

# Independence and Accountability of Constitutional Institutions in India: A Critical Study with Special Reference to the Union Public Service Commission

**Shivangi Mani Tripathi**

Law Student

Amity Law School, Amity University sec-125 Noida

[tripathishivangi631@gmail.com](mailto:tripathishivangi631@gmail.com)

## *Abstract-*

In a constitutional democracy a large emphasis is placed upon independent operation of the different institutions like constitutional organs. These bodies are designed to hold power accountable and ensure that everything is transparent and that the government functions with honesty. In India, there are various bodies that are given status by the Constitution as a form of independent functioning. These are called the 'constitutional bodies' and, though they are intended to work independently, the fundamental fact that India is a democracy means they must remain responsible to the dictates of a democracy. One such important body in India is the Union Public Service Commission, popularly known as the UPSC, which is the body responsible for recruitment of members of government services by the use of examinations and this directly ensures efficiency and probity in the country.

This paper makes an attempt to study the two vital aspects of the functioning of these constitutional bodies and particularly the UPSC, namely 'independence' and 'accountability.' Certain provisions of the Constitution have been made to shield the UPSC from political interference, such as giving members of the UPSC protection against termination and allowing it its own funds and so on, but on the other hand, the UPSC has also to be answerable to democratic principles. Such mechanisms include reports to the President and subsequent action by Parliament, as well as a review by the Supreme Court.

I have used court judgments, writings of legal experts, and provisions of the Constitution to answer how constitutional bodies can remain free but yet remain answerable. An attempt has also been made to see if the relevant laws for ensuring the proper independence of constitutional bodies really offer the required balance, as well as to investigate what problems face independent constitutional bodies in contemporary Indian polity, such as lack of transparency of examinations, failure to implement UPSC advice by the executive, and increasing burdens placed upon constitutional bodies as the role of government changes in a democratic system.

From my research, I have found that, while the Indian Constitution successfully provides a means for safeguarding independence, there is a definite need to ensure greater accountability. This is what makes the organization responsible and transparent to public scrutiny and builds faith in its integrity. Ultimately, it is only a proper balance between independence and accountability that can maintain public trust in these institutions.

**Keywords:** Independence, Accountability, Constitutional Institutions, Union Public Service Commission (UPSC)

## **Introduction**

### **1.1 Background and Significance of the Study**

It is a gradual transformation of India from being a governed entity to a governance one as envisioned by the Indian Constitution. The bygone days in India were marked by autocratic style of governance; there were no means of accountability or transparency. Post independence, with the adoption of the constitution of India the country moved to adopt a democracy wherein the law prevailed, the power was decentralised among different institutions which ensured a degree of accountability and thus established the rule of law.

Under the structure envisioned by the Constitution, no single institution is supposed to wield absolute power so as to curb any attempt towards corruption or misuse of authority. This role has been undertaken by independent constitutional bodies. A constitutional body is a body constituted by the Constitution. Its function is independent so that, inter-alia, there is no political interference in its functioning, all procedures followed remain fair and unbiased as desired by the constitutional architects and the constitutionality of its function is maintained. These organizations are designed to help ensure the probity of governance and are crucial to democratic governance as they serve to enhance its effectiveness, transparency, and credibility.

Of all the constitutional bodies constituted under the Indian Constitution, the Union Public Service Commission (UPSC) plays an extremely vital role in the administration of the country, particularly in terms of civil service recruitment. Its main task is to recruit persons to the services and posts under the Union government and also to hold departmental examinations. Hence, by ensuring that the civil services have efficient persons occupying different posts, it leads to better governance in India.

In framing the Indian Constitution, the Founding Fathers were aware of the potential political pressures to which constitutional bodies might be subject to, and they took a conscious effort to guard these institutions from undue political interference, through safeguards such as tenure, protection from removal, and control over its own funds. At the same time, it is imperative that the institutions should also remain answerable to the law and public expectations.

With the expanding role of government and increased expectations from it by the people, it becomes imperative for independent bodies such as the UPSC to function efficiently, effectively, and with utmost integrity. The increasing demand from public institutions requires greater responsibility to meet and adhere to higher standards, which in turn creates a dilemma of reconciling these independent institutions with accountability.

Thus, the present study attempts to critically examine the concept of independence of constitutional bodies with special reference to the UPSC and simultaneously the working of the systems to keep these bodies accountable in India, so as to determine if a proper balance has been struck.

## 1.2 Objectives and Scope of the Study

This study analyzes the extent to which India's constitutional bodies (with a special emphasis on the UPSC) achieve a proper balance between independence and accountability in its governance. This study focuses on analyzing what the notion of independence actually means for constitutional bodies, as well as the ways they are actually made answerable in a democratic polity. This study will examine specific constitutional provisions pertaining to the UPSC (namely Articles 315-323 of the Constitution), the independence accorded to the institution, the working of the accountability mechanisms available for it, problems

involved in ensuring a balance between these two concepts of independence and accountability, and measures that may be suggested to further enhance efficiency and transparency of the institution.

The present study is concerned with a doctrinal analysis of the constitutional bodies in India and is mainly centered around the UPSC as an example, for which relevant court judgments, legal provisions, academic writing and official reports have been taken as the primary sources. Although I have referenced other constitutional bodies where it has been appropriate for a better understanding, the entire analysis has primarily focused on the Union Public Service Commission.

Besides this, I have also examined various aspects related to the current issues in the area of independence of the institution, including problems with transparency, failure to implement UPSC's recommendations by the executive and mounting pressures placed on the institution, but the study does not involve collecting original data through methods of surveys, interviews or other fieldwork.

### **1.3 Research Questions and Hypothesis**

The research is underpinned by a few questions as regards the balancing of independence and accountability of constitutional institutions in India, more precisely Union Public Service Commission according to Indian constitution. What does the constitution provide to make it independent? How is it made accountable? What extent of its actual independence and efficacy of its accountability are effective in maintaining transparency, fairness and public confidence? It also questions how to overcome the challenges faced in the balancing of independence and accountability, such as the one stemming from UPSC having only advisory nature, whether changes have been suggested to overcome this.

My hypothesis is based on these questions. That, while the Indian constitution provides adequate mechanism to maintain the independence of UPSC, its mechanism for accountability is relatively weak thereby tilting the balance of independence and accountability on the side of independence. Alternatively, my hypothesis is that the constitutional framework already contains sufficient provisions balancing independence and accountability and the question may lie in the practical aspects of execution and the daily administrative functioning. This hypothesis will be tested against legal texts and theorized frameworks throughout the research process.

### **1.4 Research Methodology**

Doctrinal research method has been adopted for the research. This approach deals primarily with legal texts, judicial decisions and academic writings. Primarily, the analysis is focused on the principles of independence and accountability in respect of constitutional institutions in India; specifically, Union Public Service Commission as established under the Indian Constitution. It was necessary to resort to the doctrinal approach so as to analyse deeply the constitutional provisions and principles.

This study is mainly based on the material collected in form of, inter alia, the Indian constitution, relevant case laws, articles and books, official documents. I had to delve into the specifics of the Constitution (Articles 315 to 323) for establishing the rules regarding UPSC. Additionally, I had to review the rulings by Supreme Court of India and different High Courts on different aspects regarding the functioning of constitutional institutions, where relevant, to determine the extent to which they could achieve independence and remain accountable. The court decisions, among other factors, can be seen as guides to interpretations and their practical applicability.

I have also examined authoritative textbook on constitution and legal commentary on constitutional matters so as to have comprehensive understanding of the subject matter. Articles and treatises of scholars like M P Singh, Granville Austin for having a better understanding of various views and theories of independent and accountable institutions and to identify the gaps. Writings of Upendra Baxi and Madhav Khosla have proved to be helpful in gaining a better understanding of the working of the Indian constitutional state. I had to peruse publications and records relating to the UPSC to understand its day-to-day administration and its functional role.

Finally, critical and analytical methods are involved in this research process; through rigorous examination of collected materials, I am trying to determine how effectively the current legal framework works and whether the current scheme of functioning is able to adequately achieve the intended balance.

Limits: This research is entirely based on legal and theoretical frameworks and do not include any empirical research on data collection, instead primarily focused on the legal and academic writings that I have come across.

## **CHAPTER 2**

### **CRITICAL ANALYSIS: BALANCING INDEPENDENCE AND ACCOUNTABILITY OF THE UNION PUBLIC SERVICE COMMISSION**

#### **2.1 Introduction**

The analysis of the functioning of the Union Public Service Commission (UPSC) cannot be divorced from the greater constitutional ideal reflected in the Constitution of India. Several of the previous chapters focused on discussing independence and accountability (concepts) separately. Here the author brings the two ideas together.

The question however is not solely as to whether the institution is independent or responsible but as to whether the institution strikes the right institutional balance to achieve both efficiency in administration and legitimacy in the view of the democratic order.

## 2.2 Theoretical Tension: Independence vs Accountability

Independence and accountability feed off a productive tension. Independence is the freedom from fear or favor within which institutions can act, but accountability is the restraint within which independence cannot become unsubstantiated arbitrariness.

From a theoretical standpoint:

- Independence are based on and rooted in rule of law (due process) and due separation of powers.
- Accountability is embedded in democratic supervision and transparency.

In the case of the UPSC:

- Independence allows for. Merit based recruitment, protecting the process from political influence.
- Accountability also guarantees fairness, openness and trustfulness of the hands!

However, the tension becomes visible when:

- Independence leads to institutional opacity
- Accountability mechanisms create risking external influence.

So, it is not that the UPSC has to tilt the constitutional scales in the new constitution in favor of one value or the other. It must work within a calibrated balance of constitutional values.

## 2.3 Structural versus Functional independence-An In-depth appraisal

One crucial analytical distinction, often neglected in average dissertations, is between 'structural' and 'functional' independence.

### 2.3.1 Structural Independence

Strong constitutional safeguards in case of UPSC:

- Constitutional status
- Security of tenure
- Protection against removal from office arbitrarily
- Financial autonomy

This stands vindicated with the case law which shows how the independence has become an integral part of the basic structure doctrine in case of institutions like UPSC. *Kesavananda Bharati v. State of Kerala and Others* observed that the 'institution of independence itself has been brought within the ambit of the basic structure doctrine.

### 2.3.2 Functional independence

Weak at the structural front, rather the functional one is relatively weaker:

Recommendations of the UPSC are mere suggestions; the decision making process of appointment of individuals rests with the executive.

Executive enjoys discretion to disregard advice.

No transparency in appointment procedures of members.

The result is paradox: independence on paper yet powerless on paper too.

### 2.4 Accountability Mechanisms-Form versus Reality

Overall there are in general several mechanisms through which the UPSC is held accountable. The degree to which it works, however, varies greatly.

#### 2.4.1 Formal accountability:

Annual reports laid before the President;

- Parliamentary review;
- Judicial review;
- RTI Based transparency

#### 2.4.2 Practical limitations:

Debate at the parliamentary floor;

Judicial review is limited to procedure; it doesn't deal with the substance of the decision or judgment rendered

**Transparency (interviews);**

**The observation thus is,**

Accountability itself is present; however it is merely a weak social construction of the term.

### 2.5 Comparative institutional Analysis:

#### 2.5.1 Election Commission of India:

- Strong powers of decision making;
- Directions on the conducting of election is binding;
- Relatively public visible accountability

### **2.5.2 Comptroller & Auditor General of India:**

- Significant impact through its audit report;
- A vital link with parliamentary committees;
- Better in the practical accountability sector

### **2.5.3 Position of UPSC:**

Strong on the integrity of process; Weak on the enforcement capacity and oversight effect;

This comparison clearly delineates that the;

Mere independence is not enough; institutional impact of an institution matters.

### **2.6 Contemporary relevance-emerging Challenges:**

One may analyze the working of the UPSC in the contemporary context and in lieu of the current governance issues:

#### **2.6.1 Massification of candidates:**

- Number of candidates participating in various examinations; increased:
- Administrative pressure;
- Possibility of procedural delays;
- Pressure on the evaluation mechanisms.

#### **2.6.2 Expectations on Technology:**

- Modern governance demands:
- Faster processes,
- Digital transparency;
- Data oriented evaluation.

The lagging of the UPSC on this factor hinders its proper governance.

#### **2.6.3 Public perception & Trust deficit:**

Any allegation, however isolated or insignificant, of bias or favoritism undermines:

- the public image; and
- public trust in an institution, such as the UPSC.

### **2.7 Deep structural problems:**

This section highlights institutional issues that lie beyond the usual critique:

### **2.7.1 Opaque Interview stage:**

The lack of complete transparency in the evaluation process; especially during interviews. The boards of interview are also not standard.

### **2.7.2 Political interference in appointments:**

Lack of a fully independent selection panel, as mentioned before.

### **2.7.3 Weak feedback mechanisms:**

Candidates cannot claim right over detailed evaluation scores, particularly for interviews;

## **2.3 Policy oriented suggestions: The Way Ahead**

Finally one may consider the most crucial part which a student of polity has to write-practical suggestions for reform:

### **2.3.1 Independence of selection process:**

An independent selection panel or collegium to appoint the members should be put in place.

### **2.3.2 Strengthening functional powers:**

The recommendations of the UPSC in basic recruitment should be binding on the executive.

### **2.3.3 Transparency reforms:**

Interview evaluation should be in the form of structured assessment; while a limited disclose of marks should be allowed as it would benefit transparency while avoiding undesirable issues. Improving RTI implementation will also save time and operational resources.

### **2.3.4 parliamentary scrutiny:**

Parliamentary committees need to do in-depth analysis of the UPSC report and the problems relating to recruitment can be continuously discussed.

### **2.3.5 Technological upgradation:**

AI based evaluation can assist the evaluation system in the longer run, while there is a need for digitisation of records to avoid procedural bottlenecks.

## CHAPTER 3: CONCLUSION

### 3.1 Introduction

This study has examined the constitutional framework and functional reality of constitutional institutions in India with special reference to the independence and accountability of the Union Public Service Commission.

This thesis progresses from theory to institution and then to a critical analysis, and aims to gauge as to whether the constitution provides adequate mechanisms for the establishment and functioning of autonomy and accountability in reality. The conclusion is an amalgamation of findings and their overall constitutional and administrative implications.

### 3.2 Recapitulation of the Study

The initial focus of the study has been on analyzing the theoretical understanding of constitutional institutions, the meaning and interdependence of independence and accountability and how they are both necessary for the functioning of a democracy by guarding it from corrupt practices, ensuring neutrality and efficient service delivery.

In the succeeding chapters the study attempts to highlight the constitutional provisions in respect to constitutional institutions. An analysis of the UPSC constitution, the structure, and its functioning. The examination of mechanisms of independence and accountability of the UPSC and the perceived tension between the two. Finally, presenting a comparative and reformative approach towards the implementation gap between constitutional objectives and administrative reality.

### 3.3 Key Findings and Observations

#### 3.3.1 Strength of the Constitutional Design

The constitution has designed constitutional institutions including the UPSC, to promote a great level of independence from the executive control, the reasons behind such an arrangement is Tenure protection, Freedom from removal except by prescribed means and Financial autonomy

All these institutional safeguards reflect the deep intent of the framers to establish these institutions in a manner which makes them non-partisan, impartial and therefore fit enough to take up sensitive positions under the constitution.

#### 3.3.2 Gap between Formal and Functional Independence

However, functional independence of the institutions is not very pronounced as constitutionality grants some very significant but functional and non-enforceable rights to these institutions. Factors like:

- Non-binding nature of its recommendations
- Executive control over appointments
- No formal sanctions for ignoring its advice

All create a large divide between theory and practice as constitutional safeguards provide a basic framework and allow executive control to overshadow these constitutional rights.

### 3.3.3 Limited Efficacy of Accountability Mechanisms

The mechanisms of accountability provided by the constitution are limited to a large extent:

- Limited role of the legislature as that only provides a procedure to check the institution on its procedures rather than its working.
- Judicial review limited to interpretation of provisions of the constitution on how and in what capacity these institutions are formed and how they function.
- Lack of transparency particularly in its interviews and other decision making process

Therefore, accountability is neither direct, substantial, nor is it effectively enforced.

### 3.3.4 Interdependence of Independence and Accountability

One of the principal conclusions that arise from the study is the interdependence of independence and accountability; if these institutions are to perform their duties appropriately, they need both:

- Independence without accountability means arbitrariness and opacity
- Accountability without independence means interference and inefficiency

It has to be borne in mind that these institutions cannot work in isolation and therefore their effectiveness has to be maintained through a right equilibrium of these two forces.

## 3.4 Role of UPSC in Strengthening Governance

The Union Public Service Commission is very crucial to ensure quality and merit in its services. Recruitment in to Indian civil services under the UPSC ensures the:

- Meritocratic selection of civil services.
- Administrative neutrality of the bureaucracy.
- Professional efficiency of its staff.

The study has highlighted that the UPSC is performing its task very efficiently but with increasing aspirants, higher expectations of the public from the institution and increased awareness, the UPSC has to

gear up and also focus on reforms, so that its autonomy can be strengthened by promoting greater accountability.

### 3.5 Need for Reform and Institutional Strengthening

As evident, the constitutional provisions provide a firm base, but it is necessary to have institutional reforms, which will minimize the difference between formal and factual independence. Such measures have to be undertaken to increase the:

- Appointment mechanism transparency
- Functional autonomy to recommendations of the institutions
- External control on its functioning and;
- Technology to enhance the administrative efficiency and accuracy.

Reforms must be strategically framed so that an increased accountability can be built without the compromising its independence in functioning and operation of decisions.

### 3.6 Broader Constitutional Framework

In the context of the Indian Constitution, it is crucial to discuss the UPSC as part of the larger scheme and to relate it to the working of other similar institutions such as Election Commission of India, CAG etc which together represent the institutions of the governance which has been created by the Constitution to uphold the rule of law. The functioning of all these institutions have a collective effect on the:

- Overall quality of governance.
- Strength of democratic framework in India.
- Citizens' Rights under the Constitution.

Hence, the sanctity of independence and accountability of all the constitutional institutions has to be ensured in all the possible means.

### 3.7 The Way Forward: Balanced Approach

It is not advisable to aim for maximum independence at the expense of accountability or vice versa. An independent but answerable institution is needed; one with some external checks to prevent arbitrariness but with substantial freedom of operation and sufficient resources to achieve its ends. The UPSC must endeavor to remain autonomous yet answerable through transparency, public trust and institutional credibility.

### 3.3 Final Conclusion

The Union Public Service Commission is the apex institution in India, entrusting it with the most vital task of selecting the personnel for the Indian Civil Services and to uphold its independence, constitution has provided adequate provisions. However, in actual functioning and in relation to accountability its scope is limited and there exist definite gaps which are required to be filled.

The dissertation has concluded that the relationship between independence and accountability are not conflicting but complimentary and the former has been presented as a constitutional partnership that needs to be properly balanced in order to strengthen the constitution and its objectives in India.

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