Institutions involved in public policy making range from agencies in all branches of Government, the executive, the legislative, and the judiciary to a host of non-governmental institutions, associations, interest groups, political parties, academic bodies and individuals. In the executive branch of Government, the policies are given concrete shape and direction by the Prime Minister and his/her Cabinet. They are assisted in this function by the various Standing Committees of the Cabinet, and the Prime Minister’s Secretariat composed of personal advisers. Although the Prime Minister’s Secretariat does not make any original proposals in policy matters, it exercises a great deal of influence in molding them through the preparation of briefs and analysis and shifting the information for the decisions of the Prime Minister. The interplay between the Prime Minister and Cabinet colleagues, the use of Committee structure in the Cabinet, and the interaction between the staff of the Cabinet Secretariat, Prime Minister’s Secretariat and the Secretariat of the different ministries determines the final outcomes of public policies through the executive branch of the Government.

Role of Political Executive

Cabinet

To Lindblom, the influence of ‘proximate policy maker’¹, or those who occupy formal offices prescribed by the political community as authoritative is of critical importance. In Government the proximate policy makers are the Cabinet members who shape and determine the public policies. The Cabinet draws power from various sources. For Jennings the Cabinet is the core of the

constitutional system.² It is the Cabinet who decides the policies which are to be placed before the Parliament for its approval. Cabinet draws its powers from the Constitution itself. The second source of Cabinet power flows from the ‘principle of unity’. The Cabinet acts as a collective unit. The principle of collective responsibility enables the Cabinet to expect that its decision will be implemented and defended publicly by the individual ministers. To Mackintosh, ‘it is essential for a strong Government to show a united front in the face of criticism’.³ The third source of Cabinet power is the Central Secretariat and its Committees. The Cabinet is able to control and co-ordinate the work of the executive through the Cabinet Secretariat and its Committees. Cabinet is served by the Cabinet Secretariat headed by the Cabinet Secretary. It prepares the agenda for its meetings, takes minutes, circulate decision and supervise the implementation of the Cabinet decision by the concerned ministries and other executive agencies. Sir Ivor Jennings writes, in Britain, “each minister, whether or not in the Cabinet receive the Cabinet conclusions and it is his responsibility to instruct his department as to the decisions taken in so far as they need department action”.⁴ The party systems in Cabinet Government strengthen the position of executive to control the parliamentary majority.

The Cabinet Secretary has to play varied roles. He must keep tab on urgent problems in socio-economic and political aspects, on bottlenecks in the implementation of Government program, on issues that the Prime Minister should know urgently and matters requiring his decisions. Cabinet Secretary as the head of civil services presides over the Chief Secretaries’ conference and the

⁴. Sir Ivor Jennings, op.cit., p. 245.
Committee of Secretaries. He attends all meeting of the Cabinet and its Committees. The Cabinet Secretary often prepares the agenda for Cabinet meetings, takes minutes, circulates decisions and follows them up to see that action has been taken in the departments. The role of the Cabinet Secretary is crucially important in the policy making process. At the Centre, the Cabinet Secretary plays a significant role in processing major policy matters. He consults the concerning Secretaries appropriately, discretely checks out the views of individual ministers, and taking all factors into account, comes up with a policy prescription to cover the situation, which goes through the Cabinet.

Cabinet Secretariat assists in decision making in Government by ensuring inter-ministerial coordination, ironing out the differences amongst ministries/departments and evolving consensus through the instrumentality of standing/ad hoc Committees of Secretariat through this mechanism new policy initiatives are also promoted. The Cabinet Committees relieve the Cabinet of its work load and act as a political and economic significance, and facilitate the inter-ministerial coordination and ensures the collective responsibility of the Cabinet. The Cabinet, functioning on the principle of collective responsibility, is the top policy making body in the Government, but only major proposals are taken to it for its decision, other matters being disposed of by the minister at his own level. The Cabinet deliberates on major problems of policy and administration. All kinds of policies affecting the federation are analyzed in detail in the Cabinet before they are presented to Parliament for their approval. But the Cabinet itself as a whole has to be persuaded of the correctness of most of the decisions. The decisions taken by the Cabinet and Cabinet Committees are fundamental to the governance of the country and form the basis of policy formulation as also for
evaluating the impact of programs, policies, plans, projects and schemes of the Government. The preparation of correct, accurate and concise Cabinet notes is essential to facilitate decision-making at the highest level of the Government.

In India, though the executive power is vested in the President at the Center and the Governors in the States, but it is actually exercised by a Council of Ministers which is drawn from the legislature and is responsible to it. The Constitution of India did not elaborate the structure or method of functioning of Council of Ministers, which have therefore developed by conventions. Thus, at the center, the executive power is exercised by the Cabinet, headed by the Prime Minister, and the Cabinet is the source of political authority. The policies are scrutinized by the Cabinet before they are presented to Parliament for approval.

**Prime Minister and his Office**

President of India is the nominal head of the State and the Prime Minister along with his Council of Ministers acted as the real executive in the parliamentary system of Government. Prime Minister is the crucial element in the decision making process. S.R. Maheshwari, has observed that, “the Prime Minister (of India) always enjoys a special position in the realm of policy making and other ministers play varying levels of subordinate roles”.

As the head of the Cabinet, Prime Minister influences public policy significantly. Prime Ministers are assisted by Prime Minister's Office set up in 1947. It emerged as a strong policy making organ under the Prime Ministership of Lal Bahadur Shastri who appointed some experts from the civil service to advise him on economic

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affairs. After that the Prime Minister's Office has emerged as powerful policy making organ in the Government of India.

The PM Secretariat includes Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and other personnel advisors are appointed to advise Prime Minister on various crucial issues including policy and related matters. The Prime Minister has appointed some advisors such as advisor to the Prime Minister on administrative reform, on economic affairs, on science and technology, on cultural affairs, etc. In addition, an Economic Advisory Council to the Prime Minister also exists. This Committee composed of certain well known economists is one most influential of such bodies. Prime Ministers are known to have sought advice from this as well as from other industrial group on various policy issues. In the words of Ishwar Dayal and others, “They advise the Prime Minister on matters of importance and follow up issues as necessary. They must collect all relevant information from various sources and properly sift it, considered important by him. The Secretariat personnel keep tab on inter-ministerial matters, and we have access to data from different sources and due to their own study or contacts, they tend to provide information links in developing integrated policy perspectives. In official matters they work closely with the Cabinet Secretary. By virtue of their position the Secretariat personnel become an important link between the Prime Minister and others”.  

The advisors and officials of this Secretariat perform significant functions and deals with the issues require the attention of the Prime Minister. The Prime Minister’s Secretariat has been performing important functions, though all the

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matters must go through the Cabinet Secretariat, when the Prime Minister’s Secretariat “takes the initiative in an area other bodies become merely ratificatory organs and many among them have even been forced to remain idle as a result”. These specialists examine the issues more deeply and provide more alternatives to choose from. This arrangement advances the centralization of policy making and ignores the role of existing lower level machinery. Now a day, it is difficult to identify the factors responsible to enhance and constrain the power of Prime Minister. Prime Minister as leader of the Cabinet exercise immense power decides the issues is to be discussed in the Cabinet and has control over agenda.

In India, Indira Gandhi has set up her own Secretariat emerged as a rival to Cabinet Secretariat. “As a result of its vicious role, the Cabinet and even its senior members began to lose importance. The coterie advising the Prime Minister, with no constitutional basis because an all-powerful instrument of the executive”.

Prime Minister controls his party, Parliament, Cabinet, civil service etc. As the political head of the civil services exercise control over Government machinery through the Cabinet Appointment Committee of which he is the chairman through patronage of civil service the Prime Minister dominate the crucial offices of the Government. The Prime Minister must dominate otherwise he will look like a minister. Prime Minister play a very significant and important role in determining the general trend of policy and responsible for coordination of various Government departments. The role Cabinet plays in power structure

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should not be over sighted. Cabinet strengthens the position of the Prime Minister. The policies approved by the legislature are initiated by the concerned ministries in consultation with the Prime Minister.

**Secretariat- Department and Ministry**

The role of the Secretariat is to advice the political executive. The officers manning the Secretariat are to analyze each policy issue or individual proposal dispassionately and freely, and render opinion to the political executive without fear or favor. Integrity, impartiality, fearlessness, precedents, and experience in administration are the basis on which noting on files are made by the echelons in the Secretariat.

Decision making in Government requires consultation within the department, with related departments and ultimately leading up to a final view by the minister concerned. Where the matter is of relatively larger importance, after interdepartmental consultations, the issue is taken up before the Cabinet for a final decision. In all of these, the opinions of various officials are recorded in a file which is seen by others concerned, leading up to a decision. It is utmost importance that the system should nurture and maintain the ability of the official to express his views freely and independently without any pressure. It does not matter, if he is overruled, but the official has the right to make his point without being under duress.

For the purpose of administration, the Government of India is divided into ministries and departments, taken together, constitute the Central Secretariat. It is a complex of department or ministries whose administrative heads are known as Secretaries and whose political heads are ministers. The Secretariat is the key
organization in the governmental hierarchy, engaged in assisting the minister in policy formulation. It translates these policies into issues or programs and ensures their efficient execution.\(^9\) It functions as co-coordinating agencies between different Government branches and maintaining contacts with the State administration. Secretariat functions as the main channel of communication between the State and agencies such as the Planning Commission and Finance Commission.

Policy formulation in modern public administration needs the fullest possible guidance from specialist and technocrats. Facts, figures, data and statistics are an indispensable part of decision making in public administration. No public policy can be formulated without the active role and involvement of the civil service. There is no minister who is not influenced by the advice and opinions of his civil servants with regard to the framing of administrational policies. Secretariat is staff agency which collects and stores the information of vital importance, which is necessary to examine the Government future policies and present activities in the light of past precedents, and acts as think tank\(^10\) to the Government of India. Secretariat carries out a comprehensive study and makes a detailed scrutiny of the issue before it takes the shapes of a policy proposal and submitted to the concerned minister. The legislature passes the laws in skeleton form and determines the broad framework and principles which has to be kept in mind during the preparation of detailed policy proposals.

The Secretariat organization of a ministry consists of both superior and sub-ordinate staff that assists the minister in the discharge of his functions. The staffing arrangement of the Secretariat is done by the “deputation of officer from the State and Central services. “The principle argument advanced in favour of this staffing arrangement is that higher civil servants engaged in policy making and advising ministers must possess first hand as well as fresh experience of working in the field to keep the action and decision of the Central Government as close to reality and as meaningful to the people as possible”.12 Staffing on the deputation basis encourages policy making with the help of the civil servants who have direct experience of working in field agencies. Having worked in the Secretariat they get directly acquainted with the objectives underlying policies and programs and facilitate the implementation process,

“In the 1970s, the Central Government set up ‘policy planning unit’ in key departments and ministries. This policy unit is further designed to encourage policy and operational evaluation by the various programs units of a department or a ministry, and it also attempts to provide the department head with staff which can provide independent evaluation on a selective basis”.13 These units enable the departments / ministries to carry out its policy responsibilities.

In policy making process political-administrative relationship plays an important role. Ministers decide the policies, while civil servants are responsible for successful execution of those policies. The administrative executive is expected to help the political executive in taking policy decision. The

Secretariat functions of the different ministries or administrative departments, according to official handbooks, are as follows: (a) assisting the ministries in policy making, and in modifying policies from time to time, as and when necessary; (b) framing legislation and rules, regulations; (c) sectoral planning and program formulation; (d) (i) budgeting and control of expenditure in respect of activities of ministry/department, and (ii) according or securing administrative and financial approval to operational programs and plans and their subsequent modifications; (e) supervision and control over the execution of policies and programs by the executive department or semi-autonomous field agencies, and evaluation of the result; (f) coordination and interpretation of policies, assisting other branches of Government and maintaining contact with State administration; (g) initiating measures to develop greater personnel and organizational competence both in the ministry/department and its executive agencies; and (h) assisting the minister in the discharge of his parliamentary responsibility.\(^{14}\)

Since, the policy making is heavily depend on the technical advice of the experts and administrative experience of generalist, their advice has been more and more weight by the ministers. Civil servants significantly influence the policy making as they collect the data and information, analyses the problem, examine the situation, develop the alternative course of action has a strong influence on policy decision.

**Planning Commission, National Development Council and Policy Making**

Planning Commission was established in March 1950 by a resolution of the Government of India, and works under the overall guidance of National

Development Council. The Planning Commission consults the central ministries and the State Governments while formulating five year plans and annual plans, and also supervise their implementation. Planning Commission has a nodal role in policy making for development. The Planning Commission is mainly concerned with the development policies and reviews the achievements. It is not engage directly in the non-developmental policies. The Planning Commission analyzes and examines the reason responsible for the success or failure in performance, evaluate the progress achieved in execution of the plan and recommend necessary adjustment. One important component of its task is policy formulation. In carrying out its task, a large number of experts, administrator and elites are engaged in the formulation of national plans.

The order establishing Planning Commission has the following specific functions to be performed\textsuperscript{15}:

1) To make an assessment of all material, capital and human resource of the country, including technical personnel and investigate possibilities of augmenting these resources in relation to the requirements of the nation.

2) To formulate a plan for the most effective and balanced utilization of the resources of the nation.

3) To define and determine the priorities, the stages in which the plan should be carried out and propose the allocation of resources for the completion of each stage.

4) To indicate the factors which are tending to retard economic development, and determine the conditions which, in view of the current

social and political situation, should be established for the successful execution of the plan.

5) To determine the nature of the machinery this will be necessary for the successful implementation of each stage of the plan in all its aspects.

6) To appraise from time to time the progress achieved in the execution of each stage of the plan and recommend the adjustments of policy and measures that such appraisal may show to be necessary.

7) To make appropriate interim or ancillary recommendations either for facilitating the discharge of duties assigned to it or on consideration of the prevailing economic conditions, policies, measures and development programs, or on an examination of such specific problems as may be referred to it by Central and State Governments.

The Planning Commission works out sectoral targets, and provides promotional stimulus to the economy to grow in the desired direction. Although the formulation of sectoral policies and programs are mainly the responsibility of the concerned ministries and departments of the Government, the Planning Commission still plays an important role in indicating the initiative that departments need to take, both in terms of investments and policy changes, to realize their objectives. Planning Commission also plays an integrative role in the development of a holistic approach to the policy formulation in critical areas of human and economic development. Similarly in the social sector, scheme which requires coordination and synthesis like rural health, drinking water, rural energy needs literacy and environment protection to be subjected to coordinated policy formulation. This integrated approach by the
Planning Commission can lead to better result at much lower costs. The Planning Commission plays a facilitating role in policy matters between the State Government and union ministries. Its effort is focused on using limited resources optimally. The Planning Commission examines the current policies and programs, especially in the inter-temporal, inter-regional and internal sectoral context. Besides it has been playing a systems change role and provides consultancy within the Government for developing better policies.

Planning Commission was established as a staff agency with advisory role. Planning Commission is headed by Prime Minister and some Cabinet Ministers are its member. Because of its strong composition and allocative role in resource deployment, it often called as Super Cabinet. It determines the machinery required for proper implementation of the plan in each stage. By performing all these function Planning Commission becomes a strong organ for policy formulation.

National Development Council established in 1952, has a very strong composition headed by the Prime Minister, few Union Ministers, Chief Ministers of States, head of the Union Territories and members of Planning Commission. The main objectives of National Development Council are to secure cooperation of State in the execution of plans, promote common economic policies and ensure the balanced and rapid development of the whole country. National Development Council review the working of national plan, consider national plan as prepared by the Planning Commission, consider important question of social and economic policy affecting national development and make recommendations for the achievements of the aims and targets set out
in national plan. The functioning of National Development Council shows that all the important matters are discussed in the council meeting.

K. Santhanam writes: “The position of the National Development Council has come to approximate to that of a Super Cabinet of the entire Indian federation, a cabinet functioning for the Government of India and Governments of all the States”. Below the Parliament, National Development Council is the apex policy making organ in the country. Looking at the functioning of the National Development Council and specially the Planning Commission, it can be observed that they exercise considerable degree of influence over the policy making process in India. The Planning Commission gives useful assistance to ministries in the formulation of projects and policies.

**Parliament and policy making in India**

The Parliament is the repository of the sovereignty of India. The Indian chambers are modeled on the British pattern, with the Lok Sabha (lower House) comprising directly elected representative and Rajya Sabha (Upper House) composed of representatively indirectly elected by the State Assemblies, and with some other distinguished persons nominated by the Government. Together, the Lok Sabha and Rajya Sabha are the supreme decision-making bodies, with power even to amend the Constitution. The Parliament is ultimately responsible for good governance; this includes power to enact new legislation, mandating the executive and to approve Government spending through the ‘budget’ – this is the foremost debating forum where public policies are debated, and also where the executive is taken to account. In the realm of public policies, Parliament or legislatures are the keystone of democratic Government out they are the

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keystone of democratic governance and they are critical in securing Government accountability. Being a stable and vibrant democracy, Parliament of India has played a very significant role in nation building and democratic governance. Principle of accountability makes the Government responsible for their actions. Governance incorporates two distinct but intimately intermixed dimensions: One is political (and relates to the commitment to good governance) and the other is technical (and relates to the issue of efficiency and public management). Both must be addressed, without political commitment little can be achieved even with efficient public administration and without an efficient public administration, no government can be effective, however benevolent.17

Legislature are involved in all phases of policy making process and legislative Committees enables them to divide the legislative labor in order to generate the legislative expertise in most policy areas. Mezey classified legislature into five, active, vulnerable, reactive, marginal and minimal – on the basis of cross tabulation of two major variables- policy making power (strong, modest, little or none) and the degree of mass/ elite support they enjoyed (less or more).18 Taking the key stages of the law making process as essentially four in number- initiation, formulation, deliberation and assent and implementation- a policy making legislature has the capacity to be involved in all four stages whereas other legislature are principally involved in the later stage. Policy influencing legislatures become central at the stage of deliberation and assent, and legislature with little or no policy influence get involved only in the stage of giving assent.19 Indian legislature was classified as policy

influencing legislature by Norton. The majoritarian democracy is dominated by executive and the political power is exercised by the executive branch of Government. In Parliamentary system it is the Government which controls the Parliament.

The parliamentary system today has become what some observers refer to as Cabinet Government or Prime Ministerial Government. The Cabinet determines legislative priorities and sets the legislative agenda. Cabinet decision is supported by a majority in the Parliament ultimately become the law and public policies of the land. Cabinet ministers initiate almost all legislative proposals using the civil service as a primary source of information and ideas. The Cabinet has aptly been called a combining committee- a hyphen, which joins a buckle, which fastens the legislative part of the State to the executive part. The governing party chosen by the electorate is the major medium of democratic control in the Parliament system. It is now widely recognized that the power of the Parliament in policy making is more real in legalistic sense than in terms of practical policies. In reality, it does not reign supreme, the Council of Ministers including the Cabinet and the Prime Minister become representatives and leaders of the Parliamentary majority. The Prime Minister or other Cabinet ministers initiate policy proposals and use the resources of Government ministries to do so.

The Constitution of a country derives its authority from the people, and it fully recognizes the sovereignty of the people in the administration of country. This

sovereignty is exercised through legislature elected on adult franchise with a Council of Minister both at the Center and in the States, collectively responsible to it in its working (in a Parliamentary system of Government). The Parliament in India makes the laws, policies and legitimizes the decisions of the Government. It authorizes taxation and expenditure, and makes the Government accountable for financial decision. Legislative power resides in the elected members in the Parliament. Within the powers denounced to them by the Constitution, the Parliament is the final determinant of a policy.

The Constitution of India distributes the legislative power between Parliament and State legislature in three lists the Union list, the State list and the Concurrent list. Parliament has exclusive jurisdiction over the subject in the Union list; the State legislature over those mentioned in State list; and both may legislate in the Concurrent list. Constitutions itself mentions some of the basic issues which have to be kept in mind by all State functionaries engaged in policy making. Constitution determines the parameter of the Government’s internal as well external policies. Part III of the Constitution deals with Fundamental Rights in sights imposes some positive and negative obligation on the State. Some Articles in this part of the Constitution impose positive obligation. To this extent, the Fundamental Rights also can be said to contain elements of policy. Such elements are seen in Article 15 (2); 17; 18 (2), (3) and (4); 23 (1); 24; 28 (3) and 29 (2). Other Rights enumerated in this part do not impose any positive duty, negatively they impose certain condition on the State and the policy has to

23. Article 246 read with Seventh Schedule of the Constitution of India.
confirm to them. For example, these rights make it necessary for the State to follow the path of liberalism.24

Broad frameworks of policies are decided in Political Parties’ discussion workshop. “Government, thus takes decision on the basis, of what the party decides first”.25 Party decisions are recommendation to the Government, and Government takes the final decision. In Parliamentary System, the Council of Ministers is responsible to the Lok Sabha, lower house of the legislature. It is the Cabinet who shapes and determines the Government policy. The Cabinet considers only major matter of policy. Most of the issues are referred to its Committee for detail examination of issues constituted by Prime Minister according to the requirement of time. Ministries are also vested with the power of policy matters.

Parliament of India acts as a policy influencing legislature and considered as Constitutional procedural device for legitimizing Government decision, rather than an independent policy making unit. As such power does not reside in Parliament, but in the group of individual (Executive Members) who, at a particular time, gain predominance over its procedure on thereby succeed in making policy decision when the Council of Minister, headed by Prime Minister, is selected by a Parliamentary majority of the same party, automatic approval of the policy decisions or proposals become possible. R.B. Jain States that executive dominated legislatures, in general, "have been reduced to mere sound

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boards or mere rubber-stamp endorsing policies already framed by the executive”.

Legislative proposals in form of Government Bill are presented to the Parliament by minister. Parliamentary control over the executive is political in nature, it means, ministerial responsibility is based on political opinion of Majority of members of house of the people to which minister is responsible. Parliaments possess the institutional capacity to make the executive answerable. Within the Constitutional framework, there are various parliamentary procedures to give sufficient opportunities to the members of Parliament to influence the policy process significantly.

The Constitution provides for an annual statement of the estimated receipt and expenditure to be placed before Parliament. Parliamentary control over public finance- the power to levy or modify taxes and the voting of supplies and grants, is one of the most important checks against the executive assuming arbitrary power. No taxes can be legally levied and no expenditure incurred from the public exchequer without specific parliamentary authorization by law. Parliament ensures the administrative accountability through several of its Committees. The parliamentary Committee System in India has played a significant role in calling the Government to account. Parliamentary Committees assist the Parliament in the efficient discharge of their function and in giving close consideration to legislative and other matters that come up before them. A good deal of parliamentary business is transacted in the Committees as the time

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27. Article 114, 116, 265 of the Constitution of India.
is limited and insufficient to make a thorough and detailed examination of the varied and voluminous legislative and other work to be transacted in Parliament.

In order to make parliamentary surveillance more effective and meaningful and ensure accountability of the executive to Parliament, the role of parliamentary Committees is vital. The review of administrative action and the examination of numerous and complicated legislative and budgetary proposals and subordinate legislation require expertise and close scrutiny which is not possible in the house of Parliament with the Lok Sabha consisting as it does of 545 members and Rajya Sabha of 245 members.

A parliamentary Committee means a Committee appointed or elected by the house or nominated by the speaker, parliamentary Committees are of two types Standing Committees and ad hoc Committees. Standing Committees are appointed every year or periodically and their work goes on continuous basis. The adhoc Committees are appointed for a specific purpose, after submitting their reports they cease to exist, as soon as they complete the task assigned to them, of the all parliamentary Committees of Lok Sabha, the Public Accounts Committee was the oldest. Parliamentary Committees in India are (structure, functions and procedures for conducting business of the Committees) governed by the Rules of procedure and conduct of business of the house and they function under general direction of the respective presiding officer of the house.

Legislative Committees in parliamentary systems are much weaker because they are controlled by the majority members of the majority party, which in turn is controlled by the Cabinet. The Cabinet manages the legislative process and does not let desired bells die along the way. Committees act as a
forum for debate that sometime produce minor or technical amendment but rarely substantial changes.\(^{28}\) During the proceedings the members have been called to listen and prepared notes, highlighting the achievements of the Government and hiding the shortcomings. Members argued that these Committees used as “channels of information rather than aid to formulation of policies”.\(^{29}\) The governing party chosen by the electorate is the major medium of democratic control in the parliamentary system.\(^{30}\)

In parliamentary system parties are major actors in policy making. The role of Parliaments varies according to structure of party system. The policy activities of Parliament will be greater in party system in which no one party or coalition is dominant rather than in a system in which there are few parties and one party or coalition is dominant. The Parliament can play a greater role in policy making where the parliamentary parties are weekly organized or fragmented rather hierarchically organized.\(^{31}\) In Indian Parliament political parties have been mainly active in the gestation stage of public policy. Private members bills can be taken only on the days fixed for private member's bill. Private members bills are drafted by the concerned member with the help of Parliament Secretariat in a proper form. After the scrutiny of the bill the Committee has made its reports to the house and copies of the bill have been circulated to members of the house. The bills have been formally introduced and move through the same channel and follow the same procedure as other on

\(^{28}\) M.O. Dickerson and T. Flanagan, op.cit., p. 288.


\(^{30}\) R. Mulgan, op.cit., p. 58.

financial bills. Main objective of private member’s bill is to draw the attention of the house over the socio-economic and political issues of great importance and make the Government more conscious of the nature of thinking in various section of society.

The role of Parliament in policy making is thus understood as a procedural device for legitimizing decisions. Moreover, in a parliamentary type of executive, a mass of legislation is made under the powers delegated to the ministers by parent statues for reasons of pressure on Parliamentary time, the technical quality of legislation, and the need for sufficient time to develop adequate administrative machinery. Only a small proportion of statutory instruments receive any parliamentary scrutiny at all, although whatever there is, can be relatively effective. In reality, the bulk of delegated legislation in India does not attract the attention of back benchers unless it is struck down by judiciary. Parliament of India influences the public policy more at the implementation stage. Parliament exercises control through various devices such as the question hour, short duration discussion, half an hour discussion, adjustment motion, review by its Committees and play an effective role in execution of public policies. Sovereignty of Parliament in India is, however, limited by the provision of Fundamental Rights guaranteed to the people. It is limited also by the powers vested in the States. But, in certain contingencies, even these limitations can be overcome by a special parliamentary process which can give the union, the soliditary of a unitary Government.

Capacity of Indian Parliament to influence the public policy is very limited. Parliament is further restricted in the formulation of defense, foreign affairs and scientific policies and marginally influence the public policies in
other areas of socio-economic and domestic areas. It is possible to enhance the capacity of Parliament by introducing a strong Committee system and promoting a healthier party politics. Power as such does not reside in the Parliament but in the Council of Ministers which is able to create a majority within the Parliament and thereby succeeds in making policy decisions. Parliament is considered to be a ‘constitutional procedural device’ for approving the decisions of the Government rather than as an independent policy making institution. Many policies approved by the Parliament are initiated by the Cabinet or members of Council of Ministers, having been planned within the departments of the State after consultation with affected interests. Legislature everywhere play a smaller part in the policy making process.

**Judiciary and Policy Making**

An independent and impartial judiciary play a very important role in smooth functioning of a political system. The three wings of any Government are the executive, the legislature and the judiciary. Legislature makes laws of land; executive is mainly concerned with the enforcement of laws and administration and judiciary guarantees justice and act as the custodian of the Constitution. A written and rigid Constitution cannot ensure a sufficient restrain on parliamentary majorities unless accompanied by an independent body (through judicial review) that can test the constitutionality of laws passed by the national legislature. If Parliament itself is the arbiter of the constitutionality of its own laws, it can easily be tempted to resolve any doubt in its own favor.  

In our constitutional scheme the judiciary alone has been entrusted with the power and duty to test the constitutional validity of legislative provisions and the validity of administrative actions. The superior courts empowered to declare a Statute ultra vires the Constitution and to nullify an executive action as unconstitutional. These powers of judicial review are given not with a view to make the judiciary a supreme body superior to other wings of the constitutional framework, but to ensure a system of check and balance between the legislature and executive on one hand and judiciary on the other. The mechanism has been devised to function in such a way that the unconstitutional actions of one of the wings are corrected by the other and vice versa. It is not the purpose of judicial review to criticize legislative or executive actions, as the opposition is expected to fulfil this function in a democratic polity. On the contrary, the judiciary’s role is to review executive and legislative actions and declare whether those actions conform with the dictates of the Constitution of India. Justice A. S. Anand remarked: “The legislature, the executive and the judiciary are three coordinate organs of the State. All the three are bound by the Constitution. The minister representing the executive, the elected members of Parliament representing the legislature and the judges of the Supreme Court and the High Court representing the judiciary have all to take oaths prescribed by the Third Schedule of the Constitution. All of them swear to bear to faith allegiance to the Constitution. When it is said therefore that the judiciary is the guardian of the Constitution, it is not implied that the legislature and the executive are not the equally to guard the Constitution. For the progress of
nation, however, it is imperative that all the three wings of the State function in complete harmony”.

“A judicial decision either ‘stigmatizes or legitimizes’ a decision of the legislature or of the executive. In either case the court neither approves nor condemns any legislative policy, nor is it concerned with it wisdom or expediency, its concern is merely to determine whether the legislation is in conformity with or contrary of the provision of the Constitution it often includes consideration of the rationality of the Statute. Similarly, where the court strikes down an executive order, it does not in the spirit of confrontation or to assert its superiority but in discharge of its constitutional duties and the majesty of law. In all those cases, the court discharges its duty as a judicial sentinel”.

In India Supreme Court influences the public policy through the exercise of power of judicial review of legislative laws and executive actions, judicial review means the power of the courts to examine the constitutional validity of legislative and executive action of the Government. Judicial review may be defined as: "the power of a court to hold unconstitutional any law or official any action that it deems to be in conflict with the basic law, or the Constitution.” Another scholar Hennery J. Abraham defines judicial review as “the power of any court to hold unconstitutional and hence unenforceable any law, any official action based upon it, and any illegal action by a public official that it deems to be conflict with the basic law.”


34. Ibid.


The power of the judicial review flows from the power of the courts to interpret the Constitution. There are two models of judicial review. One is the technocratic model in which judges act narrowly and examine the validity of laws made by the legislature. In the second model, the courts interpret the Constitution liberally and in the light of the spirit underlying it keeps the Constitution abreast of the time through dynamic interpretation.

The Supreme Court of India started off as a technocratic court in the 1950s. But slowly started acquiring more power through constitutional interpretation. The Constitution provided for limited judicial review by saying in Article 13 of the Constitution that the State shall make no law that contravenes any provision of the parts of the Fundamental Rights, and if any such law is made or exists at the time of commencement of the Constitution it shall be void. The Supreme Court and High Courts are constituted the protector and guarantor of Fundamental Rights under Article 32 art 226.

One of the major instances of judicial activism in India was Keshwanand Bharti case. Keshwanand overruled the decision given in Golakh Nath case and held that the amending power of Parliament cannot be limited by Fundamental Rights but also ruled that there are implied limits which could not be used to alter the basic structure of the Constitution. The theory of implied limits in the amending power with reference to the basic features of the Constitution propounded in Keshwanand was the first great act of judicial activism by the Supreme Court of India. By this decision the power of judicial review significantly increased. The Constitution confers power on the Supreme Court

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38 Ibid. p.4.
and High Courts to issue directions, orders or writs. The purpose of direction issued by courts is either to fill the gaps in legislation or to provide for matters that have not been provided by any legislation.

In Golakh Nath, Case, Subba Rao, C.J. explicitly claimed a law making role for the Supreme Court in the following words: 39“… Article 32, 141, and 142 are couched in such wide and elastic terms as to enable this Court to formulate legal doctrines to meet the end of justice. To deny this power to Supreme Court on the basis of some outmoded theory that the court only finds the law but does not make it, is to make ineffective the powerful instrument of justice placed in the hands of the highest judiciary of this country.”

In the case of Vishakha v. State of Rajasthan, reported in (1997)6 SCC 241, the Supreme Court lamented that the legislature had not brought in comprehensive legislation to deal with sexual harassment of women in the workplace, and declared the law as follows: “in view of the above, and in the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplace, guidelines and norms are hereby laid down for strict observance. This is done in exercise of the power available under Article 32 for enforcement of Fundamental Rights and it is further emphasised that this would be treated as the law declared by the Supreme Court under Article 141 of the Constitution of India.”

This is a clear case of judicial legislation and usurpation of the power of legislation but ultimately it benefits people. When the legislature slumbers, 39 AIR 1967 SC AT 1669 :(1967)2 SCR 762.
judicial usurpation obtains legitimacy and approval from the general public. In *M.C. Mehta v. India* the Supreme Court gave directions for the protection of environment from pollution caused by the vehicular traffic and protecting people from road accidents. These directions laid down that the vehicle should be equipped with speed control device, limits the maximum speed, of goods vehicle by 40 km/hr. driven by authorized driver, and should not overtake passengers vehicle. The court also laid down qualification of drivers of buses belonging to educational institutions used for transporting children. The court issues direction to fill the vacuum left by the legislative or executive branch of the Government. And these directions of court could be replaced by the legislation of legislature or by the executive.

Some decisions of judiciary may carry the risk of conflict with the executive or legislature. R.K. Barik has criticised the role judiciary assumes in policy making and argued that policy making is the exclusive domain of legislature or executive, and judges are neither elected nor accountable to the people, are trespassing into an area for which they are not qualified.\(^40\) Earlier the Prime Minister Manmohan Singh had advised the judiciary not to go into policy making after the top court had asked the Government to provide food grain to the poor free of cost instead of letting it rot in godowns.\(^41\) The other two branches of Government are also restrained by the determination of constitutional provision by the judiciary.

In democratic society there is a limit on the extent of Government power. Such limits include periodic election, civil rights independent and impartial

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\(^41\) The Telegraph, March 10, 2011.
judiciary to protect the rights of the citizen and ensure the redressal of grievances against Government action. The judiciary plays a significant role in the formation of social policies, laws regarding to such matters, as equal protection of law, corporations, employer employee relation, status of women in society, has been developed and applied by the courts in shape of common law. Anderson has Stated that “not only are the courts getting involved but they are playing a more positive role in policy formation, specifying not only what Government cannot do but also what it must do to meet its legal or constitutional obligations. The Indian Courts actively engaged in prescribing specific policies regarding public school, labour conditions and some welfare policies as well.

The Supreme Court cautioned High Courts against interfering with or quashing Cabinet decisions of State Governments on policy matters. "The decision of the Cabinet generally ought not to be interfered with in judicial review as lightly as has been done in the present case [in Himachal Pradesh]. The quashing of the Cabinet decision, without analyzing the pros and cons, in the manner [that] seeks to restrict the State’s constitutional authority and powers to frame policy especially in such vital areas like imparting technical education is not acceptable,” said a Bench of Justices P. Sathasivam and B.S. Chauhan Writing the judgment, Justice Sathasivam said: “The court does not substitute its views in the decision of the State Government with regard to policy matters. In fact, the Court must refuse to sit as appellate authority or super legislature to

42 James E. Anderson, Public Policy Making: An Introduction, p. 56
weigh the wisdom of legislation or policy decision of the Government unless it runs counter to the mandate of the Constitution.”

Justice A.K. Mathur and Justice Markanday Katju while deciding a case, made some stern remarks on the power of the judiciary and “judicial activism”. A division Bench of the Supreme Court comprising the two judges said:

“If the judiciary does not exercise restraints and over stretches its limit there is bound to be reaction from politicians and others. The politician will then step in and curtail the powers or even independence of the judiciary. The judiciary should, therefore, confine itself to its proper sphere, realizing that in a democracy many matters and controversies are best resolved in a non-judicial setting. Expressing their apparent anguish over the judicial over reach, the judges further added … We are compelled to make these observations because we are repeatedly coming across (instances) where judges are unjustifiably trying to perform executive or legislative functions. In our opinion, this is clearly unconstitutional. In the name of judicial activism judges cannot cross their limits and try to take over functions which belong to other organs of State”

The Constitution in various places expressly confers upon the Indian judiciary the power to examine policy. The judiciary does not entertain challenges to a policy on the ground that it is unwise, but does not flinch from examining its legality where it trenches upon constitutional right or Rule of Law. Theoretically, though the judiciary is expected to adjudicate or evaluate the policies promulgated by the legislature or executive wing of the Government,

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43 *The Hindu*, April 21, 2011.
it equally importantly checks excesses committed by the other two branches and enforces the rights of the people in case of default or distortion by the legislature and executive in the discharge of duties, using the power of judicial review.

**Bureaucracy and Public Policy**

A country may govern by any system; the existence of bureaucracy is a prerequisite to run the State’s affairs smoothly. In developing countries, bureaucracies have emerged as a key element, in a politico-administrative process. Government policies are the outcome of continuous interaction between various governmental and non-governmental agencies. Individual minister or Cabinet is responsible for policy making in a democratic society, and bureaucracy is mainly concerned with the task of implementation of the policies laid down by the Government with full commitment, and assist political leaders in policy making rather than to initiate policy proposals. Bureaucracy is an administrative organization consists of appointed official, hierarchically organized and governed by set of rules and conditions of their service, and recruit to serve their political master by using their administration capabilities to analyze the proposed policies and advise him about the implementation methods and possible difficulties. But in reality, they exercise much more power in policy formulation than the formal description of their responsibility suggests.

Since British period, the bureaucracy plays a very important role in administration and was established to serve its foreign masters. Its main objective was to maintain law and order and collection of revenues, but after independence the role, expectations and actual performance of bureaucracy has
changed to a great extent. As the State has become a welfare State, it had to be transformed as a tool of socio-economic change and undertake new responsibilities and tasks and emerged as a machinery of a welfare State. Despite environmental change after independence, the British model continues to influence bureaucracy. The ideal administrator in India is still viewed “as the gifted lay man, who moving frequently from job to job within the service, can take a practical view of any problem, irrespective of subjective matters, in the light of his knowledge and experience of the Government machinery”.

Civil service is controlled by the political executive in parliamentary democracies, there is a pervasive belief in India that the role of bureaucracy is not restricted to policy implementation but bureaucracy is also actively engaged in policy making as well. Bureaucracy plays a very important role in policy making by collecting data, analyzing and processing the data in explicit term that can be used in policy formulation by political executive. The importance of the role is concerned with the ends and not merely means. It is now widely accepted that the old politics administration dichotomy was an artificial one and that the higher civil servants exercise a great deal of influence on policy because of their administrative knowledge, performance and closeness to political power.

Bureaucracy plays various roles during the policy process in different situations. R.B. Jain observed that “at certain stage of its operations the bureaucracy performs what is known as surveillance functions, whilees at other stages it is the diagnostic function finding precise source of maladies. At certain stages, it performs what can be called the antenna function i.e. keeping track on what is

required by the Government at particular junctures. And at other time, it may perform the function of policies and providing prospective orientation to policy option”. 47

In formulation of policy proposals, the civil service assists the executive. The civil servants possess long experience and expertise to their credit which is effectively used in assisting the executives in framing policy drafts and also in the implementation of policies. 48 A senior IAS officer has said that the main duty of the civil servant is to present before the minister clear options for a decisions. This task should follow the highest standards of objectivity without being influenced by his individual views or preferences. 49 The civil servants have a significant role in policy making and implementation. Though the function of policy making is thus described as one of the most important function of Government. The policy making and implementation do not lead to just a single act of administration or Government, but rather they support a course of action, perhaps over a long time. The policy decisions provide a sense of direction to administrative action. 50 Policy is very essential in administration which gives a concrete shape to the political and social objectives. In modern Government, civil services has come to be equated with administration and for practical purposes, this is not an erroneous equation. Traditionally, the function of administration has been assumed to be implementation of public policy, the

making of policy was the essential task of the sovereign representatives of the people.\textsuperscript{51}

The political executive forms the policies and civil servants execute these policies and programs. The main function of policy maker is to establish the enterprise goals and guiding the organization to the accomplishment of its mission objects.\textsuperscript{52} The functions of policy making cannot actually be vested exclusively at any one point or level in the Government whenever, there is action affecting the public, there is policy making.\textsuperscript{53} The policy may be good or bad for public. Some policies are designed to serve the public good, in a general sense and resolve issues and problems which the society as a whole faces. However, not all policies register impact evenly upon the populace which they do not regard as their problem in particular. The view of public policy is one which sees a particular facet or project that becomes the focus of the evaluative judgment.\textsuperscript{54}

The civil servants have only advisory role in policy making. In the Indian political system, it is recognized that the civil servants must render sound advice to the political bosses on policy matters because; they have lack of technical knowledge and competence in the field of administration. Moreover, the civil servants are in continuous contact with public and at the same time they are in profession of information which is essential to making and implementation of policy.\textsuperscript{55} Some scholars have a wrong perception about the role of bureaucracy in policy making is to buttress, legitimize and implement policy determined by

\begin{thebibliography}{99}
\bibitem{51} Charles E. Jacob, Policy and Bureaucracy, Canada: D. Van Nostrand Company Inc., 1966, p. 44.
\end{thebibliography}
elected political elites, rather than to initiate policy. Bureaucracy’s role in policymaking is highly dependent on the relation dynamics of political executive and permanent executive and determined by some normative and operational condition. Though policy making is a function of political executive, the higher civil service influences the policy proposal significantly throughout the process by advising the minister and makes a detail scrutiny to the policy proposal to make it technically feasible. The level of bureaucratic commitment to a policy is responsible for success or failure of policy: political values and ideologies may hamper the commitment of a bureaucrat towards a policy and act as an important variable in policy making. Modern public administration recognizes the combined effort of both political and administrative components in the realm of public policy making. As Carl Friedrich has observed: “Public policy, to put it flatly is a continuous process, the formation of which is inseparable from its execution. Polity and administration plays a continuous role in both formation and execution, though there is probably more politics in the formation of policy, and more administration in the execution of it, insofar as particular individual or groups are gaining or losing power or control in a given area, there is politics, insofar as officials act to propose action in the name of public interest, there is administration.”

A responsible administration is expected to use their power resources and expertise to bring about outcomes that are ‘in the public interest’. The administrator may have a different perspective which carrying out the development policies and defining the public interest. The administrations often

irritates with continuous interference of political masters at the stage of execution of programs and trying to influence the process irrationally. Being the representative of the people, politician assumes that only they are concerned with public interest. Administrative responsibility of the political executive is bound up with the notion of a public interest that is to be protected by administrators as a kind of trust for unorganized citizens. Administrative responsibility in a modern democratic State rests on two criteria: technical knowledge and popular support. Clearly certain complex problems demands technical solution, which do not automatically guarantee political responsibility. Popular support must be accessed through legislative communication, public opinion polls and responses of affected groups.\textsuperscript{58} Thus the citizen is the ultimate source of administrative power because he is a rational consumer of public goals and services. Bureaucracy hinders the citizen to express their performances and limits public choice.

Another leading scholar Morstein Marx believes that “If the bureaucracy is to act in the public interest, it must be permeated by a consciousness of both its local and its social status in the system, but at the same he does not think that a neutral bureaucracy implies as ostrich like withdrawal and isolation from the nerve center of the political process”.\textsuperscript{59} The civil service contributes by providing technology and advancing knowledge also responsive to clients and familiar with programs, operations and its needs. Political appointee's addresses social needs from a fresh perspective and are also responsible to political and

party leadership. Both the political and permanents executive strive for the betterment of the society by introducing innovative and positive changes for the development in a fast changing society like India. A business must have an advanced perspective combined with positive attitude towards the change. It is the responsibility of the political leadership to conditions the civil service to make it operationally fit and important.

The civil service which has monopoly in policy implementation has also its great influence in policy making process. It is also due to manifold functions of the Government with limited time that makes the legislation, so that it can be effectively implemented. It is the function of civil servants to work out regulations or regulatory codes, elaborating the policy of the Government. The policy is a matter of decisions by bureaucrats and effectiveness of policy is the consequent spirit and will of the bureaucrats.\(^6^0\) Policy and administration is counterpart to each other. Louis underlines this distinction that there is and always will be difference between politics and administration, no matter if they are closely related to each other in democratic society.\(^6^1\) T.N. Chaturvedi has himself commented that the civil service in India is expected to play manifold roles. There is a need to match the role perception and role expectation so that, the role performed by the civil service is the maximum and satisfy the emergent needs of the community. Civil service is an instrument for implementation of people’s will and aspirations as expressed in the Constitution.\(^6^2\) Public policy

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\(^{60}\) G.A. Almond and G.B. Powell, op.cit., p. 154.


making is the determination of general direction of publically resolved societal issues.\textsuperscript{63}

The civil service has become an agency responsible for the socio-economic development of the country. The civil servants have to understand new management technique, learn the latest skill and inculcate new attitudes in consonance with the ideals of bureaucracy and our goal of development.\textsuperscript{64}

Public policy making is concern of multi-institutional elites. Paul H. Appleby noted with concern, the politics, and administration dichotomy. He maintained that public policy making was shared by all branches of Government throughout the public bureaucracy, where a decision was finally made depending on political evaluation.\textsuperscript{65}

The challenge for bureaucracy in India is to accept the supremacy of political leadership and adjust to the demand and requirement of political system.\textsuperscript{66} The bureaucrats adhere to the administrative rules, regulations and procedure. This gives rise to tension and conflict in their relationship and difficulties in communication and does not permit them to collaborate in nation building and system maintaining activities.\textsuperscript{67} It is fact that where the political leadership is weak, some sectors of administration show a trend towards the emergence of bureaucratic center of power, over shadowing democratic political institution. In such sectors, the civil service seeks to preserve its power and provides resistance to policies which are likely to reduce its power.\textsuperscript{68}

\textsuperscript{63} Gerald E. Caiden, op. cit, p. 15.
\textsuperscript{64} Development profile of Himachal Pradesh, Department of Economics and Statistics, Shimla, 1985, p. 39.
\textsuperscript{67} C.N. Bhalerao, Bureaucracy as an instrument of modernization in India: Some issues in Ramesh K. Arora (ed.), \textit{Administrative Change in India}, Jaipur: Aalekh Publishers, 1974, p. 64.
\textsuperscript{68} Ibid, p. 65.
Apart from some drawbacks bureaucracy play a significant role in policy making and assisting their political masters by providing frank and impartial advice. Bureaucracy influence policy making in two steps. Firstly, bureaucracy can give shape to the stated policy through the exercise of choice and judgement and administering them and secondly, they engaged in policy formulation through their suggestive, analytical and interpretative roles.