efficiency of the public service. Promotion in the words of White implies "an appointment from a given position to a position of higher grade, involving a change of duties to a more difficult type of work and greater responsibility accompanied by change in title and usually an increase in pay".

Promotion is a reward to an employee, which entails a change in position and status in the organizational hierarchy and pay scale. A system of graded promotions is essential to help build morale and efficiency of employees. Unless the organization has adequate promotional avenues, it will not be able to attract talented people towards it.

A proper promotion system helps to retain the services of the ablest amongst its employees and also in giving them opportunity to improve their capabilities and qualifications. It is thus useful to the employee individually as well as to the administration as a whole. But to improve the morale and efficiency of administration, a promotion system must be based on the principles of equity and fair pay. Unjust prejudice, favoritism, corruption, or biases on the part of the promoting officer, by pushing up unqualified employees are some of the factors that affect the establishment of sound promotion system.

Willoughby outlined the following conditions as the basis of a promotion system:

♦   Adoption of standard specifications setting forth the duties and qualifications required for all promotions in the organization,

♦   The classification of these positions into sub-classes, series, grades and services,

♦   The adoption of principle of merit in determining the selection of employees for promotion,

♦   The provision of adequate means for determining the relative merits of employees eligible for promotion.

All types of civil services lay down certain eligibility criteria or principles for promotion to all grades. In most instances, two main principles have been fixed for promotion:

**1. The seniority Principle**: this principle is widely prevalent in government services as a method of promotion in most countries. This principle is automatic, and avoids the need for making invidious distinctions among persons. It is greatly followed in the public service everywhere since it is objective and easy. It greatly eliminates chances for favoritism and corruption. It also reduces unhealthy rivalry in the organization thereby promotes harmony and increased morale.

However, this system has its flaws. It doesn't necessarily lead to the selection of the best performer who is eligible for promotion. It leads to demoralization and non-complacency in service. This system encourages only mediocrity (weakness).

2. **Merit principle**: this system ensures that the best person is promoted to the higher post based on specified criteria alone. This would encourage hard work, and efficiency, reward talent and increase morale in the service. However, this system is criticized for being greatly subjective, making it susceptible to all kinds of pressure and prejudice. It often leads to unhealthy rivalry and causes considerable ill-will among those who may miss for promotion.

### 3.4.3. Some Issues in Personnel Administration

**(A) Civil Service Neutrality**

The theory of the neutrality of the civil services was developed in England to maintain the continuity of the civil service within the unstable political system due to periodic elections and the resultant change of government. Career administrators perform mainly the following functions:

(i) Execution of laws and government decisions,

(ii) Providing expert guidance, information and managerial assistance to the political executive,

(iii) Maintaining the continuity of administration

(iv) Helping the political executive to understand the probable consequences of alternative courses of action,

Unlike the political appointee, such as a minister, a career official is professional in administrative affairs and enjoys a permanent tenure, and is expected to be non-partisan and politically neutral. Political neutrality of the civil service is an essential complement to the merit system (in recruitment and promotion of personnel). Political neutrality means not only the absence of political activity or bias on the part of civil servants, but also that they will serve every government that comes to power irrespective of its parts affiliations.

The main reason for the advocacy of civil service neutrality is that the civil servant can serve the changing governments drawn from different parties with the same vigor and honesty. Since the execution is the task of the civil servants, any commitment other than to the goals and objectives allotted to them will defeat the very purpose for which they exist. Apart from the rights of civil servant in voting, if they engage in partisan politics their role as an impartial advisor would be seriously impaired in the eyes of the public.

The issue of civil service neutrality doesn't mean differences in goals or objectives with that of the political appointee. Rather, if the administration is to work efficiently and smoothly and the government objectives to be achieved successfully, the political executive (for example, the minister) and the civil servant must work in close cooperation and harmony.

The basic assumptions behind the concept of bureaucratic neutrality are that it seeks to reflect the merit system in those systems where the concept is recognized in the behavior of the bureaucrat, and that the advantages of permanency, continuity, reliability, and professionalism far outweigh the disadvantages, conservatism, reluctance, to depart from to accommodate change.

These assumptions are, however, refused in modern times in all political systems- including Western democracies where such ideas originated. Therefore, the only acceptable connotation of the doctrine of civil service neutrality seems to be an idea of non-partisanship and impartiality in the sense that they shouldn't carry on their operations in any political considerations.

In other words, the traditional concept of civil service neutrality is undergoing a change this time, particularly in developing countries because of the impact of many factors. An important factor bearing on this question is the pivotal roles civil servants are being called upon to play in developing countries. The successful implementation of developmental tasks on the part of

administrators, require not only qualities of initiatives and leadership but also emotional and intellectual commitment to the social welfare values adhered to by the state as well.

The relevance of the classical theory of neutrality has often been come to be questioned for the following reasons:

(a) The process of policy decision-making is no longer confined to the political executive; it trickles down or percolates through the entire structure or makeup of the government resulting in the inescapable items of delegation that let administrators to make bylaws or sub-policy decisions.

(b) In the context of large-scale welfare governments, neutrality is neither possible nor desirable. A certain commitment to the goals and objectives of the state is inescapable in the face of the civil servant-neutrality cannot be allowed to degenerate into disinterestedness.

(c) In the sphere of policy advice and execution, modern bureaucracy takes an active part.

(d) As a human being, civil servant cannot be psychologically neutral on issues and problems, which confront them.

**(B) The Generalist-Specialist Controversy**

The generalist-specialist classification of civil servants is mainly implemented mainly in those countries, which follow the British model of civil service administration.  It means the dichotomy of the civil service into a "higher administrative class and subordinate technical services", making subordination of the specialist to the generalist.

A generalist is a public servant who has no specialized background and who can be moved to any department or branch of administration. The generalist is well versed in the procedures of administration and generally performs POSDCORB functions. In some instances, a generalist officer is understood as one with a liberal college education and, after some training, appointed to a middle level supervisory post, which doesn't call for any compulsory technical qualification.

The specialist on the other hand is one who has special knowledge or skill in a particular field such as a doctor, an engineer, a technician, etc. This may include not only services discharging a technical function based on a pre-entry vocational training, but also those which after entry

specialize in particular areas of administration requiring no pre-entry vocational training. The specialized services are also called "functional services". The generalist occupies the superior position, which comprises the policy-making levels.

The specialist or technical officer is also the incumbent of a supervisory position, which calls for specialized skills and for which a technical or professional qualification is laid down. The field positions manned by specialist group are headed by members of the specialist group.

## (C) Integrity in Public Administration

The problem of administrative corruption is perhaps as old as administration itself, but the problem of public accountability is as old as the theory and practice of democratic administration. The enormous expansion of the government bureaucracy, touching all aspects of the citizens' live, has brought the problem of effective public checks and control on public administration to the forefront.

The expansion of governmental tasks results in the multiplications of the volume of work where administrative power and discretion are vested at different levels of the governmental hierarchy. Accompanying this is that where there is power and discretion, there is always the possibility of abuse. Executive discretion, delegated legislation, and administrative adjudication are vitally connected with problem of public accountability of administration. The problem of administrative malpractices is a universal phenomenon with different degree and form of existence.

Studies undertaken in many countries, particularly in those developing ones, indicate that there are vast spheres of administrative actions in which the bureaucracy can exercise discretionary authority without being accountable to citizens in case of abuse of authority. Statutory powers have been given to all types of bureaucrats with ample scope of harassment, corruption, indulgence in malpractices, and so on, by the misbehaving (errant) individuals.

In the democracies of the West, however, there are many informal agencies of public control over administration like political parties, pressure groups, press, and public opinion, which by their vigilance and initiative can manage to exert powerful influence and act as a check against administrative excesses. Nevertheless, recent trends in the world administrative system,

including in developing countries, have showed encouraging responses through the establishment of institutional devices to fight against such administrative excesses. The most common institutional devices are the following:

**(i) Administrative Courts or Tribunals**: the French system of administrative courts set up to deal with disputes between the administration and the individual citizens is a unique device that has been adopted by many other countries. But, a distinction is made between the acts that government servants perform in their personal capacity and official capacity. Administrative courts can be used to settle the later type of acts. Members of the courts are civil servants with thorough knowledge of administrative processes.

The administrative court exercises general supervision over administration and possess ultimate authority over all disciplinary matters concerning civil servants. Decisions in these courts are taken as promptly as possible and are much less expensive than in the other ordinary courts. The gradual spread of this institutional device to many countries is a growing proof of its efficiency and popularity as a device for prompt settlement of citizens' grievances.

This method has been practiced in Ethiopia since 1962 with the establishment of the "Central Personnel Agency-CPA", in its former name. One of the strongest departments that existed within the structure of CPA was the "Administrative Tribunal" that has been dealing in the settlement of such matters mentioned earlier, specially disputes arising between employer public service organizations (administrations) and their employees. Decisions made by the "Administrative Tribunal" has been also respected as final. The court also currently exists in the Federal Civil Service Commission-FCSC", which was formerly known as CPA with in fact reduced jurisdictional power as compared to what it had previously.

**(ii) The Procurator**: the procurator system, which originated in the USSR, has now spread to the many other countries, especially in countries of East Europe. It is an important institutional mechanism for redressing citizens' grievances and ensuring observance of legality at all levels of the administration. The procurator is in charge of many functions including prosecution of crimes, supervision over legality in the activity of the investigating agencies, judicial sentences and judgments, and legality of the execution of sentences. However, its most significant function is that of "general supervision".

**(iii) The Ombudsman**: is a Swedish word that stands for an officer appointed by the legislature to handle complaints against administrative and judicial action. It is a typical Scandinavian institution for redressing citizens' grievances, which has aroused worldwide interest. It has been adopted in North European countries. Although the political system of these countries may vary, they have common interest in the democratization of public administration and finding ways and means for establishing an effective system of public accountability and control over the administrative apparatus at all levels.

The *Ombudsman* is established as an instrument of the parliament for the supervision and control of the administration. In investigating of complaints, the *Ombudsman* has free access to all the files of the administration and can demand explanations from the officials or authorities concerned. *Ombudsman* can investigate all cases of administrative malpractices and improper use of authority, complaints against administrative decisions or actions as well as complaints of inefficiency and negligence.

## 3.7. Public Financial Administration

*Public financial administration* is the management of the finance of a state or of a public authority endowed with taxing and spending powers. Sound Financial administration is vital to the success of any organization. Efficiency and economy are the two watchwords (mottos) of public finance. Financial administration seeks to arise, spend and account for the funds need for public expenditure.

Financial administration involves the activities of four agencies: the Executive, which needs and spends the funds; the Legislature, which grants the funds and appropriates them to particular agencies; the Finance Ministry, which controls the expenditure; and the Audit, which sits in judgment over the way in which the funds have been spent. All these agencies have their own role in financial administration.

Finance is the function in business (private/public) that acquires funds for the organization and manages those funds within the organization. These activities include preparing of budgets; doing cash flow analysis; and planning for the expenditure of funds' assets. Public Financial administration on the other hand refers to all activities of government in generating and allocating (spending) revenue towards ensuring efficiency of the state and the general well-being of the people, that is, financial operation of public treasury and its implication. The management

of public finance would bring about control and coordination of the funds to achieve viability of projects in the public sector.

Sound PFM supports aggregate control, prioritization, accountability and efficiency in the management of public resources and delivery of services, which are critical to the achievement of public policy objectives. In addition, sound public financial management systems are fundamental to the appropriate use and effectiveness of donor assistance since aid is increasingly provided through modalities that rely on well-functioning systems for budget development, execution and control.

Collection of sufficient resources from the economy in an appropriate manner along with allocating and use of these resources efficiently and effectively constitute good financial management. Resource generation, resource allocation and expenditure management (resource utilization) are the essential components of a public financial management system.

Public Finance Management (PFM) basically deals with all aspects of resource mobilization and expenditure management in government. Just as managing finances is a critical function of management in any organization, similarly public finance management is an essential part of the governance process. Public finance management includes resource mobilization, prioritization of programmes, the budgetary process, efficient management of resources and exercising controls. Rising aspirations of people are placing more demands on financial resources. At the same time, the emphasis of the citizenry is on value for money, thus making public finance management increasingly vital.

### 3.7.1. Principles of Public Financial Administration

At the heart of the design of an effective system of public financial management, are the following principles:

♦ **Democratic consent**: Taxation and spending should not be done without the explicit consent of the governed.

♦ **Equity**: Government should be equitable, i.e. people should be treated in similar circumstances similarly- in raising and spending taxes.

♦ **Transparency**: Government activities in raising and spending funds should be open to public knowledge and scrutiny.

♦ **Probity**: There must be scrupulous honesty in dealing with public funds, of which the legislators and administrators are the stewards, not the owners.

♦ **Prudence**: These stewards should not take undue risks with public funds.

♦ **Accountability**: Those who deal in public funds can and should be regularly called to account for their stewardship through legislative review and audit process.

### 3.7.2. Sources of Public Finance

The main sources of finance in most governments are taxes, print money, borrowing, sales of assets, user charges and fees. The method of government financial administration affects the economic situation of a nation.

A. **Taxes** are the main sources of public finance or revenues. Taxes are defined as involuntary or compulsory payments associated with certain activities of physical or legal persons without explicit relationship. Taxes could also be further divided as *direct* and *indirect*. The difference between direct and indirect taxes is that the latter is paid in connection to production, consumption, imports or exports. Whereas, direct taxes are levied on employed, self-employed and owners of partnerships.

An indirect tax can be general like Value Added Tax (VAT), or specific tax on certain goods and services like excise tax. It can also be levied on imported goods, such as customs duties. Indirect taxes can be levied to counteract the external effects of consumption and production, in addition to its aim of generating public finance.

**B. Cannon or Principles of Taxation**

1. **Equity**: equality of sacrifice. This principle states that the subjects of every state should contribute towards the support of the government in proportion to the revenue which the respectively enjoy under the protection of the government.

2. **Certainty**: By this principle tax paid by individuals must be certain with respect to amount paid, time of payment and manner of payment.

3. **Convenience**: The principle of convenience states that the time of payment and the manner of payment should be suitable to the contributor

4. **Economy**: The administrative cost of collecting the tax should not be higher than revenue realized, but should be less enough to leave surplus revenue.

5. **Simplicity**: The tax system should be coherent, straight forward and clear to the tax payers and accepted by the public.

6. **Flexibility**: The tax system should be such that it should respond to changes

7. **Impartiality**: All similar income earners should pay the same amount of tax.

8. Productivity/fiscal Adequacy: The origin of taxation is to raise revenue for the expenditure of government, hence should be able to cover government's expenditure.

## C. Tax Policy

Fiscal Policy-government policy related to taxation and public spending. Fiscal policy and monetary policy, which is concerned with money supply, are the two most important components of a government's overall economic policy, and governments use them in an attempt to maintain economic growth, high employment, and low inflation.

Fiscal policy can be either expansionary or contractionary. It is *expansionary* or *loose* when taxation is reduced or public spending is increased with the aim of stimulating total spending in the economy, known as aggregate demand. Expansionary policy might occur when a government feels its economy is not growing fast enough or unemployment is too high. By increasing spending or cutting taxes, the government leaves individuals and businesses with more money to purchase goods or invest in new equipment. When individuals or firms increase their purchases, they raise demand, which requires additional production, creating jobs and generating more spending. The result is higher employment and a growing economy.

On the other hand, fiscal policy is *contractionary* or *tight* when taxation is increased or public spending is reduced in order to restrict demand and slow down the economy. A tight fiscal policy is more likely when inflation is high. A contractionary fiscal policy reduces the amount of money in the economy available for purchasing goods, thus decreasing spending, demand, and, ultimately, pressure on prices.

To determine its fiscal policy, a government must make judgments about a number of factors, including the level of economic growth or unemployment likely in the future. These factors will affect the amount of revenue raised through taxes and the amount of money required for government programs. Once these determinations are made, the government can decide how to raise revenue and how to allocate it. Revenue is generated through a combination of different taxes—for example income tax, sales tax, or customs duties—and can be allocated to build new roads, fund government programs, or to pay expenses such as government employees' salaries.

Decisions on fiscal policy are inevitably influenced by political considerations, such as beliefs about the size of the role that governments should play in the economy, or the likely public reaction to a particular course of action. Few governments will find it easy to raise taxes or to decrease funding for programs that have strong support from the public, such as social security or defense. Fiscal policy decisions can be influenced by other, outside factors as well. In today's global economy, a government also needs to consider the fiscal policies of other countries, which may tempt companies to relocate by offering them generous tax programs or other government-controlled benefits. Some countries may find their fiscal policy decisions constrained by the requirements of the International Monetary Fund (IMF), which often grants aid packages subject to conditions relating to fiscal policy.

### 3.8. Government Expenditure Theories

**Current Spending vs Capital Spending - Does it matter what the money is spent on?**

Government expenditure (like expenditure by private sector firms) can be categorized into either 'current expenditure' or 'capital expenditure'. **Current expenditure** is recurring spending or, in other words, spending on items that are consumed and only last a limited period of time. They are items that are used up in the process of providing a good or service. In the case of the government, current expenditure would include wages and salaries and expenditure on consumables - stationery, drugs for health service, bandages and so on.

By contrast, **capital expenditure** is spending on assets. It is the purchase of items that will last and will be used time and time again in the provision of a good or service. In the case of the

government, examples would be the building of a new hospital, the purchase of new computer equipment or networks, building new roads and so on.

The breakdown between these two types of spending is very important. Capital expenditure has a lasting impact on the economy and helps provide a more efficient, productive economy. A new hospital, for example, will be much more efficient and allow more patients to be treated for many years into the future. Current expenditure, however, doesn't have such a lasting impact. Once the money is spent, it is gone and the effect on the economy is simply a short-term one.

## 3.8.1. Government Expenditure

The development of an industrial economy in developing countries would be accompanied by an increased share of public expenditure in gross national product (GDP) as they try to expand their industrial base – manufacturing, agriculture, mining, extractive industry etc. Furthermore, public expenditure expands from time to time as a welfare state evolves from free market capitalism due to the population voting themselves ever increasing social services.

As progressive nations industrialize, the share of the public sector in the national economy grows continually. The increase in state expenditure is indeed due to three reasons as identified by Adolf Wagner (German economist, 1835 – 1917), namely:

➢ Social activities of the State
➢ Administrative and Protective Actions and
➢ Welfare functions

The material below is an apparently much more generous interpretation of Wagner's original premise.

▪ **Socio-political**, i.e., the state social functions expand over time; retirement insurance, natural disaster aid (either internal or external), environmental protection programmes.
▪ **Economic**: advance in science and technology, given room to an increase of state assignment into the sciences, technology and various investment projects.
▪ **Historical**: the state resorts to government loans for covering contingencies and thus the sum of government debts and interests amounts grow. What this is means is that it is an increase in debt service expenditure.

Generally, government expenditure has been on the increase with increase in the Gross Domestic Product (GDP). That is the marginal propensity to spend in the public sector is high (the increase in current expenditure as a percentage of the increase in the GDP).This is as the need of the society increases.

As government revenue increased, government decided on the provision of a number of social services. As a matter of necessity, government can embark on the provision of public capital goods. Hence overhead capital like roads etc with heavy operating and maintenance expenditure

**National Debt**

National Debt, also public debt, is sum total of governmental financial obligations, the result of a state's borrowing from its population, from foreign governments, or from international institutions. Public debts tend to be large-scale credit operations and are contracted on a national scale by central governments and on a lesser scale by provincial, regional, district, and municipal administrative bodies. In the United States, public debts are also contracted by the states and by local governments, primarily for public works.

National public debts are contracted chiefly by incurring interest-paying loans, in the form of bonds, bills, or notes. Historically, these loans have been undertaken to raise money for wars and national defense and to finance public works. More recently, governments have taken loans to meet national budgets or expenditures that are not covered by revenue, or to seek to improve economic conditions by counteracting unemployment or depressions, or both, with deficit budgets.

Some long-term maturing debt is repaid by short-term borrowing that does not add significantly to the total debt level. The redeeming of public debts includes the repayment of principal on maturity, amortization through periodic payment of part of the principal, and the buying up of government securities on the open market. Most government loans fall due at fixed dates, but a number, known as perpetual loans, have no definite expiration dates, and governments floating them have the privilege of redeeming them when convenient or desirable.

**Chapter Four: Public Resources Administration in Ethiopia**

**4.1. Public Laws/ Policies and Institutions of Public Personnel Administration in Ethiopia**

**4.2. Brief Historical Review of Civil Service Laws/Policies during the Imperial and Dergue Regimes**

**4.2.1. The Ethiopian Civil Service during the Imperial Era:**

The Civil Service is the operational arm of the government charged with the implementation and administration of public policy. Like its counterparts in the rest of the world, the Ethiopian Civil Service undertakes similar tasks. The genesis of the "modern" civil service in Ethiopia dates back to 1907 when Menelik II initiated the formation of a few ministries with the aim of lending

an orderly and efficient arrangement to the workings of government. In the subsequent years, the institution underwent a series of changes commensurate with a host of new needs and imperatives. Emperor Haile Selassie's Government, noted for a number of accomplishments shouldered the burden of persevering with the innovation of his predecessor. The Emperor undertook a series of institutionalization and restructuring measures in the hope of bringing about an effective and efficient civil service governed by specified rules and procedures of a uniform nature. This was a landmark in the sense of creating an enabling environment to withstand the effects of new challenges, which came to the fore/front as a result of modernization drives that took full swing after Haile Selassie's return from exile. Despite several improvements regarding the operation of government mediated by periodic reforms, the Ethiopian Civil Service was fraught with problems that impeded the realization of expected outcomes. It is worthy to note that Public Administration under the monarchy suffered from irregularities that resulted from the rampancy of several ills. These included, among others, cronyism discretionary interventions, prevalence of political clientalism, and the taking effect of individual and group interests to the detriment of established rules and procedures.

Such malpractices militated against the smooth functioning of the Civil Service thereby, reducing its prowess to gear development endeavors in the desired direction. Faulty practices that pervaded the modus operandi of the Public Administration realm incapacitated its potential to serve as a locus for realizing socio-economic progress. Growing public demands arising from exposure to aspects of modern life, increased awareness with regard to citizen entitlement and rights, and the quest for equal opportunities to access political and material resources and amenities, among others, necessitated making the relevant adjustments with regard to the undertakings of the public sector. Besides, the subsiding of traditional values and norms in the face of advancements driven by the expansion of modern education, adoption of new life styles and consumption patterns, etc., presented new challenges to be reckoned with. Failure to adhere to established rules, unwarranted political interference affecting standard administrative procedures, and emphasizing political loyalty as the major criterion for appointments and promotions - all became the Achilles Heel of the Ethiopian Civil Service during the imperial era.

## 4.2.2. The Impact of the Dergue/Socialist Era on Ethiopia's Civil Service

The Imperial era, gave way to the Dergue/socialist system, which was characterized by a concerted drive to radically redesign the administrative machinery in line with the socialist/central-planning ideological ethos of the new government. The rule of the Dergue was consequently marked by intensive mobilization and politicization during the first few years of its incumbency. The nationalization measures, along with the proliferation of new government institutions and corporations led to a tremendous expansion of the public sector. The swiftness of the transition, dictated by the imperatives of revolutionary transformation, did not allow the Civil Service adequate re-spites to ponder on means and ways of adjusting to the new situation. The fluidity of political developments marking the post-revolutionary years did not enable the Civil Service prepare itself for effecting corresponding changes. Deprived of the preliminaries necessary for smooth transition in terms of institutional, manpower and statutory adjustments, the sector was, nonetheless, expected to cope with the burdens entailed by its tremendous expansion. This constituted one of the most formidable challenges that the Civil Service encountered. The other dimension depicting the predicament of the agency was that it was required to accommodate diverse claims and demands triggered by the syndrome of extensive politicization, mobilization, and (re) organization within the public realm. In the absence of pertinent changes, the Civil Service was required to expedite the implementation of new decisions within the context of old regulations. Moreover, the eviction of skilled and experienced top and intermediate level officials and civil servants, and their replacement with new recruits and political supplicants with a different profile, compounded the predicaments of Public Administration. The Dergue put the Civil service in disarray by fusing the institutions of party, state and government. It also encouraged the proliferation of parallel structures by appointing party functionaries to key decision-making civil service positions. Hence duplication and fragmentation of public functions and the downplaying of merit and professionalism became the order of the day. The subsequent years characterized by the centralization of administration witnessed a situation where corruption, inefficient service delivery and increased neglect of due process of law in matters of public concern became a routine exercise. Given this bleak picture, the perpetuation of the Dergue regime was partly jeopardized due to its gross fai11.ne in delivering the "public good".

## 4.3. The Quest to Reform in Post-Dergue Era

Upon its assumption of power in May 1991, the EPRDF came to grips with the deficiencies that featured as the hallmarks of the Civil Service. Dictated by the demands of the Structural Adjustment Program and the zeal to usher in new arrangements in accordance with its drives and preferences, the EPRDF introduced a Civil Service Reform Program. The adoption of the Structural Adjustment Program focused on two major areas, namely, macroeconomic policy reform, and institutional reform. Accordingly, a task force was established under Prime Minister's office to examine the overall arrangements and operations of the civil service from federal to regional level. According to the study which was conducted from 1994 to 1996, the task force produced a 'comprehensive report on the existing condition of the Ethiopia civil service. According to the report of the Task Force, the existing civil services had the following major shortcomings and identified one of areas requiring reform.

1. management concentrated on the administration and control of inputs and activities rather than executing government policy

2. Management systems were outdated still reflecting the features of 1960s. consequently, they became unable to respond to the changing environment in which the civil service currently operates;

3. the public saw the bureaucracy as an obstacle to their lives, not a facilitator, with unnecessary and time consuming procedures;

4. The civil service was under resourced. Government expenditure was one of the lowest in the world;

5.  The civil service culture gave managers little scope to manage properly. The service was highly centralized, i.e there was no pragmatic delegation; and

6. Staff remuneration was ridiculously low and these staff generally lacked requisite skills. This was because of lack of opportunities for international exposure by implication they were not expected to be innovative in their performance.

## 4.4. Post-1991 Civil Service Laws/ Polices: Natures, Major Reforms and Challenging Problems: [Focus on the Ethiopian Ministry of Civil Service and its Functions]

**Measures Taken by the government of FDRE**

In response to the challenges of civil service, the current government has taken civil service reform to improve the management and operation of the government in general.

It is difficult to define what civil service reform mean. World Bank states that it is difficult to define but it is easy to express the procedures how civil service is reformed. According to World Bank the following steps are followed in the reformation of civil service.

- A first step in reform is often a basic attempt to codify and control the work of the core civil service. Once this is achieved, more complex systems of performance management can be attempted. Civil service reform may consist of establish fundamental management practices of establishing job descriptions, lines of reporting and basic disciplines of time-keeping and attendance. More advanced reforms focus on increasing efficiency.

- The second element is to move from a 'career' to a 'position' appointment system, in which people are hired for specific jobs, and required to be qualified and trained for those jobs, rather than hired as a generalist and then posted to different positions. 'Second generation' reforms involve setting up new management arrangements for the civil service, often including a 'civil service commission' with responsibility for recruiting, training and promoting civil servants. They also include trying to correct some of the civil service problems, such as low pay, 'pay compression' and the widespread use of non-monetary compensation such as cars and vehicles as part of the pay package. The idea behind these reforms is to make the civil service employment system more like a labor market, complete with the disciplines and incentives implied in such a market.

- More advanced reforms take this idea further and introduce competition for individual positions, including candidates from outside, performance-related pay, promotion based on merit instead of seniority and the ending of permanent tenure, irrespective of merit or performance.

Civil Service Reform Program aims to promote the development of an efficient, effective, transparent, accountable, and ethical civil service. The civil service reform program encompasses five major pillars: expenditure management and control human resource management, service delivery, ethics, and top management system.

a) *Expenditure Management and Control (EMC)* includes procurement, budgeting process, auditing and accounting reforms, review of fees and charges, and an overhaul of the internal and

external control systems, development and introduction of new and improved financial administration as well as legal frameworks and associated regulations and directives;

b) *Human Resource Management (HRM*) is about overhaul of the Civil Service Law, which was in place for many years, and reform of systems and procedures governing job classification and grading, remuneration and conditions of service, performance appraisal and time management, recruitment, selection, promotion and transfers, human resource planning, and the human resource management information system (HRMIS).

c) *Service Delivery (SD)* is concerned with the development and introduction of a comprehensive service delivery policy, complaints handling mechanisms, and service standards to facilitate positive changes in the culture, attitude and work practice of government officials towards the provision of effective and equitable public services;

d) *Ethics* focuses on the development and implementation mechanisms and best practices to combat corruption and impropriety, as well as, enhancing accountability and transparency within the civil service and the government.

e) *TOP Management System (TMS)* involves reforms to enhance the quality and speed of decision-making through the development of top officials' and senior managers' capacity to manage, and to improve systems and process governing institutions policy development and management, annual and strategic planning, performance evaluation and monitoring, delegation of responsibilities, and reporting.

The major elements of the Civil Service Reform Program are strengthening staffing and incentives, and setting service standards for responsiveness to the public. Significant changes have been initiated and important results have been achieved in the last few years under the five pillars. The following are the most visible and significant reform achievements:

- New and improved policy frameworks and legislations such as the financial administration proclamation, the Federal Civil Service Law (still needs  amendment), the National Service Delivery Policy, and associated regulations, directives, procedures and manuals;
- Federal and regional civil service staff trained on many of the new and improved legislations and working systems;

- Improvements in service delivery speed, efficiency and fairness in federal and regional institutions as an outcome of the initiatives to implement the National Policy for Service Delivery through a "*Quick Win*" reform approach;
- Attitudinal change among increasing number of civil servants, towards the need for accounting of resources under their control in a professional manner, arching for better ways of using scarce public resources, and responsiveness to citizens' demands and requirements;
- Establishment of a Federal Ethics and Anti-corruption Commission representing a solid step toward combating corruption through enhancing ethics, accountability and transparency; and,
- Encouraging trends in internalizing civil service management problems and the need to resolve them through systemic reform measures.

## 4.5. Public Laws/ Policies and Institutions of Public Finance Administration in Ethiopia

### 4.5.1. Brief historical review of public finance laws /policies during the imperial and dergue regimes

#### 4.5.1.1. Finance Laws /Policies during the Dergue Regimes

Under 'State Socialism' (1974 to 1991), popularly referred in Ethiopia as the '*Derge* Regime', financial institutions were basically executing the economic plans outlined by the central planning organ. In that period regulation and supervision were not critical since the national plan was believed to regulate and direct the activities of the financial institutions. Moreover, financial institutions were directed to finance some public projects that may not pass proper financial appraisal simply based on either ideological ground or 'merit wants' argument.

Following the demise of the *Derg* regime in 1991, post-1991 economic policy witnessed a marked departure from the previous "Socialist' System". Its main difference lies on openly adopting a market-oriented economic policy.

The Derg can be characterized as a controlled regime where all economic activities were to be based on the directives that came from the central (national) planning organ. To facilitate this,

the NBE is reorganized by the 1976 reorganization proclamation where the role of NBE as a developmental organ is clearly emphasized by the infamous article 6 in the proclamation, which expressed the objective of NBE to be 'to foster balanced and accelerated development.

In this period, the NBE was actively involved in direct controlling of all financial institutions by (a) fixing both deposit and lending interest rates, (b) directly controlling the foreign exchange and credit allocation which was done in a discriminatory manner, by favoring the public sector, and (c) by directly financing government deficit (NBE, 1998). Bank supervision/regulation has been largely limited to on and off inspection on a few branches.

The Derg regime is also characterized by an economic policy largely informed by the ideology of 'socialism'. The *sin qua non* of such set-up is the prominent role accorded to the socialized (public sector included) sectors by discriminating against the private sector. During this time indirect ways of regulating the financial sector was not important since it can be controlled directly. The most important financial instruments used to directly control the sector were (1) interest rate and (2) discriminatory allocation of foreign exchange and (3) credit.

The interest rate is deliberately set at a very low level (repressed). Depending on the degree of socialization, different sectors did face different interest rates.

The socialized sectors were also accorded priority in credit as well as foreign exchange allocation. All foreign exchange earnings were surrendered to the NBE. The latter will ration this limited supply of foreign exchange to sectors that were accorded priority in the national plan. In general the priority is for the socialized sectors - the private sector being the least preferred.

Similarly, credit allocation was informed by the same ideological considerations. In consultation with the Ministry of Finance and the Planning Ministry, the NBE projects the financial planning of the economy.

## 4.5.1.2. Finance Laws /Policies during the Imperial Regimes

### 4.5.1.2.1. Post -1991 Public Finance Laws/ Policies: Natures, Major Reforms and   Challenging Problems

- **An Overview of Public Finance in Ethiopia**

**Public Revenues in Ethiopia**

Like any other economic unit, a government needs funds to finance its activities. Such funds are raised from various sources. It is difficult to give a complete list of all the sources of public receipts. But the important ones include:

   Taxes

   Income from currency

   Market borrowings

   Sale of public assets

   Income from public undertakings

   Fees and charges

   Gifts and donations

   State lotteries

   Others

**Non-tax revenues**

Professor H. Dalton makes a distinction between public receipts and public revenue.

Public receipts include receipts from all resources, while public revenue is a narrower concept and excludes public borrowings, income from the sale of public assets, or receipts from the use of printing press (i.e. the additional money supply created by the authorities by printing and issuing paper notes).

For a government, it is a common practice to divide its receipts in to 'revenue' and 'capital' categories.

Broadly speaking, revenue receipts include 'routine' and 'earned' ones. For this reason, they do not include borrowings and recovery of loans from other parties, but they do include tax receipts, donations, grants, fees, and fines etc.

Capital receipts, on the other hand, cover those items which are basically of non-repetitive and non-routine variety and change government's financial liabilities or assets

The major non-tax revenue sources of a government include the following:

**Debt finance**

It is the use of borrowed funds to finance government expenditures. Those who lend funds to the government for the purpose of financing government expenditures usually do so under their own free will. In return for the funds that they lend to the government, they receive a bond, or some

other note of government indebtedness, that embodies the promise of the government to repay the loan with interest at some future date.

Debt finance can be used to postpone the burden of taxation. If debt finance is used prudently, it can improve the efficiency of the use of resources for the economy by linking the tax cost of public investments to the stream of benefits produced by those investments.

**User charges**

User charges are prices determined through political rather than market interaction.

These charges can finance government-supplied goods and services only when it is possible to exclude individuals from enjoying their benefits unless they pay a fee.

User charges often help to finance such government-supplied services as highways, bridges, and common in the U.S. and in money other countries.

One advantage of user charges is that they make those who directly consume the services pay for at least part of the costs of producing those services, forcing individuals at least to compare some of the benefits of using the public services with the costs imposed by the user charge.

In addition, user charges ration the use of public facilities in such a way as to avoid congestion

User charges can take such forms as (1) direct prices associated with the consumption of particular goods and services, (2) fees for the option to use certain facilities or services provided by the government, (3) special assessments on privately held property, (4) licenses or franchises, and (5) fares or tolls.

The distinction between such charges and market prices is that user charges do not necessarily reflect the interplay of supply and demand in markets. They reflect political and other forces. Typically, user charges are less than the average cost of providing the goods or service.

The difference between the average cost and the charge is a subsidy to users that is financed by taxes. Charges often do cover the full costs of providing certain government-supplied services such as water and sewer charges levied by government.

   **Income from currency**

Profit from paper currency and mintage are also like compulsory levies upon the public. The actual cost of creating this currency is much less than its face value.

The government, therefore, makes a profit out of this. But this profit is not like the usual profits from other public undertakings. The public has no choice but to use this currency at its face value.

Income from currency can be also a cause for inflation. This type of inflation is termed as government-induced inflation.

Government- induced inflation is a sustained annual increase in prices caused by expansion of the money supply to pay for government-supplied goods and services.

Government authorities simply can print money to pay for costs of government-provided goods and services or take other measures to expand the money supply.

The net effect of such continual increases in the money supply is, of course, sustained increases in the general level of prices- in other words, inflation.

Increases in the market prices of goods and services caused by expansion of the money supply force citizens to curtail their consumption and saving, which in turn finances the reallocation of resources to public use over the long run.

In short, inflation as means of finance has certain merits and limitations. Thus, as one important alternative to taxation for financing government activities if prudently used it can be productive otherwise, its ill effects would be far reaching in a nation's economy.

**Donations**

Donations are voluntary contributions to governments from individuals or organizations. These occasionally are used to finance particular programs.

For example, governments might set up special funds to finance aid to victims of natural disasters and other individuals in difficulty, perhaps asking citizens to send contributions to such funds.

Other sources of public revenues such as sales of public assets, income from public enterprises, fines, etc are self-explanatory, hence no need to provide details related to these sources of public revenue.

**Public Expenditure in Ethiopia**

**Public Expenditure**

Recently, there has been both quantitative and qualitative change in government's expenditure. This category deals with the principles of public expenditure and its effect on the economy etc.

Government of a country has to use its expenditure and revenue programs to produce desirable effects on national income, production, and employment. The role of public expenditure in the determination and distribution of national income was emphasized by Keynes.

The term "Public Expenditure" is used to designate the expenditure of government-central, state and local bodies. It differs from private expenditure in that governments need not pay for themselves or yield a pecuniary profit. Public expenditure plays the dual role of administration and economic achievement of a nation. Wise spending is essential for stability of government and proper earnings are a prerequisite for wise spending. Hence planned expenditure and accurate foresight of earnings are the important aspects of sound government finance.

Public expenditure is done under two broad heads viz., developmental expenditure and non-developmental expenditure. The former includes social and community services, economic services, and grants in aid. The latter mainly consists of interest payments, administrative services, and defense expenses. Expenditure can also be classified into revenue and capital expenditure.

### A. Plan and Non-plan Expenditure

Expenditure is classified under the following heads:

I. Non-plan Expenditure

Non-plan expenditure of central government is divided into revenue and capital expenditure. Under non-plan revenue expenditure we include interest payment, defense expenditure, major subsidies, interest and other subsidies, debt relief to farmers, postal deficit, police, pensions, other general services, social services, grants to states and union territories. Non-plan capital expenses include defense expenses, loan to PSUs, loans to states and union territories, foreign governments etc.

II. Plan Expenditure

The second major expenditure of central government is plan expenditure. This is to finance the following:

i) Central plans such as agriculture, rural development, irrigation and flood control, energy, industry, and minerals, communication service and technology, environment, social service and others.

ii) Central assistance for plans of the states and union territories.

Expenditure can also be categorized into revenue and capital expenditure. Revenue expenditure relates to those, which do not create any addition to assets, and covers activities of government departments' services, subsidiaries and interest charges. Capital expenditure involves that

expenditure, which results in creation of assets. Finance ministry is responsible for plan expenditure.  This includes grants to the state.
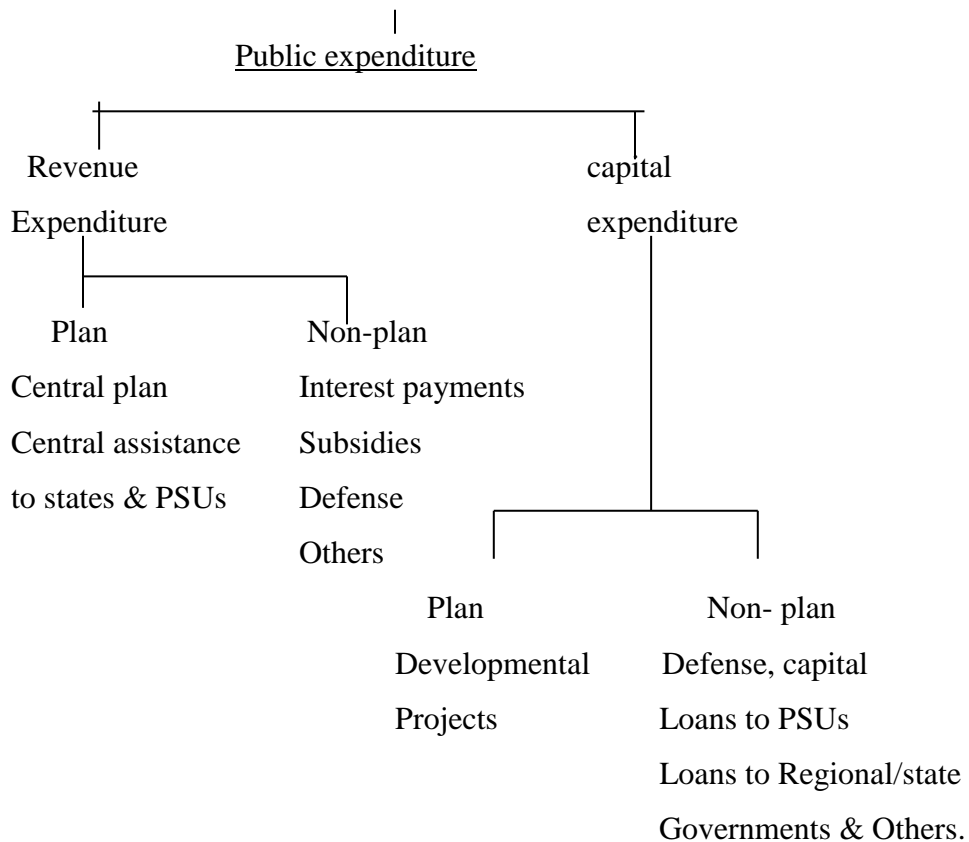
Hence the expenditures are classified as capital and revenue. Alternatively, these expenses can be re-classified into plan and non-plan expenditure.

### A.  Social Expenditure

Government takes the responsibility of protecting the interests of the community as a whole and promotes the implementation of welfare programs. Government spends huge amounts for providing benefits such as old age pensions, accident benefits, free education and medical services.  This expenditure on human resources comes under social expenditure.

Governments are moving towards the objective of achieving maximum social welfare. Expenditure on education, public health, welfare schemes for workers, relief and rehabilitation of displaced persons and such other services may not yield direct benefit in the short run.  But in the long run they contribute to improvement in the quality at human resources.

The main classifications of Government expenditure can be seen in the following diagram.

Public expenditure

| Revenue Expenditure | capital expenditure |
|---|---|

| Plan | Non-plan |
|---|---|
| Central plan | Interest payments |
| Central assistance | Subsidies |
| to states & PSUs | Defense |
| | Others |

| Plan | Non- plan |
|---|---|
| Developmental | Defense, capital |
| Projects | Loans to PSUs |
| | Loans to Regional/state |
| | Governments & Others. |

## 4.6.    Fiscal Decentralization: The Expenditure Vs Revenue Assignment rationales

**Expenditure rationales assignments**

Expenditure assignment refers to specifying the functions and expenditure responsibilities for each level of government, central as well as local. In other words, what are the functions and expenditure responsibilities of each level of government in the decentralized system of governance; who will do what and who will pay for what? The assignment of functions and resulting expenditure responsibilities has been considered as the first and fundamental step in the design of fiscal decentralization .It is argued that design of other components of fiscal decentralization such as revenue assignment, intergovernmental transfers and sub-national borrowing carries less meaning in the absence of a clear expenditure assignments.

A clear assignment of expenditure responsibilities -clarifying who is responsible for what- increases accountability, avoiding unproductive overlapping, duplication of authority and legal challenges.

A stable and meaningful decentralization requires a well-defined institutional framework in the assignment of expenditure responsibilities among the different levels of government together with the sufficient budgetary autonomy to carry out the assigned responsibilities at each level of government. In any case, a government's strategy and priorities would consider assignments taking into account different weights of the objectives of efficiency, equity, and stability.

What is considered the best assignment is likely to change over time with changes in costs and technological constraints, as well as changes in preferences. However, expenditure assignment decisions should be based on a unbundling of each function into sub functions, and for concurrent functions the identification of attributes for regulation, financing and implementation, and then analysis of the viability for each as a central or local responsibility.

There are no hard and fast rules about which functions should be designed to which level of government. However, responsibility for the provision of services should be at the lowest level of government compatible with the size of the "benefit area" associated with those services. This is best achieved by the "subsidiary" principle.

For the various layers of government and their service delivery tasks, this normally means that a local government is best placed to deliver those services for which the delivery area falls entirely within the administrative boundaries of that government unit. Certain traditionally municipal services can usually be provided better at the local level, including: garbage collection, Street

lighting, Street paving (local streets), and Traffic lighting and municipal police. Primary schools could be the responsibility of a village government, while secondary schools could be managed at the sector or district level.

Other functions usually can be provided better at the central government level, such as: National defense, Border controls, International affairs, and Education standards. Expenditures undertaken for the stabilization of the economy such as massive investment or unemployment compensation are by their scale naturally ascribed to the central government. Expenditures undertaken by government for equity or income equalization reasons, such as social welfare or low income housing should fall under the domain of the central government. On the other hand, Only highly centralized systems, where all government budgets were integrated with the federal budget are able to work without expenditure assignments (Example: the former Soviet Union) implementation of social programs can very well be left to local governments, which may have informational and other comparative advantages.

For conceptual reasons there is scope to distinguish between expenditure assignments for decentralized functions, for which, in principle, districts have a certain degree of freedom (or discretion) to allocate the resources, and delegated functions, whereby districts simply implement activities on behalf of central government which may lead to efficiency gains, as the managers and implementers are closer to the end-users but for which the core decentralization principle of allocation gains (increased effectiveness) is not applicable. Both types of activities are equally relevant. Though regional and local governments have autonomously elected legislative powers the heads of the executive powers often continue to be appointed by the centre. This has led in many transition countries to an unwieldy mix of deconcentration and decentralization of government activities, which is not conducive for accountability.

  Common Problems with Expenditure Assignments

The failure to establish by law a clear assignment of expenditure responsibilities for each government level can become a source of conflict between the central and sub-national governments and can lead to an inefficient provision of public services.

The lack of specific and clear assignments of expenditure responsibilities necessarily conditions the adequacy of any tax revenue assignment and fiscal equalization mechanism. Without a specific expenditure assignment, revenue availability will dictate the responsibilities of each

government level. This leads to institutional instability and again to an inefficient provision of public services.

Problems with expenditure assignments can be classified as follows:

The costing of expenditure responsibilities:

- ❖ One choice is the range of expenditure functions over which to measure the needs. All public services should be included or at least those sectors, which have most direct implications for the achievement of the MDGs, such as Education, Health, Agriculture and Water.

- ❖ In the sectors identified for the exercise, the specific services selected will be "local" in nature and refer to services that in international experience lend themselves to decentralized delivery. Within the selected sectors core services should be demarcated (for education this may be primary education)

- ❖ The assessment should pragmatically focus on the expenditures that are made in the delivery of services, regardless of the level involved in particular aspects of the service. Data from various tiers of governance should be broken down in various types of costs – capital, operational and maintenance and direct (e.g. for the schools) as well as indirect administrative/governance overhead costs, monitoring and supervision costs.

- ❖ Expenditure needs can vary across districts, for mainly two factors: need differences and cost differences. Identifying relative need/cost factors, assigning relative weights using direct imputation methods or regression analysis. The list of criteria and the weight used need to be carefully assessed and also thoroughly discussed with all stakeholders to ensure that the main causes for substantial differences are included. Indeed, the selection of factors and the weights are a political choice.

- ❖ Allocating total expenditures on each service across districts on the basis of their relative costs and needs for each function and review savings from various efficiency enhancing measures

- ❖ Review the funding system and available amount of funds for local service delivery (taxes, revenues, other local sources and grants) both in terms of sector specific revenues such as user fees and charges and general untied funding,

- ❖ Review the relationship between the available funding and the required sources to comply with the targets in a phased manner.

Revenue rationales assignments

Revenue assignment refers to the question of vertical sharing of public resources (what share of the total government budget should be decentralized?). Contributions from development partners should be included as well, as those resources normally become available at the national level, while part of this is meant to fund activities that fall within the expenditure assignments of local governments.

General considerations

If fiscal decentralization is to be a reality, sub-national governments must control their "own" sources of revenue. Sub-national governments that lack independent sources of revenue can never truly enjoy fiscal autonomy. The question, then, is which revenue sources (including taxes) can and should be assigned to sub-national levels of government and how these assignments are to be effected.

As distribution and stabilization functions are also commonly assigned to central government, the related taxes should follow this function. Even if sub-national taxation achieves some redistribution within a given sub-national jurisdiction, interpersonal inequalities may persist across jurisdictions. These can be addressed only by national policies. In some cases it may be better to use intergovernmental grants to address differences in average income levels in various sub-national jurisdictions than to use taxes and transfers to individuals.

If sub-national governments cannot much affect macroeconomic conditions nor easily adjust to wide swings in revenues, it is appropriate for them to rely relatively heavily on revenue sources that are relatively insensitive to macroeconomic conditions. These include taxes on consumption, such as general sales taxes, excises, and property taxes. Sub-national governments should levy taxes but not generally rely on corporate income taxes – and that access to revenues from these taxes should be made available to sub-national governments only subject to rigid controls.

Each level of government should be assigned taxes that are related to the benefits of its spending. Thus, the proper assignment of taxes that are related to benefits depends on the assignment of expenditure functions. In general terms, the central government should be responsible for expenditures having benefits that extend across sub-national boundaries or that are characterized by economies of scale not realized at the sub-national level. The following taxes are usually reserved for the central government:

• Import duties,

• Value-added taxes, and

• Corporate income taxes.

Certain taxes are usually, and for good reason, collected mainly by local governments, including:

• Property taxes,

• Commercial or business licenses,

• Local retail sales tax.

## 4.6.1. Challenges of Fiscal Decentralization

**Decentralization**

Decentralization is used to denote the transfer of responsibility from central government bodies and its agencies to field units of the central government, and semi-autonomous private or voluntary organizations.

 Decentralization refers to the transfer of power and/or authority to plan, make decisions, raise and allocate resources, and/or manage public functions from a higher level of government to lower ones.

The forms of decentralization can either be explained by the modalities applied or simply by the key dimensions or variables in the decentralization exercise. The model approaches identify three main types of decentralization, i.e., deconcentration, delegation and devolution. The first is limited to passing down administrative discretion to local officers of central government ministries. Although it does result in some dispersal of power, few decisions can be taken without reference to the centre. Delegation involves passing some authority and decision making power to local officials while the central government retains the right to overturn local decisions and to take these powers back. Devolution is the strongest form of decentralization and it grants decision making powers to local authorities and allows them to take full responsibility without reference to the central government. These include financial power as well as authority to design and execute local development projects and programs.

Those who concentrate on the key dimensions or variables of decentralization examine five important dimensions of decentralization, i.e., the type of activity over which power or authority is transferred; the type of power or authority which is transferred; the level to which power is transferred; the individuals or organizations to which it is transferred; and finally the type of political and administrative or legal machinery used to make the transfer.

- ❖ Technical Limitations
- ❖ Ethical/ Attitudinal Challenges: Tax Evasion/ Avoidance, Corruption/Rent-seeking
- ◆ **Tax Avoidance/Evasion**

Tax avoidance and evasions constitute a problem in almost all the countries of the world. Tax avoidance is different from tax evasion, while evasion is against the law; avoidance is within the ambit of law.

Tax evasion is the general term for efforts by individuals, firms, trusts and other entities to evade the payment of taxes by breaking the law. Tax evasion usually entails taxpayers deliberately misrepresenting or concealing the true state of their affairs to the tax authorities to reduce their tax liability, and includes, in particular, dishonest tax reporting (such as under declaring income, profits or gains; or overstating deductions).

By contrast tax avoidance is the legal exploitation of the tax regime to one's own advantage, to attempt to reduce the amount of tax that is payable by means that are within the law whilst making a full disclosure of the material information to the tax authorities. Tax avoidance may be considered as either the amoral dodging of one's duties to society or the right of every citizen to find all the legal ways to avoid paying too much tax. Tax evasion, on the other hand, is a crime in almost all countries and subjects the guilty party to fines or even imprisonment.

**Tax Avoidance**

Tax avoidance means, "tax-payer may resort to a device within the ambit of law to divert the income before it accrues or arises to him".

"Tax Avoidance has to be recognized that the person whether poor or wealthy has the legal right to dispose of his income so as to attract the least amount of tax".

The tax avoidance can be defined as "*escaping from the tax liability by using the available loop-holes of the tax laws*".

Thus, tax avoidance means legal minimization of tax burden by the taxpayers.

**Examples for Tax Avoidance**

The following are the examples for tax avoidance:

1. Suppose a taxpayer's total income exceeds the maximum tax-free amount, then he has to pay the tax on such excess amount. But if he invests the excess amount in any of the approved schemes for which there is a relief in the tax law, he can save on tax altogether.

2. An individual sells his let out house property (long-term capital asset) for Birr.2, 00,000 making a capital gain of Birr 60, 000. This capital gain would normally be taxed. But, if he invests the sale proceeds in a particular manner stipulated by law, he need not pay any tax.

3. Divorcing the wife on paper so that her income is not added together with husband's income is also a common device for tax avoidance.

### Tax Evasion

Tax evasion means fraudulent action on the part of the taxpayer with a view to violate civil and criminal provisions of the tax laws. It can be defined as "tax evasion implies the activities involving an element of deceit, mis-representation of facts, and falsification of accounts including downright fraud".

Thus, it may be said that the tax evasion is tax avoidance by illegal means i.e. tax evasion is against the law and is an unsocial act.

There are two forms of tax evasion. They are as follows:

1. Suppression of income, and
2. Inflation of expenditure.

### Examples for Tax Evasion

The following are the examples for tax evasion:

1. A trader makes a sale for Birr.20, 000 and does not account it, in his books under sales. He is evading tax.

2. An individual lends his money of Birr.50, 000 to another person at 20% interest per annum and does not include this income in his total income.

3. Under-invoicing of sales and inflation of purchases.

4. A manufacturing business employs 30 workers but include 2 more additional namesake workers (not in actual) in the muster roles. The sum shown as paid to such additional namesake workers will amount to evasion.

Human intelligence devices new methods of evasion and the Governments are constantly trying to remove the loopholes in the tax laws.

### Causes of Tax Evasion

The following are the important causes for Tax evasion:

### A. Multiplicity of Tax Laws

A number of laws enacted for the recovery of a variety of taxes often leads to widespread tax evasion.

### B. Complicated Tax Laws

Complicated tax laws are another reason for tax evasion. The tax laws contain a number of exemptions, deductions, rebates, relief, surcharges and so on. For example: the Income Tax Act has 28 chapters and 298 sections including sub-sections. So, such complication in tax-laws is also a root-cause for the tax evasion.

### C. High Rates of Taxation

Example, India is said to be the most taxed nation in the world. High rates of taxes cause widespread tax evasion, because the greater the risk undertaken for the purpose of tax evasion, the greater is the reward.

### A. Inadequate Information as to Sources of Tax Revenue

Lack of adequate information as to the sources of revenue also contributes to tax evasions. In India, small businessmen and farmers rarely maintain any accounts of their income. Even lawyers, medical practitioners, film actors etc. are defaulters in this field.

### B. Investment in Real Property

Investment in real property, both movable and immovable, and concealment of its true ownership have also been a major cause for tax evasion. Our tax laws in a way permit the holding of benami properties etc. All these facilitate the channelizing of black money into profitable ways.

### C. Ineffective Tax Enforcement

Lack of proper training and efficiency for the authorities enforcing the tax laws is also a major cause for widespread tax evasion.

### D. Deterioration of Moral Standards

There has been deterioration in standards of moral behavior of people since independence. The values, which formed the basis of Society, are shown little respect. In this modern competitive world, the deterioration of moral standards, among the people leads to falsification of accounts, mis-representation of facts and fraudulent behavior

### Corruption/Rent-seeking

Economics rent-seeking is expending resources on political activity to increase one's share of existing wealth without creating wealth. The effects of rent-seeking are reduced economic

efficiency through poor allocation of resources, reduced wealth creation, lost government revenue, increased income inequality, and, potentially, national decline.

Current studies of rent-seeking focus on the manipulation of regulatory agencies to gain monopolistic advantages in the market while imposing disadvantages on competitors. The term itself derives, however, from the practice of gaining a portion of production through ownership or control of natural resources and locations.

*Rent-seeking* is an attempt to obtain economic rent (i.e., the portion of income paid to a factor of production in excess of that which is needed to keep it employed in its current use) by manipulating the social or political environment in which economic activities occur, rather than by creating new wealth. Rent-seeking implies extraction of uncompensated value from others without making any contribution to productivity. The classic example of rent-seeking, according to Robert Shiller, is that of a feudal lord who installs a chain across a river that flows through his land and then hires a collector to charge passing boats a fee (or rent of the section of the river for a few minutes) to lower the chain. There is nothing productive about the chain or the collector. The lord has made no improvements to the river and is helping nobody in any way, directly or indirectly, except himself. All he is doing is finding a way to make money from something that used to be free.

In many market-driven economies, much of the competition for rents is legal, regardless of harm it may do to an economy. However, some rent-seeking competition is illegal – such as bribery, corruption, smuggling, and even black market deals.

Rent-seeking is distinguished in theory from profit-seeking, in which entities seek to extract value by engaging in mutually beneficial transactions. Profit-seeking in this sense is the creation of wealth; while rent-seeking is the use of social institutions such as the power of government to redistribute wealth among different groups without creating new wealth. In a practical context, income obtained through rent-seeking may contribute to profits in the standard, accounting sense of the word.

Examples an example of rent-seeking in a modern economy is spending money on political lobbying for government benefits or subsidies in order to be given a share of wealth that has already been created, or to impose regulations on competitors, in order to increase market share.

A famous example of rent-seeking is the limiting of access to lucrative occupations, as by medieval guilds or modern state certifications and licensures. Taxi licensing is a commonly-

referenced example of rent-seeking. To the extent that the issuing of licenses constrains overall supply of taxi services (rather than ensuring competence or quality), forbidding competition by livery vehicles, unregulated taxis and/or illegal taxis renders the (otherwise consensual) transaction of taxi service a forced transfer of part of the fee, from customers to taxi business proprietors.

The concept of rent-seeking would also apply to corruption of bureaucrats who solicit and extract 'bribe' or 'rent' for applying their legal but discretionary authority for awarding legitimate or illegitimate benefits to clients. For example, tax officials may take bribes for lessening the tax burden of the tax payers.

Regulatory capture is a related concept which refers to collusion between firms and the government agencies assigned to regulate them, which is seen as enabling extensive rent-seeking behavior, especially when the government agency must rely on the firms for knowledge about the market. Studies of rent-seeking focus on efforts to capture special monopoly privileges such as manipulating government regulation of free enterprise competition. The term *monopoly privilege rent-seeking* is an often-used label for this particular type of rent-seeking. Often-cited examples include a lobby that seeks economic regulations such as tariff protection, quotas, subsidies or extension of copyright law Anne Krueger concludes that, "empirical evidence suggests that the value of rents associated with import licenses can be relatively large, and it has been shown that the welfare cost of quantitative restrictions equals that of their tariff equivalents plus the value of the rents"

- The Roles and Functions of Financial and Non-Financial Institutions

## 4.7. Financial Institutions: The Central/National, Commercial and Development Banks of Ethiopia

February 15, 1906 marked the beginning of banking in Ethiopia when the first Bank of Abyssinia was inaugurated by Emperor Menelik II. It was a private bank whose shares were sold in Addis Ababa, New York, Paris, London, and Vienna. The bank opened numerous branches including ones in Harar (1906), Dire Dawa (1908), Gore (1912), and Dese (1920) .One of the first projects the bank financed was the Franco-Ethiopian Railway which reached Addis Ababa in 1917. The bank then opened a transit office in Djibouti in 1920.

In 1931, Emperor Haile Selassie introduced reforms into the banking system The Bank of Abyssinia was liquidated the newly established Bank of Ethiopia, a fully government-owned bank, taking over management, staff and premises of the ceased bank. The Bank of Ethiopia provided central and commercial banking services to the country.The Italian invasion in 1935 brought the demise of one of the earliest initiatives in African banking. During the Italian occupation, Italian banks were active in Ethiopia.

On April 15, 1943, the *State Bank of Ethiopia* became the central bank and was active until 1963. By the time it ceased operations in 1963, the State Bank of Ethiopia had established 19 domestic branches, a branch in Khartoum, and a transit office in Djibouti.

The National Bank of Ethiopia was established in 1963 by Proclamation 206 of 1963 and began operation in January 1964. The establishment of the new organization was aided by U.S Department of State emissary, Earle O. Latham, who was the first Vice President of the Federal Reserve Bank of Boston.

Prior to this proclamation, the bank carried out dual activities i.e. commercial banking and central banking. The proclamation raised the bank's capital to 10 million Ethiopian Dollars and granted broad administrative autonomy and juridical personality. Following the proclamation the National Bank of Ethiopia was entrusted with the following responsibilities:

> ➢ To regulate the supply, availability and cost of money and credit.
> ➢ To manage and administer the country's international reserves.
> ➢ To license and supervise banks and hold commercial banks reserves and lend money to them.
> ➢ To supervise loans of commercial banks and regulate interest rates.
> ➢ To issue paper money and coins.
> ➢ To act as an agent of the Government.
> ➢ To fix and control the foreign exchange rates.

However, monetary and banking proclamation No. 99 of 1976 came into force on September 1976 to shape the bank's role according to the socialist economic principle that the country adopted. Hence the bank was allowed to participate actively in national planning, specifically financial planning, in cooperation with the concerned state organs. The bank's supervisory area was also increased to include other financial institutions such as insurance institutions, credit

cooperatives and investment-oriented banks. Moreover the proclamation introduced the new 'Ethiopian birr' in place of the former Ethiopian Dollar that ceased to be legal tender.

The proclamation revised the bank's relationship with Government. It initially raised the legal limits of outstanding government domestic borrowing to 25% of the actual ordinary revenue of the government during the preceding three budget years as against the proclamation 206/1963, which set it to be 15%.

This proclamation was in force till the new proclamation issued in 1994 to reorganize the bank according to the market-based economic policy so that it could foster monetary stability, a sound financial system and such other credit and exchange conditions as are conductive to the balanced growth of the economy of the country. Accordingly the following are some of the powers and duties vested in the bank by proclamation 83/1994.

Regulate the supply and availability of money and credit and applicable interest and other hanges.

Set limits on gold and foreign exchange assets which banks and other financial institutions authorized to deal in foreign exchange and hold in deposits.

Set limits on the net foreign exchange position and on the terms and amount of external indebtedness of banks and other financial institutions.

Make short and long-term refinancing facilities available to banks and other financial institutions.

> Student's discussion point; Non-Financial Institutions: The Ministries of Finance and Economic Development, and Revenue and Custom Authority of Ethiopia and House of the Federation

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