CHAPTER II
HISTORICAL PERSPECTIVE OF CIVIL SERVICE

A. ORIGIN AND EVOLUTION OF SERVICE:

We cannot imagine a civil service without the state and similarly a state could not function effectively without the civil service. It is only the civil service through which the state becomes functional and active. This was the reason that the civil service originated and evolved with the origination and evolution of the state. All time they co-existed and remained complementary to each other. All laws and constitutions are the heirs of past and testators of the future. The civil service is not the exception to the principle. The present civil service as provided in our constitution are the heirs of the past possessing so many feature. For the convenience of study historical perspective have been divided in three parts viz-The Vedic age or Hindu period, Muslim period and the British one. Vedic period covers for nearly 1500 years before and after the beginning of the Christian era. Muslims period begins with the first major invasion by Muslims in 1100 AD. While British period commences with the consolidation of the British power in the middle of nineteenth century. The modern period begins with the withdrawal of British power in 1947 and specially from 26 January 1950 when our constitution come into force.

I. VEDIC AGE (The HINDU PERIOD)

1. Origin of kingship (state)

At the end of the epic war of Kurukshetra, Bhismapitamah told Yudhistra that in the very beginning of civilization in this country (India) great importance was attached to Dharam, and it was self imposed by individuals, consequently every one was acting according to dharma and there was no necessity of any authority to compel obedience to the laws. The existence of such ideal stateless society was graphically described by him that there was neither kingdom nor the king, neither punishment nor the guilty to be punished. People were acting according to dharma and thereby protecting one another. Thus there was an ideal stateless society, which appears to have been in existence in the past. Such a society was the most ideal for the reason that every individual scrupulously acted according
to the rules of right conduct by the force on his own conscience and not due to any fear of being punished by a powerful superior like the state. Consequently there was mutual cooperation and protection. Society was free from evils rising from selfishness and exploitations by individuals. The sanction which enforced such implicit obedience to dharma was the “faith” of the people in it as also the fear of incurring divine displeasure if dharma was disobeyed. However this ideal society so beautifully described could not remain long. While the faith in the efficacy and the utility of dharma, belief in God and the God fearing attitude of people continued to dominate this society the actual state of affairs gradually deteriorated. A system arose when some persons out of selfish worldly desire began to flout dharma and became immune to the fear of divine displeasure. They were infatuated by their desire for pleasure and prompted by their own muscle power began to exploit- the weaker sections of the society for their selfish ends. Tyranny of the strong over the weak reigned unabated. The danger to peaceful co-existence and consequent uncertainty and anxiety about the safety of life and property of individuals, was brought by such individuals.

It was the rule of masyanyaya (big fish devouring the small fish) which governed the society. This situation forced the law binding people to search for remedy, which resulted the discovery of the institution of the king and establishment of his authority. People suffering from anarchy as illustrated by the proverbial tendency of bigger fish devouring the smaller ones, first selected “MANU” the Vaivasvata to be their king and allotted one sixth of grains grown and one tenth of merchandise as sovereign dues. Being fed by their payment the king took upon themselves the responsibility of assuring (Yogakshemavaha) and of being answerable for the sin of their subjects when the principle of levying, just punishment, and taxes have been violated. Thus the kingship or the state originated when the people elected Manu to be the king and also at the same time civil service though deferred in terminolgy begottted from the womb of kingship when Manu assured the subjects to give safety and security as to their lines and properites by rendering the service to them The state or the Rajaja consisted seven elements (Angas) viz- Swamin (Ruler) Amatya, Janpada or rastra (Terminated people), Durga, Kosha, Danda (Army) and mitra. The goal and ideals of the state were the welfare and happiness of the people which were to be afforded service in

1. Manu VII-3
2. Kautilya-Arthesatra

the form of Dharma, Artha and Kama (Trivarga or shri purusarth)\(^1\) and lastly Moksha i.e. liberating from bondage of birth death cycle and to secure union with creator or to reach to heavens. These tirvarga were to be fulfilled with the assistance and service of ministers in an enduring manner\(^2\). It was therefore necessary for the king to appoint ministers and take their service and advice.\(^3\) Seven or eight ministers should be appointed by the king whose ancestors have been royal servants who are well versed in all the shastras, who are courageous and skilled in the use of weapons who are decedents from noble families and who are found suitable after a through examination.\(^4\) A Native (citizens) born of a high family, pure in character endowed with excellent conduct influential well trained in the arts, possessed foresight wise of strong memory bold, eloquent, skilful, intelligent full of enthusiasm possessing dignity and endurance affable firm in loyalty and devotion endowed with unexcited afficmate and free from hatred and enmity is the person who is qualified to be appointed as amatya (minister)\(^5\) Persons how have one half of these qualification fall under these and class and these who process one fourth under the third class. The king is to ascertain the opinions of ministers separately and then jointly and then do what is beneficial. He is then to hold consultation on the most important affairs relating to the six means of policy with a advise Brahmana who is the most distinguished of all ministers and always to rely upon him, to settle all lines of policy finally on his advice and then to act. The principal matters which mantries have to concentrate themselves upon are mantra securing the fruit of the line of policy adopted (such as conquering a country and protecting it) the carrying out of the business (of the state) predicting the good or evil effect (of an action taken) revenue and expenditure punishing those who deserves punishment subduing enemies measures against calamities like famine guarding the king and the kingdom.\(^6\) The king should keep the lines of policy secret in such away that people should not know

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1. नीतिः: फल धर्मार्थ कामावस्थिः ॥
   वृहस्पति यात्रु इ-43
2. गृहीतात्मापन्नो गणितात्मिनन्दन निर्मातिः मुपैति शाक्तिति ॥
   कामाष्टकों IV-77
3. कांन्तिया – आर्थसास्त्रा, p.12 16-m.s.
4. दोलन शास्त्रविक शुरुति लिखितस्य कुलदेव ति
   सत्तात्म चापो द्रपुवैति परीक्षनसि ॥
   – नवू, VII, 54
5. जाननम: अभिसंयात स्वयः कृति शिल्प ॥ चालुकानां प्राकः धार्मिकिणः
   दत्त वामी प्राप्त: प्रतिपदिनामुः उपक्रमोऽपि राजायुक्त: श्रेष्ठतः सुधि:
   मैः: दृष्टिकार: सीतकृतिर्यक्तसि संयुक्तः सम्भवाय वर्णित साधियः
   वैकारण्य कार्त्तं कृतिः अमाल्य सप्ता ॥ अतः: पादश्रेण्याह्यान्यामहामात्रे ॥
   – कैदिल्य, अधिशास्त्र P.14, 16, 0-6
them till the result of his undertakings manifest themselves. 1 Any minister committing the breach of society was liable to be sentenced to death 2 Agnipuran 3 mentions several high functionaries like enapati Pratihara Duta and heads of departments. The sukranitisara 4 enumerates ten principles high functionaries of the king (prakrities) viz purodha (purohita), pratinidhi Pradhan (president) of council sacive (war minister), pradvivaka (minister of justice), pandita (minister of ecclesiastical matters), sumatra (finance minister) Amatya (revenue minister) and Duta (minister of diplomatic relations) and remarks than others omitted purodhas and Duta from this list of ten and hold that these eight should all recieve the pay which sukra was of opinion that the ten high dignitaries should each receive in order one tenth more as pay than the succeeding one that the purohita was the most eminent of all that among the rest each preceding was more eminent than each succeeding one and than after these high dignitaries came to other officers (adhikaangana) that then came darsaka (secretary) and lekhak (clerk) then the merrial servants who waited for the king and lastly the lowest were those who carried out dirty work. 5 

As we find from the ancient Literatures that ancient India was divided in to various independent states and is each state the king was the supreme authority. 6 The king with the assistance of the chief priest (purohita) and military commander (senani) generally carriect on the administration each his kingdom. For the convinient of administration state was divided into provinces and these into divisions and districts which differed in terminology as well as in area. For each province or district separate governors according to their states were appointed with different designations. Most after they were related to the king and in certain places their appointments were hereditary. District officers were entrusted with judicial and administrative powers and functions. 7 At the meeting place of districts (janpada) cities also existed. The city was administered by a separate governor (Nagarka purapala). Each town was under the jurisdiction of perfect (Nagarka). At the end of the fourth centaury B.C.Patilaputra was a very flourishing town under the maurya emperor Chandragupta. Megasthariese and ambassador of seleucus nicator who residede there for sometime has given a detailed account of the adimstration of patliputra. He states their

1 Kane P.V. History of Dharmasatra vol III p.111 (1973) Bhandarkar oriented Research institute poona
3 Angiplurana-220.
4 Sukranitisara- II-69-70.
5 Kane, P.V. "History of Dhamsastra" vol III p.113
6 Bashan A L "The wonder that was India" pp102-106.
7 Epigraphic Indica, Calcutta and Delhi ch xv p 130.
it was under the care of a council of thirty officials who formed six committees of five members each. Each committee looked after different spheres of administration with great care and caution. Besides cities there were a large number of villages all over India. In fact the village was the first unit of government. In the north as well as in south districts was classified according to the number of villages under their administrations jurisdiction. The village was based upon the bond between the family or the clan. Each village consisted of a village headman and village council or village panchayat. They assisted the district authorities in controlling the village administrator. The office of the village headman was mostly hereditary. In villages he represent the kings administrator and therefore his appointment was also at the kings pleasure. The psuedo-sukra writing in late middle age speaks of the village headman as the mother and father of the village protecting it from robbers kings enemies and oppressions of kings officer. In Kutilyasa Arthasastra the reason was divided into four administrative units called - shatriya, Dronmukha, Kharvatika and Sangrahana. Stahiyia was a fortress established in the centre of eight hundred villages. A Dromukha in the centre of four hundred village a Kharvatika in the midst of two hundred villages and a Sangrahana in the centre of ten villages. In each of these places and at the meeting places of districts (Janpada sandhishu) Law courts were established to decide disputes between citizens.

These were several departments in the state for the better administration. They were kept separately under the charge of a Adhyaksa or suprintendent who were appointed by the king. Manu directed that the king should appoint for each town one superintendent elevated in rank formidable and resplendent (like planets and stars) to look after all (governmental) affairs. Among those appointed the most skilful, brave and honest persons to be assigned for collection of revenue and supervise mines and stone houses. Timid officers may look after the internal affairs of the place. Yajanvalkya has the similar provision. As to their qualification Kautilya observed that a person who has the requisite

1. Kautilya “Arthasastra” ch. II p.36
3. Sukramitisara ch-II p.343
5. ‘It ‘fl ‘fl it it”, .l...”
6. ‘fl ‘fl it it”, .l...”
7. P.f.I .... 81nTlld”’
8. 3I”‘t<I”‘q~~d’...”’i:”’lflImr. iIi1h.t
qualifies for being appointed as minister and who has also the special qualification and capacity to work as the head of any particular department should alone be appointed in that department. As today the corruption also prevailed in the then society and therefore it was apprehended their such officers who had been appointed by the king to protect the people were also likely to become Knave and seize property of others. Then it was the special responsibility of the king to protect the people against such officers. The king should confiscate the property of such evil minded officer who take money from the parties and banish them. ¹

2. DUTIES OF THE OFFICERS

Yuvaraja was the great officer in the state. The younger brother or eldest son was made Yuvaraja (crown prince) during the reigning king's life. Rama on his coronation as king made Bharat the crown prince when Laxman refused to be so² The Yuvaraja and princes were often sent as Governors of different parts of the. This position, powers, authority and duties corresponded to the ruling king. Ashoka was sent by his father Bindusara to Taksasila to pacify popular disturbances and Ashok himself is said to have been sent his son Kunala from pataliputra to the secure town to pacify the citizens that had been offended by the arrogance of the Amatya. Thus in the provincial administrations crown prince played great role.³ Purohit was the next high officer in the state. He was thought to be half of the soul of the king. He was the spiritual teacher of the king and was deemed necessary for the prosperity of the kingdom. He made the king ready for battle and accompanied in battle where the arrows fly while the fight went on.⁴ During the battle the chief minister and prohita were to urge on and encourage soldiers by extorting them with verses from the Veda and classical Sanskrit, promising great rewards in the next world for those who fall in the battle.⁵ Senapati was the commander in chief of the military forces. The king ruled the state with the help of senapati. In the affairs of war and peace and internal law and order senapati played important

¹ Kautilya "Arthasastra I, 17.“
² Kane P.V. “ History of Dharmasastra” vol III p p 117-118
³ Kautilya “Arhtasastra x 3.”
role in the state. Next important officer to the king was Duta (Ambassador). As per Kateiya\(^1\) Duta was to be sent by the king after line of policy has been settled at a council of ministers to the king who is to be attached. A Duta is of three kinds- Nisrsththa (one to whom is entrusted fall direction as to what is to be said) is one is possessed of the qualification required in a minister (Amatya), such as Krishna from pandava or the ambassadors in modern time. Secondly Prarimtartha (entrusted with a definite mission an envoy) who possesses the same qualifications as the first less by one quarter and third less. Sansanhara (a mere carrier of royal writing or missives) who possesses only half the qualifications of the first. As to the duties of the Duta Kamandaka\(^2\) briefly sets out determining those who are inimical to the king to whom he is winning over to his side the friends and relatives of enemy king, finding out the (number and equipment) forts the economic resources and military strengthen of the enemy king, collection of news as to what the enemy intends to do, bringing over to his side the officers incharge of the districts of enemy country collecting knowledge about the places of the enemy country where the battle can be waged by his king or when he can pass away swiftly. A Duta is to be distinguished from a cara or (spy). Duta is an open (prakasa) spy while cara is a spy who works in secret. At present an ambassador is nothing more than a honourable spy acting under the protection of the law of the land. Manu\(^3\) says that it is the Duta who brings about alliance or war. The Heads or the superintendents were entrusted with much more duties in their departments. They should inspect by rotation the work of all his subordinate officers and also ascertain their character and conduct through spices.\(^4\). Kateiya directed the following duties of each departmental heads (i) To manage the department efficiently without allowing any room for idle talk among his subordinates of allowing them to conspire became when government servant conspire they eat up the revenue and when they indulge idle talk work suffer. (ii) To take appropriate action in an emergency without seeing or waiting for the kings order. (iii) To scrutinise throughout the real quantum of work done, moneys realised, expenditure incurred both day detailed and random checking to ascertain cases of embezzlement of government funds. The assistance of accountants coin examiners and military officers may be utilised in his behalf. (iv) To subordinate government servants to a lower post as a measure of punishment.

\(^1\) Kateiya, "Arthasastra 1,16.
\(^2\) Kamandak xii 22-23.
\(^3\) Manu vii 65
\(^4\) स तामुनुपपरिङ्गमेत सब्जने सवा स्वर्णः।
तेषां वृत्तं परिणामेत् सम्पाश्चेत्।
तत्त्वर्थं: इ
—मन वि 122
(v) To take disciplinary action against them for misconduct. (vi) To make permanent the services of such of them who are not corrupt, who increase the revenue by lawful methods and are loyal to the king (state).

3. **DUTIES OF THE KING**

In ancient India several duties were cast upon the king. Protection and happiness of the subjects were the main functions of the king. In the happiness of his subject lies the king's happiness, in their welfare his welfare, whatever pleasure himself the king shall not consider as good but whatever pleases his subjects the king shall consider as good. The king who occupies the position of Indra should shower benefit on his subjects in the same manner as Indra showers copious rain during the rainy seasons and should also support all his subjects without any discrimination in the same manner as the earth supports all living beings. He and his servants should always conduct with the conformity of Rajadharma should not turn his back from the battled and should not fail to protect the people. The king who receives the prescribed taxes (from the subjects) and protects them alone acts according to Dharma and the king whose subjects are not given protection when they are

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1. Kautilya - Arthasastra, P.39 (P. 42S to P. 50K)
2. Kauti - Arthasastra, P.39 (P. 42S to P. 50K)
3. Kauti - Arthasastra, P.39 (P. 42S to P. 50K)
4. Kauti - Arthasastra, P.39 (P. 42S to P. 50K)
5. Kauti - Arthasastra, P.39 (P. 42S to P. 50K)
6. Kauti - Arthasastra, P.39 (P. 42S to P. 50K)
harassed by robbers is as good as dead though livings and becomes sinner and as such the highest duty or dharma of a king is the protection and welfare of the subjects and putting down the wicked. Not couple the subjects as require protection against the wicked officers of the kings thieves, enemies of the king, royal favourities such as queen, princess etc but also against the greed of the king himself and the king should ensure to people against these fears. The king should look after the welfare (Yogakshema) of that helpless, the aged, the blinds the cripple, lunatics, widows, orphans women by giving them food, lodging, clothing and medicines according to their needs. Should provide subsistence to the wives of his soldiers who have no other means of livelihood. Likewise the king should protect the inherited property of a minor until he returned from his teacher's house (Gurukul) or until cease to be a minor and also protect the property of women who have non to look after them if they be childless or widows or whose husbands have gone abroad and yet remain loyal to their husbands or who are affected with disease or who have no family should punish those who deceive such women and appropriate their properties considering them as thieves. The king should cause restoration of stolen property to the owner. If it is not possible to restore the same property he must pay the owner the price of the stolen

1. श्रावण्य स्वप्नं: प्रजानामेव सालनम्।
2. निर्देश फलमोक्ताः हि राजामर्मणं युक्ताः।
3. विकोशस्यवं सर्व राज्यः विवेदनां दस्युः प्रजा।
4. नसपंसः समृद्धस्य गुणं स तु न जीविति।
5. मदु VII 143-144
6. आदाय बनिसाधनः यो राशु नासि बनिति।
7. प्रशिक्षितां तथाच यदुराचरणं भूमिफः।
8. महामात्र शोभितः 24, 12-13
9. नृपस्य स्वभावं: प्रजानां परिशालनः।
10. दुष्ट निश्चारणं नित्यं न नीवा ते नीनामुं।
11. - मुक्के 1, 27-28
12. आयुक्तश्चरवृत्त्यं: परीयो राजवचनात्।
13. पृष्ठिवीपति लोगाच्य प्रजानां पवक्षं प्रभुः।
14. पंचाकारांश्च दोहा नृपस्य भयं।
15. - कमण्डका V 82.83, P. 63-64
16. कृपणाथ्य वृद्धानां किवानां च योगस्तम।
17. योगस्तम च दृष्टि च निश्चारण प्रकल्पयेत।
18. आयुक्तसु यथाकालं चैत्यजलं भोजिनम्।
19. स दै वोपरे राज्य संकूलचारच गाण्यं च।
20. - महामात्र शोभितः 86, 24-25
21. अवधारः: रित्रयाः र्यू।
22. - विशेष इX-20, P.98
23. बालपातारि: रिक्षाः तावद्वाराणुपालयेत।
24. यादस्य स्थालामापती सायक्षात्तीत्र श्रैवास।
25. - मदु VII 27
26. वर्षापुनायुष वच व्यास्तयम निःश्रुतात्।
27. पतिक्तसु च स्त्रीः किवासस्तासु च।
28. मदु VII 28
29. मदु VIII 29
property. If the thief is caught, but the stolen property is not recovered from him, either the thief must be made to pay the price if possible or the king must pay it. When the thieves are not caught the king must make good the loss from his treasury. By being remiss (towards criminals) he would incur sin and it would go against both justice and his non interest.

The king was the fountian head and supreme authority of the administration of justice in his kingdom. The Kings court was the highest court of appeal as well as an original court in cases of vital importance to the state. It was directed that no decision shall be given by a person singly. The judge should decide the case without consideration of personal gain or prejudice or any kind of bias. All decision should be in accordance with the procedure prescribed by the texts of sacred law local usage and the dictates of Dharma and with concentration of mind. Judges were required to take oath of impartiality when deciding the disputes between citizens. Danda (punishment) should be neither too severe nor too mild but should be appropriate to the fault committed.

1. चौरूहत् प्रयतने न स्वपन प्रतिपादयतः ।
   तदृशस्य तु मूर्त्तं स्वातं सन्था किलिमनः।।
   चौरूहत् च च वरी यदि तु कुप्सत्संगाय लग्ये।।
   द्वारालयं च च दार्शेतु क्षोभत्।।
   कालायं = 816 – 817
   गंभू. 40,। यात्रवत्काय = 1936।
2. स्तूपिन्त्य मायेनु राजा द्वितात स्वातं नागिनानां उक्षेत्राणां भेदस्य धार्मिकत्वो दीये।।
   –नारदः पू. 206–27। धर्माकोषः = पू. 1961।
4. Regarding kings juridical jurisdiction Kalidas in his Abhijnana Shakuntala has referred to Dhanamitras case. Dhamamitra was a wealthy merchant and who died in a shipwreck. The dispute as to his property cause before the king which he transferred to his minister. The minister passed an order that the entire estate of the merchant be reverted to the king. Revasing the decision king Dusyanta ordered an enquiry to be made whether any of his widows was expecting a child, and the he was informed their one of them was pregnant. The king directed that the child after birth was entitled with property of the deceased.
5. न एकाकी निर्यानं कृयतः: Cited by Vardchariar’s “The Hindu Judicial System” 1946 p.64
   Journal of the national academy of administration, P.22
7. Justice Dhavan, 55 Indian Jurisprudence (1963) vol
   Journal of the National Academy of Administration p.22
8. प्रशंसं देशादृश्यं सामायस्यं हेतुतुष्टिः।
   अधिदासश्च मायेनु निम्बनायिनः पृथक पृथक।।
   गंभू. VIII 3
9. वार्षिकों नृपयितं स्वयं पश्चि परमपिरं परमस्त।
   तत्र समाचारा निम्बनेऽस्युः सुखं प्रजाः।।
   कृत सर्वायं – 14। नारद् – 14–74।
10. धर्मसितंविद्यस्य संस्कारं समाहितः।
   प्रणयं लोकपालस्य कार्यदर्शन मानेत्।।
   गंभू. VIII 23
12. Kautalya I, 4 kamadaka II, 37/ Manu 16/ mahabharata shatparva 56-21,103-34
regulated by a consideration of the motive and nature of the offence, time and place, strength age, conduct (or duties), learning and monetary position of the offender and by the fact whether the offence is repeated. 1 The severity of punishment depend on caste also. 2 Atri counts fine selfless duties (services) of the king which were to punish less wicked to honour (protect) the good to enrich the treasury (exchequer) by just method to be impartial towards the litigants and to protect the kingdom. 3 Thus the king was the protector of the helpless, the home of the homeless, the son of the sonless and the father of the fatherless. 4

14. DHARMA (LAW) (meaning)

In vedic age Dharma had the vast meaning. It was used to mean justice (Nyaya) moral, religion, pious or righteous conduct being helpful to the living being, giving charity, duty law, usages or custom having the force of law and also a valid Rajadharma (Royal edict) 5. To define dharma is a difficult task, however it has been explained to be that which helps upliftment of living beings and sustains welfare 8 highest good 7 Progress 8 in those world and eternal bliss in the other world and happiness 9. It is stable condition capable of giving perfect satisfaction to man and of helping him in the allotment of happiness, salvation and

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1 Kautilya "Arthasastra: vol, iv p.10/ Dandviveka of kardharma Gaidkwad oriented service
2 Mnausmriti viii p.285
3. दुर्दश दण्डः सुजनस्यसुजः, न्यायकोषेष्च स संपुर्वः।
   जीवनातो दय्यु राक्षसशः परमेष्ठः : कथितारुप्यायम्।
   Atri- 28
   Bees Smritiya Vol. II, PP 359-360 (Hindi)
4 Katyayana- Raja N. p.30.
5 Rgveda I 22,18,164,50: Atrharveda xiv 5,51 Taitriya Sammita III,5,2,2, vedic Index (1912) p.390
6 ताप्योदयमु त्रजन्य घर्म: सुदुर्लामः।
   दुर्दशः प्रिःसार्वयाः, तत्क्षत्रै प्रभास्यति।
   प्रवाहार्यां गुरुनाः घर्मप्राप्तयतृ सुदुर्लामः।
   य: स्वायममसंयुक्तः स घर्म इति निरययः।
   धारणा दम्पिताद्धूतद्विशत: ब्रह्म: प्रज्जति।
   य: स्वाध्यायां संयुतः स धम्मप्रि निरययः।
   Mahabharta Shanti Parva, 109-9-11
7. स हि निः भोज्येषु पुष्करां संयुक्ती प्रतिज्ञानी महे
   तदवाविधते- चोदनाल्पणाथर्थाः घर्म:।
   Jaimini 1-2
8 अप्रयुद्य–निः-वेवस्ते साध्वयेन धार्यमाणि इतिहासम्।
   स च तक्षा –प्रभासाः चोदनाल्पम् वस्माधिनः।
   Parashara dharma samhita-sayana, Madhavacharya krita Tika samhita (Sanskrit) edited by Vamanashama (1893) Bombay Sanskrit. Rank p.63
9 Tillak B.G Shri Bhagwatgita Rahuysya (english translation by B.S.Sukthankar: vol p.88.
welfare to all creation 1 is a mode of life or a code of conduct 2 custom or usage both sacred and secular in society 3 It stands for social law, the law governing the society cosmic order 4. right thought, right word and right deed 5. The scope and concept of dharma is comprehensive 6. Thus it is law, justice duty, culture and what not 7 It maintains society 8 (i.e. people by establishing order)

5. RAJADHARMA - (The Law Governing the King)

With the beginning of Rajya and kingship it was felt necessary to define its structure, the powers and duties of the king and the liabilities of the people to contribute a part of their income by way of taxes, which was to be placed at the hands of the kings for the purpose of the defense of the realm and for maintaining peace, safety and order in the society and also for the benefit and progress of the people. This necessity was met by making provisions regulating the constitution and organisation of the state specifying the powers and duties of the king and all other incidental provisions and treating these provisions also a part of Dharma under the title Rajadharm (i.e. Law governing the king). As all Dharms are merged in Rajadharm, it is therefore called the supreme Dharma.

1 Dr Radhakrishan, Indian philosophy (1939) vol I, p.503
2 Kane P.V. "History of Dharmasastra" vol II, p.2
3 Sinha H.N. "Sovereignty in Ancient India" p.27.
4 Anjaria JJ- Nature and Ground of political obligations in the Hindu states – p.177
5 Chandravaran "A Manual of Hindu Ethics"
6 Raghavan, v Indian Heritage viii p.150
7 Mukharjee, Sir Asutosh - "Theory of constitution in Hindu Political Philosophy" part II p.502
8 धारण द्रमधिवाहुँ धारयः प्रजा यस्य धारण संयुक्त सं धर्म इति निश्चय
Mahabharata Karma, LXIX, 68
II. THE MUSLIM PERIOD

(1) The rulers

At the end of eleventh and beginning of twelfth century began the downfall of the Hindu period. Local Hindu Rajas were attached and defeated by foreign invaders of Turkish race. Gradually old Hindu kingdom began to disintegrate. Several factors like political, military, social and economic factors, struggled for supremacy. Lackness of leadership etc. were responsible for the downfall of the early Hindu kingdoms on the contrary the Hindu rulers could not face the strong military power of the foreign invaders.

Ending with the tenth and early eleventh centuries, Mahamud of Ghazni, a Muslim of Turkish race, attached India from the North-West. Subsequently Mahamud led a series of raids on north-west India, plundered, destroyed the temples and each time returned with huge wealth. In 1191 Muhammad of Ghori attached India, but he was defeated by a Hindu Raja, Prithviraj, a Rajput hero. Next year in 1192 Muhammad of Ghori defeated Prithviraj at Thaneswar and marched to Delhi. Thus, day by day the end of twelfth century he established a Muslim sultanate at Delhi conquering most of northern India. A new political factor introduced into the Indian subcontinent as the sultan of Delhi initiated the rule of Turks and the Afghans. From 1206 till 1526 not less than thirty three Trukish kings belonging to three dynasties occupied the throne of Delhi. In 1398 Tamerlane or Timur, a Mongol conqueror, captured Delhi and ended the sultanate of Delhi. In 1336, the Hindu kingdom of Vijayanagar was founded in the south. It protected southern India from any further Muslim expansion and for the next two centuries it remained as a dominant power in the south.

Sultan of Bahamani dynasty ruled the southern parts of India from 1347 to 1587. Sultans of Bijapur ruled the vast territories in the south from 1490 to 1686. Nizams of Hyderabad ruled the state from 1730 to 1948. In the north, the Nawabs of Oudha ruled from 1722 to 1857 and in the east Nawabs of Bengal ruled from 1740 to 1770. In 1526 Babar, a descendant of Tamerlane, defeated Ibrahim Lodhi at Panipat and captured Delhi. Babur founded the Mughal Empire in India and the old period of Delhi Sultanates came to an end. After Babur's death in 1530, his son Humayun ruled but the constant fighting with rebels kept him engaged.

2 Ghazni is located between kabul and kandhar in modern Afghanistan.
3 Mahmud of Ghazni destroyed the great Temple of Somnath on the coast of Kathiawar in 1024-1025 and plundered huge wealth.
4 Kings of the sissave dynasty ruled from 1206 to 1290; The Khilji dynasty ruled from 1290 to 1320. The Tughlaq dynasty ruled from 1320 to 1399; the sayad dynasty ruled from 1414 to 1444; The lodi dynasty ruled in 1444 and again from 1451 to 1526.
5 Hindu kingdom of Vijayanagar was founded along the river Tungabhadra in 1336 by two brothers from Telanagana (in modern Andhra province). It represented a revival of Hinduism against Islam.
From 1540 to 1545 Shershah ruled over north India. By introducing various reforms during his reign, it is said that he laid the foundation for Akbar's greatness. Akbar the son of Humayun, was the greatest mughal ruler. He ruled over a large part of India from 1556 to 1605. He consolidated the empire by defeating his enemies and developing friendly relations with the non-muslims martial races of India. He developed an administrative and judicial system in his empire. His successors Jehangir 1 Shahjahan 2 and Aurangzeb 3 lacked the ability integrity and statesmanship of Akbar. After the death of Aurangzeb in 1707 the mughal emperor began to disintegrate due to the raising powers of Sikh and Marathas. Practically the Mughal Empire come to an end but continued theoretically under a series of puppet emperors up to 1862. Thus the moghul empire which was founded by Babar in 1526 lasted for nearly two centuries until the British took over the moghul empire.

(2) The Sultanat Rulers
(Administrative units officers and their duties)

The sultan and his chief minister (wazir) headed the civil administration of the sultanate. The Sultanate was divided into administrative divisions from the province to the village level. Though the Sultanate continued changing the principle of forming the administrative division remained the same with minor changes in the area of each division. The sultanat was divided into provinces (subhas). The province (subah) was composed of districts (sarkars). Each district (sarkar) was further divided into parganahs. A group of villages constituted a parganah. The sultan was represented in each province by a Governor (Nazim or Mufti) under whom a number of department heads were appointed. The Governor was responsible for maintaining law and order, and also to collect revenue in each province. In each district the Fauzdar was the principal executive and police officer who represented the Governor. The Kotwal was the immediate commanding officer in the cities; and shiquhadar was in parganah. The parganah was the smallest administrative unit having its own officials – the executive officer, officer recording produce, the treasurer and two registrars. The Muslim was the chief assessment officer and the revenue collector. The village was the smallest unit of administration it was the basic economic unit. It was administered by three

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1 Emperor Jahangir ruled from 1605 to 1627
2 Emperor Shahjahan ruled from 1627 to 1658
3 Emperor Aurangzeb ruled from 1658 to 1707
officials—the village headman, the accountant (patwari) and the registrar (chaudhari). The village assembly or panchayat managed local administration. At the village level and to a large extent in the parganah, many Hindu officers, belonging to families associated with administration, were still allowed to work. In provincial capital large markets were established cities were divided into sectors and each sector was in the charge of two officials who were responsible to the chief city administrator.1

(3) Duties of the Officers
(In Shershah’s dynasty)

Sur dynasty was founded by Shershah in 1540 after defeating the mughal emperor Humayun, son of Babar. During the reign the sur dynasty from 1540 to 1555 when shershah and later on Islam shah ruled over India, the moghul empire remained in abeyance. Sultan shershah was famous not only for his heroic deeds in the battlefield but also for his administrative and judicial abilities. It was said by sultan shershah that stability of Government depended on justice and that it could be his greatest care not to violate it either by oppressing the weak or permitting the strong to infring the laws with impunity.2 In spite of the fact that shershah ruled only for five years he introduced various remarkable reforms3 in administration and judicial system of his kingdom for the welfare of the public and casted duties of public importance on his high officials.

(i) The shiqahadar, who had up till now power corresponding to the Kotwals were given magisterial powers within the paraganah. They continued to be in charge of the local police.

(ii) Moqoddams or heads of the village councils were recognised and were ordered to prevent theft and robberies. In cases of robberies they were made to pay for the loss sustained by the victim: Police regulations were now drawn up for the first time in India.

(iii) When a shiqahdar or a munsif was appointed, his duties were specifically enumerated.

2 Stewart “History of Bengai” p.128 Briggs, W, Rise of the Mohamedan power in India, vol ii p.124
3 Shershah introduced the system of having in the parganahas separate courts of first instance fro civil and criminal cases. At each parganaha town he stationed a civil judge called Munsif a little which survives to this day to hear civil disputes and to watch conduct of the Amrik moqoddams (officers lecting re n e)
The judicial officers below the chief provincial Qazi were transferred after every two or three years. The practice continued in the British India.

The duties of Governors and their deputies regarding the preservation of law and order were emphasized.

The chief qazi of the province or the qazi-ul-quzat was in some cases authorized to report directly to the emeror on the conduct of the Governor, especially if the latter made any attempt to override the law.

THE MUGHAL RULERS

Mughal period begins, in India with the victory of Babar in 1526 over the last Lodi sultan of Delhi. His son, Humayun, though he lost his kingdom to shershah in 1540 regained it after defeating the descendants of shershah in July 1555. The Mughal Empire continued from 1555 to 1750.

ADMINISTRATIVE DIVISIONS AND OFFICERS AND THEIR DUTIES

The whole mughal empire (sultanate-e-mughaliah) was administered on the basis of the same political divisions as existed during the reign of shershah. As to civil administrator the whole territory was divided into the Imperial capital, provinces (subhas) Districts (sarkars), parganahs and villages. Just like the sultans of Delhi mughal emperor were also absolute monarchs. The mughal emperor was the supreme authority and in him the entire executive legislative, judicial and military powers were vested. In each province or subha there appointed a subhedar, officially called Nazim (Governor). He was controlled through the representative of central Government provinces were further subdivided in to shiqqs and were placed under the control of shiqqdars. Pargana was still a smaller division through which the Government came into direct contact with the people. The other officers appointed to administer in these divisions were later called as siqqdar and mushriff again later known as Amin and munsiff. He was the chief assessment officer. Kanugo was the record keeper and Karkun was the accountant. Village headman was called Patwari. The word (designation) ‘Diwan’ was used for chief minister and the Naib for Deputy.

(1) Ahamad M.B. “The administration of justice in Medieval India” p.129

(2) Majumdar, R.C, “The History and culture of the Indian people” vol vi p.453-454 ‘Bhartiya vidya Bhawan
chief executive officer of a 'Taluk' was called Amildar (now called Tahasildar) and the officer in charge of revenue for a group of villages called hobli or shekhdar, today known revenue inspector. Some of the designation like munsiff, kanungo karkun, patwari etc are still popular even today. No doubt the period of Akbar the great is well known in the world. He afforded the best service to his subjects not only in the way of administration but towards the justice also. There was no of judiciary from the executive. What justice were give by him and through his subordinates embraces also the scope of service to the people. Hence a brief portrait of the administration of justice.

Mughal emperor was considered the fountain of justice. The emperor created a separate department of justice (mahukma-e-adalat) to regulate and see that justice was administered properly. On the basis of administrative divisions at the official headquarters in each province, district, parganah and village separated courts were established to decide, civil, criminal and revenue cases. At Delhi, the imperial capital of India highest court of the emperor empowered with original and appellate jurisdictions were established. A system of gradation of courts, with well defined powers of the presiding judges existed all over the empire.

At Delhi, which was the capital of mughal emperor in India, three important courts were established. The emperor's court, presided over by the emperor was the highest court of the empire. The court had jurisdiction to hear original civil and criminal cases. As a court of first instance generally the emperor was assisted by a Darogha-e-Adalat, a Mufti and a Mir Adl. In criminal cases the Mohstasib-e-Mumalik or the chief Mohatasib, like the Attorney General of India today, also assisted the emperor. In order to hear appeals the emperor presided over a Bench consisting of the chief justice (Qazi-ul-Qazat) and Qazis of the chief justice court. The Bench decided questions both of fact and Law. Where the emperor considered it necessary to obtain authoritative interpretation of law on a particular point the same was referred to the Bench of the chief justice's court for opinion. The public was allowed to make representations and appeals to the emperor's court in order to obtain his imperial judgment. The chief court of the empire was the second important court at Delhi, the seat of the capital. It was presided over by the chief justice (Qazi-ul-Qazal).

1 Ahamad, B "The Adiministration of Justice in Mediaeval India" pp 143-166
2 Alamgrir Namah p.1077
court had the power to try original civil and criminal cases to hear appeals from the provincial courts. In administering justice, the chief justice was assisted by one or two Qazis of great eminence who were attached to his court as puisne judges. Four officers attached to the court were – Daroga-e-Adalat, Mufti, Mohtasib, Mir Adl. The mufti attached to the chief justice court was known as Mufti-e-Azam.

The chief justice was appointed by the emperor holding the highest office in the judiciary. Referring to the qualifications of a chief justice Sir J. Sarkar observed that the men of high scholarship and reputed sanctity of character wherever available were chosen. Sometimes a chief provincial qazi was promoted to the post of chief justice. The chief revenue court was the third important court established at Delhi. It was the highest court of appeal to decide revenue cases. The court was presided over by the Diwan-e-Ala. Apart from the above state three important courts there were also two lower courts at Delhi to decide local cases. The court of qazi of Delhi, who enjoyed the status of chief qazi of a province, decided local civil and criminal cases. An appeal was allowed to the court of chief justice. The court of qazi-e-Askar was specially constituted to decide cases of military area in the capital. The court moved from place to place with troops.

In each court as stated above the four officers were– Daroga-e-Adalat, a mufti, a mohtasib, mir adl.

In each province (subah) there were three courts named the Governor’s own court and the Bench, the chief Appellate court and the chief revenue court. The Governor’s own court (Adalat-e-Nazim-e-subah) had original jurisdiction all cases arising in the provincial capital. It was presided over by the Governor (Nazim-e-subah). Sometimes the Governor presided over a bench to hear original appellate and revisional cases. It was known as Adalat-e-Nazim-e-subah. Further appeals from this court lay to the Emperor’s court by way of petition and as a matter of routine to the court of the chief justice at Delhi. Two officers attached to the court of Governor’s Bench were a mufti and a Darogho-e-Adalat. The provincial chief appellate court was presided over by the qazi-e-suba. The court had original civil and criminal jurisdiction. It was the chief court of appeal in the provinces for all appeals from the district courts.

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1 Sarkar, Sir Jadhunath “Mughal Administration” (1935) p.29.
2 Henry Elliot and Dowson “History of India” vol VII p.178.
The qazi-e-subah had powers similar to that of the Governor. He had a permanent seat on the Bench of the Governor's court. The Governor consulted him whenever the use of the sovereign's prerogative came in for discussion in a case. Seven officers attached to this court were- Mufti, Mohtasib, Daroga-e-Adalat, Mir Adl, Pandit, Sawanesh Nawis and Waqae Nigar. Provincial chief revenue court was presided over by Diwan-e-subah. The court was granted original and appellate jurisdiction in revenue cases. An appeal from this court lay to the Diwan-e-Ala at the imperial capital. Four officers attached to this court were- Peshkar, Daroga, Treasurer and Cashier.

District (sarkars) had four courts, namely the chief civil and criminal court of the district Faujadri, Adalat, Kotwali and Amalguzari kachehri. The chief civil and criminal court of the district was presided over by the qazi-e-sarkar. The court had original and appellate jurisdiction in all civil and criminal cases and in religious matters. Qazi-e-sarkar was principal judicial officer in a district. He was officially known as "shariat panah". Six officers attached to this court were – Daroga-e-Adalat, Mir Adl, Mufti, Pandit or Shastri, Mohtasib and Vakil-e-shariat. Appeals from the court lay to qazi-e-subah.

Faujdari Adalat dealt with criminal cases concerning riots and state security. It was presided by the Faujdar. Appeals lay to the Governor's court. Kotwali court decided cases similar to those under modern police Acts and had appellate jurisdiction. It was presided by Kotwal-e-shahar. Appeals lay to the district qazi. The Amalguzari Kachehri decided all revenue cases. Amalguzar presided over this court. An appeal was allowed to the provincial Diwan.

In each parganah there were three courts namely, Adalat-e-parganah Kotwali and Kachehri. Adalat-e-parganah was presided over by qazi-e-parganah. The court has jurisdiction over all civil and criminal cases arising within its original jurisdiction. It included all those villages, which were under the parganah courts jurisdiction. qazi-e-parganah had all powers of a district qazi within the area of his parganah. As there was no other lower court so the Adalat-e-parganah had no appellate jurisdiction. Appeals from this court were made to the court of district qazi. Four officers attached to Adalat-e-parganah were- Mufti, Mohtasib-e-parganah, Daroga-e-Adalat and Vakil-e-shara. Kotwali-e-parganah to decide

1. Henry Elliot and Dowson: "History of India" vol iii p.172-173.
such cases as are found in the modern police Act. Appeals were made to the district qazi.

Amin was the presiding officer in Kachehri when decided revenue cases An appeal lay to
the district Amalguzar.

The village was the smallest administrative unit. From ancient times the village council (panchayats) were authorised to administer justice in all petty civil and criminal matters. Generally, the panchayat meetings were held in public places. It was presided by five pancha elected by the villagers who were expected to give patient hearing to both the parties and deliver their judgment in the panchayat meeting. Sarpanch or village headman was generally president of panchayat. No appeal was allowed from the decision of a panchayat. Village panchayat were mostly Governed by their customary law. The Law which governed the ruler and ruled was law of Quran and tradition of prophet.

(ii) THE LAW (of Quran)
(Governing The Ruler And The Officers)

The Muslims ruler followed the principles of equality for men and they had no faith in the graded or sanctified in equality of caste system. Islam recognises man on equality before God overriding distinctions of class, nationality, race and colour. Their system was bond on Quran, sunna (Tradition of Prophet) 1

It was based on the teaching of the Quran: their religion book the traditions of the prophet and precedent. The teachings laid down only the fundamental principles on which the Islamic policy was based. No well-defined political institution was specifically created by the Quran. The political institutions which were adopted and developed by the muslims were based on the ideas given by the Greek philosophers.

Sovereignty in a Muslim state belonged to God. The muslim kings in India in general regarded themselves as God’s humble servants (Niyaz-mande-dargah-e-lahi). The ruler was his delegate duly elected by the people to perform certain functions according to Quran. The muslim policy was based on the conception of the legal sovereignty of the shara or Islamic law, and both the rulers and their subordinates were bond to follow the rules of religion for the welfare of people in their duties 2

1. Percival spear: India: A modern History ch. viii p.94-101
III. THE BRITISH PERIOD

(1) East India companies Rule In India

East India company landed to India for commercial purpose only with the charter dated 31 December 1600 granted by queen Elizabeth, but very shortly the company acquired land in Bombay, Madras and Calcutta with the administration authorities these Presidency towns. Gradually the company raised its power and conquered territories and became sovereign there of. In 1756 with battle of Plassey, the posting of company became sound. In 1765 the company acquired the Diwani administration of Bengal, Bihar and Orissa from Shalatam, the then Moghu empor of India. Thus the administrative activities of the company grown up and the company needed servants and officers for the administration of these territories.

At the beginning i.e. in early stage in 17th century the East India company decided to recruit young apprentices mostly obtained from public schools, Christ's Hospital which gave its scholar of some commercial training. The lowest grade in services was that of writers. The writer was require to be youth and some knowledge of accounts Directors of the company had the patronage to nominate the person for written." Who was sent out to India often he had executed a covenant for fullfil discharge of duties.

(2) Early Administrative units (Officers and their Functions:-)

Madras, Bombay and Calcutta were well developed as presidency towns in the year 1665, 1687 and 1698 respectively. The administration were kept in the hands of the Government and their council of the company. In 1765 the mushal emperor granted the Diwani of Bengal, Bihar and Orissa to the company in Lieu of Rs 26 Lakhs to the emperor and Rs 53 Lakhs to the Nawab of Bengal per annum. In return Nawab agreed not to keep any military force independently and left it in the hands of the company's authorities.¹ Hear to clearnity that the Diwani means the collection of renence and civil justice. Nizamat means military power and criminal justice. Previously both these Diwani and Nizamat were per

¹ Kulshreshtha, V.d., landmarks in Indian Legal and constitutional testory in Sixth Edn. 1989, p.81
formed by the Nawab, who was the Subedar (Governor) of Bengal and represented the mughal emperor of India. With the transfer of Diwani and Nizamal all the responsibilities of Civil and Criminal justice and maintenance of law and order with in the territory of Bengal, Bihar and orissa come under the authority of the company. Between the period of 1765, the administrator of Bengal, Bihar and orissa became worst. The company from the very beginning used to sent school boys of little education as writers; for the service of the company to India. From writer ship they raised to the position of factor, senior factor and lastly to the category of merchants: It was from this category of merchants the company appointed covenanted civil servants on the important office of the company. After assuming the Diwani power, verelst the Governor appointed these English people as supervisors in different districts of the territories of Bengal Bihar and Orissa for administration and to meet the worst situation of the people in 1769. They were entrusted with some important duties. They were asked to investigate in to the past history of the districts under their change. They were required to study the systems of land tenures that prevailed in the different localities and examine scientifically and correctly as to what were customary and what were illegal extortions. They were asked in fact to enlightn the government by their detailed investigation as to how much revenue could be raised in a particular district and as to how much amount was to be apportioned under different heads. They required also often proper enquiry the tradition and the temper of people and also to submit a scheme for administration of justice in the province. It was also with in the scope of their duties to send periodical memoranda to the government in the proper means of developing the internal resources of the area supervised by them. These functions were of much importance of those days from the administrative point of view but most of the servants (i.e supervisors) of the company entrusted with these dukes proved incompetent for their performance. They misused their power and exploited the people for their selfish ends. These supervisors also did not have adequate training and experience to perform their duties efficiently in the way of revenue collection and civil justice which were brought under the direct control of the company's servant Even after this experience of administration by supervisors the condition of the Bengal provide could not improve: Consequently the Director of the company

(1) Chatterju: Verelsts Rule in India" PP 238-78 Hunter W.W. "Anna 18 of Rural Bengal" 1872 PP262-64
(2) Dr. Paranj pe N.V. “Indian Legal and constitutional History” p33 (Edn 1992)
appointed, Warren Hastings as Governor of Bengal in the year 1772 for its proper administration. After assuming the office of Governor, Hastings with his four members of the council called committee of circuit prepared a judicial plan on August 15, 1772 to regulate the administration of justice and revenue collection. Thus plan was popularly known as the 'Hastings plan of 1772.' Under this plan he divided the territory of Bengal, Bihar and Orissa in several districts as administrative units for collection of revenue and civil justice. Mostly those worth supervisors who were appointed in 1769 by varlets were appointed as collectors of their respective district. Thus we find the 'District' as first unit of administration during the period of governorship of Warren Hastings under the judicial plan the administration of the districts were placed in the hands of the collectors and their main functions on duties were the collection of revenue and civil justice. Till today the office of the collector is most important in the district as he represents the government and implements the policies and responsibilities for the maintenance of law and order in the district. But we observe that during the companies' rule in India several experiments were made in the way of administration upon the office of the collector. Warren Hastings, under his judicial plan appointed the English men as collectors of the districts for good administration. But to directors the working of the judicial scheme under plan of 1772 resulted considerable loss of revenue earnings of the companies' government consequently in 1773 the court of directors directed the Governor and council in Calcutta to withdraw collectors from districts. Accordingly the post of collector was abolished in 1773 and each district was placed in charge of an Indian other called the Diwan or the Amit under judicial plan of 1774. Kulshreshth V.D. Landmarks in Indian Legal and constitutional History P87-89 VI Edn his main function was to look after the work of revenue collection in his district. He also president over the mofussil Diwani Adalat of the district which was presided over by the collector. Under the judicial plan of 1774 the entire Diwani area of Bengal Bihar and Orissa was divided into Six Division with head quarters of Calcutta, Bundwan, Murshidabad, Dinajpore Dacca and Patna. Each division counted of several districts. A "Provincial Council" consisting of five cononated servants of the company was established in each of these divisions except Calcutta where a committee of revenue was set up. These councils supervised the revenue collection in

(1) Ibid
(2) Kulshreshth, V.D. "Landmarks in Indian Legal and constitutional History" p. 84 (VI Edn)
the division and heard appeals from the moffussil diwani Adalats from the districts within its territorial jurisdiction. But after six years under judicial plan of 1780 the provincial councils were divested of their judicial powers and functions, and they were now only to collect revenue and decide revenue cases. A new court called the provincial court of Diwani Adalat was established in each headquarters of six divisions. Thus Court was to decide civil cases. Thus during the Governor General ship of Warren Hastings, the judicial and revenue functions were separated by vesting them in district authorities under the scheme of 1781. Thus arrangement was apposd by the servants of the company being costly and conflict between the two functionaries. Lord Cornawalls Succeeded Warren Hastings as Governor General in 1786. On the instructions from the court of director Lord Cornwallis introduced his first judicial plan in 1787 to combine revenue and judicial functions in a single authority called the collector. Accordingly the number of districts in Bengal, Bihar and orissa were reduced from 36 to 23. An English covenanted servant of the company was to be appointed an the collector who was in charge of the district and was responsible for the collection of revenue within the district. He was to decide all revenue cases of his district in the revenue court called the Mal Adalat to be presided over by him. The salaries of the collectors were raised to ensure purity and fairness in the administration of justice. He was also to act as a judge of the moffissil Diwani Adalat for deciding civil cases. He was also to act as a magistrate of the district under his charge and apprehend and prosecute the offenders to be sent to Nizamat Adalat for trial. He could try petty offences himself, the punishment for which could not exceed fifteen strokes or imprisonment for fifteen days. He was to keep all these various functions separate from each other as far as possible. Under judicial plan of 1793 introduced by lord Cornwallis now the collector was only to collect the revenue and his power to decide revenue and civil cases was withdrawn and transferred to the moffissil Diwani Adalat.

(1) Keith, A.B. "A constitutional History of India" p.106
(2) Paranjpe N>V. "Indian Legal and constitutional History" IV Edn.P.78
The Mal Adalats were abolished from May 1, 1793 and the collector was now to collect revenue under the supervision of the board of revenue. It was complete reversal of the policy.

Thus the main feature of the early administration of the company’s rule before 1700 are the ‘districts’ as administrative units and the office of Collector of the districts: All the functions, whether civil, criminal or revenue were revolting around the collectors who were the responsible officer of the district. They were controlled by the Governor General and its council. However, we find no standard or detailed civil service rules regulating the recruitment and conditions of service of the Collectors or their subordinates during these periods.

In 1798 Lord Wellesley was appointed as Governor General by the company. He gave a new shape and systematized administration in the company’s Government though the improvements of the civil servants. He was convinced that the young sent down as writers by the court of directors were in most cases culturally and educationally fit for labourious and duties of a copying clerk only. He therefore proceeded for the establishment of college at Fort William for the technical educations in Indian language, laws and regulations to the junior Civil servants, in anticipation of the section of the board of directors. Through the college continues for 5 years, yet in originated the foundations of the modern civil service. After College of Fort William, college at Haillybary and the competitions examinations for civil servants may be regarded the seeds of the mind of Lord Wellesley. He sent an elaborate minute in council in the court of directors for the establishment of college at Fort William giving its causes. The reason and the grounds raised by Wellesley sufficiently throws light on the importance and functions of the civil servants. He pointed out that the commercial desirations by which the servants of the company were still distinguished in India “are now utterly inapplicable to the nature and extent of the duties discharged and the occupations pursued by the civil servants of the company.” In fact the mercantile little which they bear not only affords no discretion of their duties but it entirely at variance with it. The responsible functions of administration which the East India Company had undertaken in India could be performed only through the agency of these civil servants. They were to dispense justice to millions of people of various language, manners, usages and religious. They were to

1 Paranjpe N.V. “Indian Legal and constitutional History” IV Edn P.81
2 Minute in council at Fort William by Wellesley, dated the 18th August 1800 para 11,
3 Ibid, Para 3
administer a vast and completed system of revenue through out large and considerable districts. They were to under take the task of maintaining civil order in one of the most popular regions of the world. ¹ They were to take up also in many parts of the country the duties of diplomatic representatives. In their Capacity a judges and collectors again they were to propose from time to time to the Governor General in council amendments of existing laws or any new laws which they might think necessary for the welfare and government of the people under their charge. They were in other words to constitute a species of subordinate legislation in the country. ² Servant of the company Lord Wellesley summed up " are the ministers and officers of a powerful sovoreign —they are required to dischange the functions of magistrates, judges ambassadors and Governor of provinces. Their duties are those of statement in every other parts of the world, with no other characteristic differences than the obstacles opposed by an unfavorable climate by foreign language, by the peculiar usages and laws of India and by the manners of its inhabitants" It the duties were to be properly and efficiently fulfilled, the civil servants besides being well acquainted with the languages, laws and usages of the people were "should be well informed of the true and stand principle of the British constitution and sufficiently grounded in the several principles of ethics civil justice produce the laws of nations and general history" Without these Wellesley empassisend, It would be impossible for them "to discriminate the characteristics differences in several codes of law administered within the British empire in India and practically to combine the spin of each in the dispensation of justice in maintance of order of good government."³ But the young men as sent down by the court of directors had very little of education and that little also was in many cases erroneous in character. ⁴ It the territories of the company were to be properly organized and liberally and justly governed "an inexhaustible supply of useful knowledge, cultivated talents and well ordered and disciplined morals " were indispensabel. ⁵ Therefore he emphasised that the college at Fort William was to be brought in to being for the purpose of good government under the company' rule. There minutes of the Governor General and his council throws sufficient light as the principles, concepts and functions of civil service to be performed by the civil servants

¹ Ibid, Para 3
² Ibid, Para. 5.
³ Ibid, Para. 7.
⁵ Ibid, Para. 32.
Competitive Examinations

In 1805 the college at Fort William founded by Lord Wellesley for civil servants was closed and Haileybury college in England was established for the same purpose. It has unmistakable stamp on the outlook, ability and character of all covenanted civil servants who administered for half of a century and more the British territories in India. The period of Haileybury rule presents the golden period of the patronage system under this system the civil servants of the company had to be nominated as usual by individual directors. Each Director had at his disposal was entitled for one nominated; Like wise as usual by individual Director each Directors had at his disposal was entitled for one nomination the chairman and Reputy chairman at their choice two nominations, and two such nominations of the candidates were placed out of the courtesy at the disposal of the Board of control. The Directors nominated as a rule sons and nephews or the sons and nephews of their cousins and friends. Membership of the civil service in India was thus almost exclusively confined to Anglo Indian families in England and scotland. This Hailey bony system was suffering from many defects. The young men spent to this college had their minds unmatured their intellectual undeveloped and undisciplined in no way systematised Apart from these defects no only in India but also in England the system of nominated was being highly opposed as the people wanted to share in the administration of company’s government in India. It was there fore concluded that Indian administration would gain much efficiency if methods of nomination be changed. Accordingly in 1831-32 before the selected committee on the affairs of the East India company Mr. Holt Machencie pointed out than if efficiency of the civil service was a desired goal, it should be recurited hence forth by some system of completion so as to be sure of the selection of the “best” out of many good men. The committee also recommended selection of civil servant though completion. Board of control held also that the system of pure nomination must be indeed and be mixed system of nomination-cum competition should be introduced. Lord Macaulay, a member of the whig ministry also spoke in support of the new arrangement that the civil servants of the company were highly respectable body of men, and in that body only the first class ability should be general feature of the Indian civil service instead of being merely a stray and exceptional characteristic. He there fore suggested that only men of superior intellectual ability should
hence forward be recruited to the civil service in India.

Accordingly a clause was inserted in the measure which became the charter of 1833 to the effect that hence forward for every vacancy in the covenanted civil service there should be four nominations and the appointments would be finally made as a result of competition among the selected candidates charter of 1833 declared than the nations of India would be freely allowed to participate in the administration of the country with out any restrictions as to descent, colour, caste, creed or religion. But the director did not approve the proposal and overlooked the inserted clause of the charter of 1833. Actually they did not want to give up that rights of patronage of nomination and they continued the old system of patronage for about two decades. But the public opinion was demanding the introduction of public competition and to charge the existing system. Ultimately the Government was allowed in 1853 to start the open door experiment in the Indian Civil service. In the Government of India Bill of this year (1853) it was embodied a clause to the effect that hence forward the members of the covenanted civil service of India would not be appointed on the nomination of the Directors. They would only be appointed on the result of a suitable competitive examination held in condon. Accordingly the Government of India Act 1853 was passed and the system of nomination by directors ended. The Government appointed a small committee headed by Macaulay for the purpose and to report. The committee submitted its report in November 1854 under which it was observed that the civil servants of the company should enter on his duty while still young, but it is also desirable that he should have received the best the most liberal the most finished education that his nations affords. The candidate at the competition should be drawn from those who had already taken the first degree in Arts at Oxford or Cambridge. Only these young candidates should be preferred in covenanted civil service whose mind had already been matured and well stoved and whose intellectual powers had already been fully brought out and developed. The highest age 21 and lowest to 19 of the candidate was recommended Sir Charles wood the president of the Board of control received the report submitted by Macaulay and informed the court of directors that he would act up to the recommendations of the committee, and that he was going to introduce a Bill in the parliament for relieving the east India company.

1 Clause 87 of the Charter Act of 1833 quoted by Dr. paranjpe in Legal and constitutional History of India Forth Edn 1992 P. 257 C-LA- Allahabad.
2 Roy-, Naresh Chaudhari Civil Service In India' 1960: P.85 Firma K-L Mukhopadhya Calcutta
of the obligation of Hailey any college and accordingly the said college was closed.

As per the provisions recommendations and arrangement the first committee examination was accordingly held in 1855 under the supervision of Board of control. In 1858 the competitive examination was placed in the hands of British civil commission. Thus started the competitive examination for civil servants of high rank.

Lord Salisbury, the secretary of state by an order dated 24 February 1876 reduced the maximum age limit of candidates to 19. It was highly opposed in India and the public demanded to raise the limit of age. Consequently a public service commission headed by charter Atchison the lieutenant Governor of Punjab as its chairman was appointed in 1886 to meet the best way possible. It recommended the maximum limit of age of the candidate to 23 and the minimum to 19. In 1892 the maximum age limit 23 and minimum to 19 was brought in to operation. In 1906 it was further raised maximum to 24 and minimum to 22 for the candidates.

The Royal commission on superior service of 1922-24 had recommended that twenty percent of the superior administration post should be filled up by promotion of officer from the provincial civil service and that of removing eight percent vacancies should be filled up by direct recruitment of Europeans to the Indian Civil service. The commission came to the conclusion that within fifteen years the proportion between Indian and Europium, superior office would be 50:50.

In the year 1936 the British Govt. announced to new set of rules under which the Indian recruitment would be made normally in India and British recruitment would be made in London. Indian recruitment would continue to be made in India by competitive examination as before but British recruitment in London would be made by nomination on the recommendations of a selection committee. For such selection only the candidates of a requisite age and having at least a second-class however degree would be eligible. Thus experiment was, however of very about duration. In 1939 llth world war broke out at the whole plan turned down.
(4) **Covenanted, Uncovenanted and Statutory Civil Service.**

The officers who were serving on covenant in company's Government Civil servants and there service the "Government civil service."

The young men from England were sent by the Directors of the company for connected civil service. Prior to the establishment of the college at Fort William (Calcutta) these officers had no adequate training and education, for administration but at the college of Fort William (1798-1805) and later on from college of Haileybury at London they had the full training and education suitable for Indian administration. After 1858 instead Haileybury college candidate founded on patronage system, open competitive examination was introduced by the British Government for Indian civil service.

The Act of 1793 had laid down that all vacancies in the civil line of the service must be filled by the members of the covenanted civil service of the company. Circumstances however changed considerably, after the passing of the Act of 1793. Now territories were brought under the company and new functions had also to be undertaken. All the offices could not consequently be filled by the covenanted civil servants whose number was Limited. Person outside this service had to be appointed to many of these posts. From year to year the practice continued and by the year 1861 it was found that at least one of the several offices was filled by such hands. Such officers who were not covenanted but appointed to such higher post were called the *uncovenanted civil servant* and their service. But such appointment required confirmation of the secretary of state. All such appointments were strictly speaking irregular and unconstitutional. The Act of 1861 regularized and legalized such appointments and also provided for such appointment to be made in future when an Indian authority would think them necessary and desirable this arrangement was meant by the Indians to higher officer.

When the Act came into operation, it was not Indices but British Military offices profited by it. Only two Indian unconvinanted officers were promoted to the superior post under the authority of the act of 1861. However able and efficient an Indian officer might prove to be in the public service, he could not rule beyond the post of Deputy collector. In April 1868 a
Bill was introduced in the parliament by Sir Stanford Northcote, the Secretary of State, it contained quite liberal provisions regarding the idealization of civil service. But it lapsed on account of the change in the conservative Government. In 1868 another Bill was moned this time by the conservative Government Bill was passed and the Bill became the well known "government of India Act 1868 which established the "statutory civil service" in India. Actually the Act made no mention of the service. It merely provided for the admission of Indians under Rules to be framed by the Government of India with the approval the Secretary of State for India to positions held by members of covenantal civil service without their having necessarily undergone to any examination what ever. The Government took about 9 years in frowning the rules. The rules should be adopted, on the one hand to obtain thoroughly efficient candidate and on the other handed to secure due representation in the public service of the different classer of the community

(ii) Every candidate for recruitment must furnish satisfactory evidence (a) that he was not over 25 years of age except in case of barristers, advocates or pleaders appointed to the Judicial branch, (b) that he obtained a prescribed preliminary standard of general education to be fixed with reference to local conditions and requirement of the local administration permit (c) that he is of sound health and active habits and (d) that he is of good character.

(iii) Every recruit should be subject to a period of probation or training

(iv) Admission to the service should be generally confined to natives of the Province or to permanent domiciles. Europeans however, could be eligible with the previous permission of the Government of India.

(v) For promotion in superior grades of Rs 500 P.m. or more, seniority should not be the sole basis of eligibility

(vi) No member of the civil service should be dismissed other wise than on the result of a judicial or formal departmental enquiry.

Which when finally approved by the secretary of state on 1879 for closed class based entirely on nomination from almost the landed gentry and made eligible for appointment to a limited class of higher Government offices. The salary for its members
was fixed equal to two thirds of that of the covenanted service, and in practice the statutory civilians were employed mostly in judicial officers. Thus this service was reduced to a status of inferiority to the covenanted civil service and did not satisfy the Indian public opinion. In the mean time secretary of state reduced in 1876 the maximum age limit for entry to the competitive examination of the covenanted service from 21 to 19 which practically debarred Indians from that service; which resulted high opposition from all sides of India. The Indian demanded to raise the age limit. In response to the demands the Government of India appointed in 1886 a public service of sir choler Atchison to enquire in to the whole civil service system in India and to recommend the measure to be adopted as to provide better employment to Indians in the higher officers of the Government.

(5) Imperial, Provincial and subordinate Civil Services

The civil Service commission headed by charter Aitevison the Leuit. Governor of Punjab Submitted its report to the government in 1888 after full enquiry of the civil service system prevailing in India. It found the competitive examination system for I.C.S. satisfactory. The commission opined that the general education of students should be completed before and not often they enter upon the special studies designed to fit them for duty in India and their the recommend the extension of the maximum age limit of candidate to 23 and the minimum to 19. The commission also recommended the abolition of the existing distinction between the Covenanted uncovenanted and statutory civil services in to Imperial, Provincial and subordinate civil services, the first to be recruited in England through an open competitive examination to be conducted by the civil services commission and the latter two to be recruited locally for every province Separately. With regard to the provincial civil service they said that it was only by careful and uniform system of recruitment that a due proportion of high appointments can come in time to be filled by notice agency, without sudden dislocation of the existing administration or injury to the just expectations of officers in the covenanted service. But this object must be kept steadily and perseveringly in view. They who therefore inclined to recommend for same principles of recruitment for it as were followed for I.C.S. They farther recommended the releasing of some posts reserved the members of the I.C.S. for members of the I.C.S. for members of provincial civil service. With regard to the relationship between Imperial and provincial civil service, the commission recommended that the salaries of the members of the provincial civil service should be fixed on independent
grounds and should have not relation to those attached to appointments in imperial civil service but as regards status the members of the imperial civil service should as far as possible be placed on a footing of social equality and (when holding similar office) be graded together on official precedence list. The latter aspect of the commissions recommendation was, not given effect in the spirit in which and to extent to which they expected than to be with the result that the provincial civil service grew up in a position of inferiority to the Imperial service. But in all other aspects the recommendations of the commission were adhered to. The main feature, of the recommendations of the commission, we find that the imperial provincial and subordinate civil service came into existentence in place of covenanted, unconvinced and statutory civil services. The pattern of civil service structure that came inforce after 1888 was that superior administrative posts in the general as well as technical departmental administration were filled in by the members of imperial of the provincial services, and the subordinate or routine and clerical posts were filled in by members of the subordinate services. The imperial services enjoyed superiority not only to pay and status but to responsibility also. As a generalist service it was given a general managerial role in the specialist departments A similar position was enjoyed by the P.SC. amongst the provincial services. There two services were responsible for all the general administrative and judicial functions of the Government in India. The provincial similes was termed to fill the minor charges with executive and judicial in the civil administration.

Another main characteristic of this set up was that the member of these three services represented different social classes and strata of the British Indian society. The Imperial services belonged mainly to the British nations, though certain percentage was also drawn from the highest class of Indian community. The provincial service were recruited entirely from the newmiddle classes of the Indian society, which had readily taken to English education, while the subordinate services were drawn from the lower middle classes. The Social differences and class structure of the community were clearly refused in the civil service. Even the social behavior of these services smelt of casteism. The imperial services for instance maintained a Brahanical Indifference and high browism, so much so that even their residential places the civil lines and social clubs maintained their high caste seclusion. The provincial services represented the non-Brahamin high caste mentality while they were quite social and democratic with in their, they were very hallow of the imperial service and hateful to subordinate services which formed the sudras of civil service. Thus
civil service became rigid not only units class structure but it also became bureaucratic in its methods and procedure of work later we observed that all these defects were removed by our constitution of India.

(6) ORIGIN AND EVOLUTION OF CIVIL SERVICE LAW

Under Government of India Act 1919 and 1935

Introduction of the montage-chelmsford Reforms in 1920 brought about a radical change in the provincial administration of India. In the sphere of civil services, the changes brought about during the period of Dyarchy were based upon the principles enunciated in the Royal commission on Public services, 1912-14, the Montague Chelmsford Report and to the extent to which embodied in the Government of India Act and the Royal commission on superior services, 1923.

The superior services were regrouped into three categories, viz, the All India services, the All India services, the central services and the provinces, the central services and law provincial services. The All India services were further divided into security All India services and the other All India Services. All the all India services were kept under the control of the secretary of state. But with regard to the security service which included the Indian civil services and the Indian police service, it was provided that recruitment should be made exclusionary in England through on open competitive examination subject to the proviso that the ratio of the Indians should be progressively increased partly thought promotion from the provincial civil service and partly through nomination so as to bring the ratio of the Indians to the European fifty to fifty percent by 1939. Regarding the other all India services, which included the Indian Finance, medical, Railway, Telegraph, Engineering education and survey of India services it was thought desirable that there should be an admixture of both Western and Eastern elements and therefore recruitment began to be made in India, as well as England. The scientific and Technical services serving in the Central

1 i.e. During 1920 to 1937
2 The commission, popularly known as Islington commission, was appointed in 1912 and it submitted its report in 1914. But due to the break out of the first world war in 1914 its report was kept in abeyance until 1914. It was only in the dyar chicle period that the recommendations were given effect to
3 This was a joint report prepared in 1918 by Mr. Montague the then secretary of state for India and Lord Chelmsford, the then Governor General of India of India. It suggested the system of constitutional reforms known as diarchy for India. This was accepted by the British Government of India Act 1919.
4 This commission popularly known as the Lee commission was appointed by the government in 1923 and it submitted by report in 1924.
5 (1) The Lee Commission reduced than only to two, namely the Indian Forest Service and the Indian Medical Service.
Departments were transferred to the Central Govt. and those serving in the Provincial Government were transferred to the Provincial Government. These services were organised into Class I and Class II services separately. The Provincial services were renamed according to their province i.e U.P. Civil Service or the Punjab Civil Service, Punjab Agriculture services a uniform principle of pay scale was, for the first time, applied.

The introduction of partially responsible system of Government affected a change not only in the composition and recruitment policy of the Governor but also a reorientation of the civil service political relationship. In the transferred departments control over the civil servants was transformed subject only to a general control of the Governor to the hands of the ministers, who were responsible to the provincial legislature. For the first time, principles of political neutrality and civil service conduct Rule were laid down. To safeguard the service right of civil servants statutory guarantees were given and a public service commission was established in 1926 to conduct examinations for recruitment to the -

(1) subject to the provisions of this Act and of rules made there under every person in the civil service of the crown in India holds office during his majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed and the secretary of state in council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed. It any such person appointed by the secretary of state in council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled he may without prejudice to any other right of redress, complain to the governor of the province in order to obtain justice and the governor is have by directed to examine such complaint and require such action to be taken there on as may, appear to him to be just and equitable.

(2) The secretary of state in council may make rules for regulating the classification of the civil services in India, the methods of their recruitment their condition of service, pay and allowances and discipline and conduct. Such rules may to such extent and in respect of

(1) Fundamental and supplementary rules
(2) Section 96 B of the Government of India Act 1919 provides as under
such matters as may be prescribed, delegates the power of making rules to the Governor-General in council or to local government or authorize the Indian legislative or local legislative to make laws regulating the public service: Provides that every person appointed before the commencement of the Government of India Act 1919 by the secretary of state in council to the civil service of the crown in India shall retain all his existing or accruing rights or shall receive such compensation for the loss of any of them as the secretary of state in council may consider just and equitable.

(3) The right to pension and the scale and condition of pension of all person in the civil service of the crown in India appointed by the secretary of state in council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act 1919. Any such rules may be varied or added to by the secretary of state in council and shall have effect as so varied or added to, but any such variation or addition shall not adversely effect the pension of any number of the service appointed before the date thereof. Nothing in this section or in any rule there under shall prejudice the rights to which any person may or may have becomes entitled under the provisions in relation to pensions contained in the east India annuity funds act 1874.

(4) For the remove of doubts, it is hereby declared that all rules or other provision in operation of the time of passing of Government of India Act 1919, whether made by the secretary of state in council or by any other authority relating the civil service of the crown in India, were duly made in accordance with the powers in that behalf and are confirmed but any such rules or provisions may be revoked varied or added to by rules of laws made under this sections central and provincial civil services in order to attract brilliant youngerness from England long financial concessions in al from of overseas allowances free medial facilities increased pensions etc. were given to the European members and for those civil servant who would fail to adjust in the new constitutional set-up a system of premature retirement on puportinoate pension was introduced.
The immediate effect of the reforms was the tremendous increase in the work and responsibility of the superior officers, more specially at the secretariate and district levels. The increase was partly due to change in administration procedure and practice involved by the constitutional reforms and partly to the great developmental schemes initiated in the transferred department which come to be called as the beneficial or nation building departments. While in the pre reforms days government had to proceed cautiously with schemes involving interference with the liberty to the individuals the government has non to meet a popular demand for improvement of public health and rural sanitation prevention of epidems and spread of education etc. The creation of a ministry of local self government and a department of industry the establishment of central boards e.g. the rural and urban sanitation Boards Transport Board, and the expansion of beneficent departments tended towards centralization and the establishment of provincial rather than local principal and standards. This led to a very large measures in the size of technical services. Some new provincial and subordinates services were organized and the existing ones were strengthened or reconstituted.

The provincial civil services was divided into two branches the executive and Judicial and since 1929 the latter began to be separately recruited and trained under the control of the High Court the process of Indianisation of the superior services was accelerated. The strength of I.C.S. was decreased while that of P.C.S. was increase that of P.C.S. was increased. Thus releasing a large number of posts for P.C.S. offices. The percentage of direct recruitment for the P.C.S. executive branch was gradually increased and that for promotion decreased . Recruitment and services rules were laid down for the provisional as well as subordinate service conditions of service were improved and incremental system of pay was introduced.

The reforms introduced a radical change in the relationship of the civil service with the political level prior to the reforms no distinction was made between the political and administrative function of the government and the civil service was responsible for both. But since the establishment of the Dyachy the position of the civil servant working in the
transferred departments had undergone a change. The secretariat officer was no longer responsible for policy formulation but his sole concern was to function as an expert-advisor to the minister who alone was responsible for policy making and to administer the affairs of the department according to the general policy of the minister. He thus found the scope and variety as well as the volume of his work greatly changed. He had now to study constitutional issues and pay more regard to public criticism. He was often a member of the legislative council and as such had to defend or explain the views of the government. He had to read just his relation with the minister and the member of the legislative and with the public at large.

(7) **Safeguard of civil services (1935)**

The government of India Act 1935 provided provisions for the civil servants. Section 240 of the GI Act 1935 laid down the tenure of office of persons serving in civil capacity in India and S. 241 (2) empowered certain authorities to make rules regarding the conditions of service of such persons. We can very well see sprint and ingredients of these two sections in article 310 and 311 of the present constitution of India.

1. **Introduction of the Moutage Chelmsford reforms (1920)**

2. **Section 240(1) except as expressly provided by this act every person who is a member of a civil service of the crown in India, or holds any civil post under the crown in India, holds office during his majesty's pleasure.**

3. **No such person as aforesaid shall be dismissed from the service of his majesty by any authority subordinate to than by which he was appointed. No such person as aforesaid shall be dismissed or reduced in rank until he has been given a resowable opportunity of showing cause against the action proposed to be taken in regards to him. Provided that this sub section shall not apply—**

(a) Where a person is dismissed or reduced is rank on the ground of conduct which has led to his conviction on a criminal change or

(b) Where an authority empowered to dismiss a person or reduce him is rank is satisfied that for some reasons to be recorded by the authority in writing it is not reasonably practicable to give to that person an opportunity of showing cause.

(c) Notwithstanding that a person, holding a civil post under the crown in India holds office during his majesty’s pleasure any contract under which a person not being a member of a civil service of the crown in India is appointed under this act hold such a post may if the Governor general or as the case may be the governor deems it necessary in order to secure the service of a person having special qualifications, provides for the payment to him of compensation if before the expiration of an agreed period that post is abolished or he is for reasons not connected with any misconduct on his part required to vacate the post.

Section 241(2) Except as expressly provided by this act the conditions of service of persons serving his majesty in a civil capacity in India shall subject to the provisions of this section be such as may be prescribed—

(a) In the case of person serving in connection with the affairs of the federation by rules made by the governor general or by some person or persons authorized by the governor general to make rules for the purpose.

(b) In the case of person serving a connection with the affairs of a province by rules made by the governor of the province or by some person or persons authorized by the governor to make rules for the purpose provided that it shall not be necessary to make rules regulating the condition of service of persons employed temporarily on the terms that their employment may be terminated of one months notice or less, and nothing in this sub-section shall be construed as requiring the rules regulating the conditions of service of any class of persons to extend to any matter which appears to the rule-making authority to be a matter not suitable for regulation by rule in the case of than class.
The government of India act 1935 conferred the provinces sufficient authority and with the advent of this the civil service underwent a change both in its composition and rule. The governor’s executive council was done away with any in its place as well as in that of individual minister there was established a council of ministers which was collectively responsible to the legislature and which carried out the administration of the state under the leadership of a chief minister. In matters of law and order, the governor had special responsibility which the discharged in his own fundamental and for the purpose he had direct contact with the activity of every department through its secretary. The secretary who has a member of ICS continued to have a direct and unreticled access to the Governor until the last days of the British rule.

The number of the all India of services was reduced to thee viz the Indian civil service the Indian Police Service and the Indian Medical (Civil) service. The appointment and conditions of service of these services remained as before entirely under the control of the secretary of state in council and were kept out side the control of popular ministry. Certain other safeguards were added to the rights and privileges which these services already enjoyed : These were of three different kinds, viz 1 Statutory safeguards regarding conditions of service (2) protection of civil servant against judicial proceedings and (3) the special responsibility of the Governor to secure to public services all rights provided to them by the constitution first of all as we observed that the government of India act 1935 expressly provided that no person holding a civil post under the Government of India could be dismissed from service by an authority subordinate to threat by which he was appointed and that before such a persons could be dismissed or reduced in rank he was to be given a reasonable opportunity of showing cause against the action proposed to be taken in respect of him. Apart from the general provision special safe guards for member of the All India service were provided. Their salary allowances and pensions were charged on the revenue of the province and were thus taken out of the popular control of the ministry. No rules could be formed which would adversely affect their salaries pension and other rights and privileges.

(1) The secretary of state and could include any other service under these category but non was actually included
(2) Section 240 of the Government of India Act 1935
(8) Administrative Units: Officers and their functions
(Developed after 1858 and in Modern Period)

The district was divided into a number of sub-division in which was placed under an officer (called sub-Divisional Officer) of a lower state who carried on the administration of the sub-division in the responsibility of the District Magistrate (i.e., Collector). In certain provinces where permanent settlement in respect of land revenue was not resorted to administration was divided into a smaller unit called Tahasil and was placed in the change of an officer called Tahasildar who was responsible for his function to S.D.O. and ultimate to the Collector to the district for all the functions assigned to him. After passing of the self-Government Act 1919, a new unit called the circle was brought into being. The circle was to cover a group of villages and a unit for the purpose of village self-government. An officer was placed in charge of a circle whose duty had been not only to inspect the work of the union boards in the circle but otherwise to act as an eyes and ears of the Sub-Divisional Officer.

Other units of administration are the local bodies. For examples municipalities had been in some places before the act 1884 was passed. Electric principles were introduced by this act. There are municipal corporations in big cities. District boards and local boards were set up under the local self-government 1885. In Bengal union boards village self-government act 1919. So also in U.P. Gaon Sabha were organized first in 1949.

The general administrator at the district level is the Deputy Commissioner (i.e., Collector) who is an I.A.S. officer. He holds a number of assignments in the district. He is primarily the chief executive office of the district and is in that capacity responsible for laws and order and the good government of the district. He is collector of the district and responsible for collection where the judicial function have not been separated. Under the District Magistrate there is an Additional District Magistrate and a number of Assistant Collectors and extra Assistant collectors. The former being member of the I.A.S. and the latter from provincial civil services. In districts where administrative decentralization has come into force, he is also assisted by the sub-divisional officers. The are either junior officers of the provincial civil service under the sub-divisional officer there are Tahasildar,
there being one in each Tahasil, who to begin with subordinate service called Naib Tahasildar. But are later on promoted to the Gazette rank of Tahasildar. They enjoy executive, revenue as well as magisterial power. Under than are Naib Tahasildar Qunungoes revenue inspectors and patwaries in downward succescous. They assist the Tahasidars in revenue and other general administrative functions in their respective areas ultimately all these subordinate officers are responsible to collector Like wise, other specialist departments have their own district officers posted of the district or regional head quarters. For example the agriculture department has a District Agriculture officer with his head quarter in the district the industries department has the district officer education department has the district education officers and so on.

But among all these departmental district officer, the office of collector processes most significant in the district administrate. He is the general administrator of the District. He is the ideal functionary not only to co-ordinate the activities of the technicians in the field of public security, public health, public works, public instructions, agriculture, irrigation and co-operation, but to bring a sense of realism into their activities and integrate that in to comprehensive plan. He is responsible for law and order. He implement the planning's and polices if the government. Now he is the chief instrument of stable government in India.

All development projects have come on the soldiers of the collector. At the secretaviate level, there I the staff development commissioner who is the senior must officer of the rank of Financial commission of the state. The Board is responsible for policy formation and co-ordination of all the development activities in the state while the development commission is its, chief executive organ. In the district also there are district development committees functioning under the chairmanship of the collector who is the chief development officers in the district. The committee is an advisory body comprising the M.L.A. representing that district and official of the district. Its function is to advise the collector in matters of planning and execution of the plans in the district. In the execution of his development duties, the collector is assisted by the additioned development officer who is the I.A.S. or P.C.S. officer.
For development purposes each district is divided into development Block, each block being under the charge of the Block Development officer (Now chief executive officer). The chief executive officer is the administrating officer in charge of all development activities in the Block. He is assisted by & a team of extension officers which comprise technical hands in the various development fields such as education, child and women welfare, agriculture veterinary service, cottage industries etc. Under him there is again a generalist development officer working at village level. He is known as gram sewak or Sevika (if women). Under the new constitutional setup each Block is placed in the charge of an executive officer (in place of B.D.O) In district level separate unit like Zila Panchayat Janpad Panchayat, Nager panchayat, Nagar Palika, Nager Nigam, Gram Panchayat Gramsabha etc are functioning well under the general supervision and control of the district collector.

(9) Duties And Function Of High Officials
(In State Secretariat)

The administrative organization of the state is divisible into two parts viz-the policy formulating agencies and the executive organs. The policy formulating agencies are called Department although a more suitable term would be "Ministries". They are located at the headquarter and are housed in one building popularly known as secretariat. The officer posted in the secretariat are usually called the collective name of "secretariat staff". The secretariat staff is headed by the chief secretary who is senior I.A.S. officer of commissioners rank. He is generally responsible for the organization and work in the government as a whole and is directly under the ministerial control of the chief minister for those duties. The rest of the staff is organized ministry wise. There is an administrative of each ministry who is called "secretary to the Government". In an important and big ministry there may also be an "Additional secretary" who holds a separate charge in one or more branches of the ministry but who has to function under the general and over all supervision of the secretary. Posting of an additional secretary is, however an extra ordinary measure which is resorted to only exceptional cases. The normal practice is to have one and only
one secretary to a ministry so that the line of responsibility may remain intact. One secretary may, however simultaneously become head of the two or more ministries. This happens in case of smaller and allied ministries. Secretary ship goes to a senior officer of the rank of a commissioner or a senior officers of the deputy commissioners rank. Below the secretary there are one or more Deputy secretary who hold change of one or more branches in the department and function under the day to day control of the secretary. Below the Deputy secretary that are one or more under secretaries or assistant secretaries. They hold change of sections and are under the day to day control of the Deputy secretary. The Deputy secretary is an officer of the rank of a Deputy, commission, while the under secretary is that of the rank of assistant or extra assistant commissioner. The assistant secretary is a promottee from the rank of the secretariate service. All these posts except that of assistant secretary are tevenue posts and they are filled in only by the officers of the I.A.S. or P.S.C. ordinarily for a tenure of four or five years.

(10) Directorates As Commanding Executive:

The executive organs of the government are variously known an "Directorates: such as directorate of education Administrators. Boards-such as electricity Board and in certain cases even department the agriculture department and so on. Theses organs are ordinarily headed by the senior most officers of their own technical service respectively. For example the agriculture department is headed by the director of agriculture who is the senor most member of the state agriculture service. The P.W.D. irrigation branch by the chief engineer who is the service engineers and similarly in other departments. But certain department may even be handed by the general administrator. For instance industries department is headed by the I.A.S officers. The executive departments have a two fold organization. They have the head quarters organization and field stations. Administratively, the state is divided into districts and the most of the departments have their own highest field officer of the district level.
Chain of Command

It is the commendable feature of the state administration that the line of authority is kept intact and every officer is tied in a single chair of command that is controlled by the chief secretary and the chief minister through the department heads. It is again a sound principle of organisation that the internal organisation of a department provides a neat and uninterrupted line of responsibility from the top to the bottom. In the secretariat, the line of authority passes directly from the secretary through the deputy secretary and under Secretary Assistant Secretary Superintendent Deputy Superintendent and Assistant. Similarly in the district administration, the line passes from Secretary through the Commissioner Deputy Commissioner (i.e. Collector) Assistant Commissioner Additional Commissioners, sub-divisional officer B.D.O (new chief executive officer) Tahsildar, Naib Tahsildar revenue Inspector down to patwari and to the village level worker.

Secretariat of the Government of India

The organisation of the secretariat of the Government of India is also similar. It has however no chief secretary. Each union ministry today has at its apex a secretary. Where the load is heavy he assisted by one or more joint secretaries. Each ministry is divided at the base into numerous sections, each section being placed under the supervision and control of a section officer commonly known as the superintendent. Two or more sections are grouped into branch and looked often by a branch officer who has the designation of under secretary who reports either to a joint secretary or to secretary himself. For the purpose of co-ordination of work of the secretariat level, it was through essential to set up a cabinet secretariat on an elaborate basis. Accordingly there exists a cabinet secretary. It not only supplies the machinery and personal for efficiently transacting businesses on the agendas of the cabinet and of its committees (i.e. defence committee) but it also acts as the co-ordinating body whenever disputes arise between one ministry and another. It also includer the the organization and methods division and central statical organization.

With the growth of technical departments it was decided for setting up a 'Directorate'
for each such department to exercise control and discipline among the officers scattered over their respective units of administration. The head of the department came to be called director but not necessarily so. In respect of education he came to be designated director of public instruction for under tried director of industries, and for agriculture. But in respect of police he has been designated as inspector general of police, for public work chief engineer and for excise commissioner and so on. So long as the Government was unitary such a department had naturally to be controlled ultimately by the Government of India and the Government of India had not only to maintain an administrative staff for the purpose best also to employ a senior technical officer with specialised knowledge to act as its adviser who would also advise and supervise the officers working in the province. Even after devolution of duties to the province under the Act of 1919 the central Government continued to have the assistance of such officers. There has been again some technical departments with which the provincial Government have never much to do. They are the central departments e.g. post and Telegraph department and Geological survey of India. They are administered by their own chiefs i.e. the director General of Post and Telegraph 1 and director of Geological survey of India. 2

From the study and analysis Vedic age as to the origin and evolution of service, we find that in Vedic Age first originated state (i.e. Rules), then service when Manu assured the people to protect that and work for their welfare, in lieu of the taxes they paid to him. (Even today we find the some elements i.e. payment of taxes and protection from the State). The said service was to be rendered by the ruler himself and through the officers subordinate to him. In the same Age this service evolved gradually in the form of public works, safety and justice also. The judge should decide 3 the case without consideration of personal bear or prejudice or and kind of personal bear, gains of prejudice. Similarly danda must be regulated by a consideration of the motive & nature of office time & place, strength, age, conduct (or duties) and monetary position of the offenders 4

For administrative purpose, the state was divides into provinces, divisional and districts. Village was the last unit of administration. Thus in Vedic Age we find origin of service and its evolution in the form of Various duties. Dharma was the law according to

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1 Roy, Naresh chandra' The civil service in India 1960. p. 39-41 Firma K-L mukhopdhyay Calcutta
3 Justice Dhawan: Jurisprudence 1963 Vol8 Journal of National Academy of Administration
4 Kautilya Arthasastra Vol IV p.10
which the Ruler and officers had to perform their duties. However we find no separate service rules for the officers and servants service rules were also included in the term dharma through differed its terminology

In Muslim period we find the same units of administration as that of Vedic Age. However the units were differed in terminology. The state was divied into Suba, sarkar, pargana, Tehasil, Talluge etc for better administration. Several officers were appointed to administer those units. The Ruler and officer rend rent service to the people for their welfare. People paid taxes to the State. Quran was the supreme law for administration and justice. No separate civil service rule as of today appeared in the period.

During company's rule in India, we observe seeds of civil service of the present nature. In the beginning of 17th century

We find a post of "Unit ship ". In due course time this writer said evolved as factors, senior factors, merchants. From the category of merchant, high officiates line collector, commission etc. were appointed. Indian territory was vast and it required and trained officers - for its administration. Lord willingly, in the way of evolution arranged for the proper training of the officers t fort William Calcutta and Later on Haillyburry in England from where well qualified officers arrived to India for renders service the company Govt. & to the people as well. Court of directors had the patronage of nominating the candidates for Hailly burry college and this sytena of homitation suffered favorism of relations relatives & friends instead quality & in telegraph.

It was decided after 1830 that hence forth the post of covenantal civil servants for India would be filled up by open competition with out any discrimination. This was the most important and strong development in the way of civil service at the instance of lord macauloy. But it was effected in 1858 only when first civil service commission was appointed in Britain for conducting the competitive examination.

In 19th century several provinces came in to existence in British India. There fore, apart from the covenantent and subordinate civil service came in to existence. We find further development in the way of civil service, when the Government of India Act 1919 gave constitutional guareentees to civil service and the provisions for safeguard were made
in the Government of India Act 1935 Secretary of state for India was authorized to frame rules of the conditions of service for civil servants. Thus evolution in the form of constitutional status and framing of rules for conditions of service made the civil service stable and confidence towards its security. Similarly we find several administrative units in the form of center, state, division, districts subdivision Tahasil, subahsil, circle Block etc. Grampanchayat and village is the last unit of administration. Now we find directorates and secretaries in the states and centre as apex of administration from were commanded of directions are flowed down ward step by step to the last unit.

The most common feature or the principle which we find is the authority of law. In Vedic age the justice, and performance of duties was "dharma" which nobody even the rules had any right to violate it. Everybody was bound by the law of Dharma.

In Muslim period we observed the sacred Quran as the law of administration. Rulers as well as the subjects were abide by the law of Quran. Officers, employees etc followed the principles of Quran during their service.

During East India company’s rule, we find covenanted civil servants in the administration. Along with the regulations they followed equity, justice and good conscience in the performance of their duties. Section 96 B of the Government of India Act 1919 and section 240 (1) of the Government of India Act 1935 provided the constitutional status of the civil service and assured guarantee to its security. Section 241 (2) of the government of India Act 1935 provided for framing of rules for conditions of service of the civil servants.

Following these principles the constitution of India, incorporated the like provisions in Article 309, 311 (2) of the constitution. Apart from these principles Article 14 and 16 (1) provided the principle of equality and equal opportunity in public employment. No body can violate the principles under lined their in: Constitution of India is law supreme law of the land as that of Law of Dharma in Vedic Age and law of Quran in Muslim period. All the there lays down the sense principles i.e the supremacy of law incorporated there in even in the way of civil service.
Thus the civil service of today travelled a long journey right from the Vedic age to the modern period in a improved and developed form.

**B-Division And Classification Of Service**

The central Civil services (classification control and Appeal) Rules 1965 classified the civil service as under:

(i) Central Civil services - Group A  
(ii) Central Civil Services - Group B  
(iii) Central Civil services - Group C  
(iv) Central Civil services - Group D

Similarly civil post under the union have been classified as follows:

(i) Central Civil posts Group A  
(ii) Central Civil post Group B  
(iii) Central Civil post - Group C  
(iv) Central Civil post - Group D

Corresponding Classifications as under:

<table>
<thead>
<tr>
<th>Existing Classification</th>
<th>Revised Classification</th>
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<tbody>
<tr>
<td>Class I</td>
<td>Group A</td>
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<tr>
<td>Class II</td>
<td>Group B</td>
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<tr>
<td>Class III</td>
<td>Group C</td>
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<tr>
<td>Class IV</td>
<td>Group D</td>
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</tbody>
</table>

(1) Rule 4, Central Civil Services (Classification) control and Appeal) Rules 1965

(2) Rule 6 - Ibid