

National Convention for Senior High Court Justices:  
Strengthening Fiscal and Administrative Protocols in High Courts

# Budget Preparation and Fiscal Management

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# Judiciary as a public good

- Justice is a sovereign function to establish the rule of law and an indicator of economic well-being.
- Independence of judiciary is one of the strengths of Indian state – does not hesitate to strike down actions of the executive and legislature.
- Essential for dispute resolution, enforcement of contracts, access to justice, establishing certainty in property rights, enforces law of the land - civil and criminal.
- It is a public good in that one individual consumes without reducing its availability to another individual – “non-rival” and “non-excludable”.
- Efficiency of judiciary is critical for working of democracy and the economy (SDG 16 – peace, justice and strong institutions).
- **Public Finance becomes important for efficient functioning of justice administration as it determines the financial resources that the governments at different levels provide for the judiciary to function independently.**

# Structure of Presentation

- Structural issues and Systemic Issues in fiscal policy
- Background on sources of funds – FC awards, CSS, Central sector Schemes.
- Implementation challenges (disparities, shortcomings)
- Recent initiatives – Single Nodal Agency (SNA) system.
- Improvements in Procurement and contract rules
- Steps to improve fiscal management and better utilization of resources.

# Sound Budget and Fiscal Management System

- An open and orderly budget management system at a sectoral level: to ensure that the allocations are utilised as intended and objectives achieved.
  - *Maintaining a Sustainable Financial (Fiscal) Position* -Effective control of the total budget and management of fiscal risks (under utilization, wasteful expenses, time schedules etc).
  - *Effective Allocation of Resources* - Planning and executing the budget in line with priorities aimed at achieving policy objectives.
  - *Effective Provision of Public Services* - Using budgeted revenues to achieve the best levels of public services within available resources -

# Structural Issues- Scarcity of Resources

- Tax – GDP ratio has been around 18-19 % for last 30 years.
- Centre collects 11.1 % (BE : 2023-24)
- States collect 8.2% (BE : 2022-23)
- Centre's expenditure : 14.92% (Rs. 45,03,097 lakh crores)
- States' expenditure : 17.46%
- Fiscal Deficit (Borrowing): **5.9 %** of GDP (Centre) and **3.37%** (States) – (FRBM prescribes **3%** for both Centre and the States).
- Revenue Deficit i.e borrowing spent on revenue expenditure: Centre – **2.9%**. States marginally revenue surplus in aggregate.
- Fiscal consolidation roadmap will bring down FD to 4.5% by 2025-26...so either tax revenues go up or expenditure rationalization and reduction takes place.

# Structure of Central Expenditure

₹ in lakh crore							
S.No.	Item	2018-19		2022-23		2023-24	
		Total allocation	% of total Exp.	Total allocation	% of total Exp.	Total allocation	% of total Exp.
<b>1</b>	<b>Total Expenditure Budget(1)</b>	<b>24.42</b>	<b>0.00</b>	<b>39.45</b>	<b>0.00</b>	<b>45.03</b>	<b>0.00</b>
a)	Revenue Expenditure	21.42	87.71	31.95	80.99	<b>35.02</b>	77.77
b)	Capital Expenditure	3.04	12.45	7.50	19.01	<b>10.00</b>	22.21
<b>2</b>	<b>Establishment</b>	<b>5.08</b>	<b>20.80</b>	<b>6.92</b>	<b>17.54</b>	<b>7.44</b>	<b>16.52</b>
<b>3</b>	<b>Central Sector Schemes</b>	<b>7.08</b>	<b>28.99</b>	<b>11.81</b>	<b>29.94</b>	<b>14.68</b>	<b>32.60</b>
a)	Capital expendiiture	2.67	10.93	5.59	14.17	7.72	17.14
b)	Revenue Expenditure	4.41	20.59	6.22	15.77	6.95	15.43
	<b>Subsidies</b>	<b>1.71</b>	<b>7.98</b>	<b>3.04</b>	<b>7.71</b>	<b>3.20</b>	<b>7.11</b>
a)	Food Subsidy	1.69	7.89	2.06	5.22	1.97	4.37
b)	Fertilizer subsidy	0.71	3.31	1.05	2.66	1.75	3.89
c)	Petroleum subsidy	0.24	1.12	0.05	0.13	0.02	0.04
<b>4</b>	<b>Other Central Expenditure</b>	<b>6.78</b>	<b>27.76</b>	<b>11.33</b>	<b>28.72</b>	<b>13.01</b>	<b>28.89</b>
a)	Interest payments	5.76	23.59	9.40	23.83	10.80	23.98
<b>5</b>	<b>Transfers</b>	<b>4.75</b>	<b>19.45</b>	<b>9.39</b>	<b>23.80</b>	<b>9.89</b>	<b>21.96</b>

# Structure of State Expenditures

(as % of GDP)

All State Aggregate	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20 RE	2020-21 BE
<b>I. Revenue expenditure</b>	<b>12.3</b>	<b>12.4</b>	<b>12.3</b>	<b>13.1</b>	<b>13.3</b>	<b>13.6</b>	<b>13.5</b>	<b>13.7</b>	<b>14.6</b>	<b>14.3</b>
<b>General services</b> of which:	<b>4.4</b>	<b>4.3</b>	<b>4.3</b>	<b>4.3</b>	<b>4.4</b>	<b>4.4</b>	<b>4.6</b>	<b>4.8</b>	<b>4.9</b>	<b>4.9</b>
Interest payments	<b>1.6</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.6</b>	<b>1.6</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>
Pension	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.6</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>
Other general services	<b>1.4</b>	<b>1.4</b>	<b>1.3</b>	<b>1.3</b>	<b>1.3</b>	<b>1.3</b>	<b>1.3</b>	<b>1.4</b>	<b>1.5</b>	<b>1.6</b>
<b>Social services</b> of which	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.1</b>	<b>5.4</b>	<b>5.5</b>	<b>5.3</b>	<b>5.4</b>	<b>5.9</b>	<b>5.8</b>
Education	<b>2.4</b>	<b>2.4</b>	<b>2.4</b>	<b>2.5</b>	<b>2.5</b>	<b>2.5</b>	<b>2.4</b>	<b>2.4</b>	<b>2.5</b>	<b>2.5</b>
Health	<b>0.6</b>	<b>0.6</b>	<b>0.6</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>
<b>Economic services</b>	<b>2.6</b>	<b>2.8</b>	<b>2.6</b>	<b>3.3</b>	<b>3.2</b>	<b>3.3</b>	<b>3.2</b>	<b>3.1</b>	<b>3.4</b>	<b>3.2</b>
<b>Compensation &amp; assignment to local bodies and aid materials</b>	<b>0.3</b>	<b>0.3</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>
<b>II. Capital expenditure</b>	<b>2.4</b>	<b>2.2</b>	<b>2.2</b>	<b>2.4</b>	<b>3.1</b>	<b>3.3</b>	<b>2.5</b>	<b>2.5</b>	<b>2.7</b>	<b>2.7</b>
<b>III. Total expenditure</b>	<b>14.7</b>	<b>14.6</b>	<b>14.5</b>	<b>15.6</b>	<b>16.4</b>	<b>16.9</b>	<b>15.9</b>	<b>16.2</b>	<b>17.3</b>	<b>16.9</b>

# Analysis of Expenditures

- Paucity of resources and demands of development has led to a structural problem in financing critical arms of the State.
- States (other than NE & HS) on an average spend nearly 44 % of their total revenues on Committed expenditures – salaries, pension, interest payment.
- Haryana, Kerala, Punjab and TN spend over 50 %.
- States on an average spend less than 1 % of their total revenue expenditure on Judicial Administration.
- Bihar, Haryana, Kerala, Gujarat, Karnataka, MP, Maharashtra, Punjab and UP spend a higher share as compared to other states.
- AP, Chattisgarh, Rajasthan, Telengana and West Bengal spend a lower share.
- Other than NE and HS, WB and AP spend the lowest.
- Of the four important arms of a regulatory state, Police receives the highest share, followed by Revenue Administration and then Judiciary and Jails.



# Link between fiscal management and access to justice

- India spends only 0.01% of GDP on judiciary – 0.08% of Centre's gross budgetary expenditure and 0.61% of all-states expenditure.
- Centre spends barely 5% of its total expenditure on judiciary.
- Wide variation in per capita expenditures of states – Delhi – Rs.643; West Bengal Rs.69.
- Wide variation in average budget per pending cases – Delhi –Rs. 19,891 and West Bengal Rs. 3225.
- Post 14<sup>th</sup> FC some states increased allocation to judiciary, but not sustained.
- Under-utilization of funds as high as 21% in Maharashtra and UP
- Inequality in average expenditure per subordinate court – Range Rs.208 lakh per court in Kerala to Rs.72 lakh in Punjab.

# Systemic issues in fiscal management and access to justice

- Access to justice viewed conventionally through lens of pendency and vacancy – undoubtedly two important issues.
- But close inter-connection with better infrastructure and facilities – both for judges and the litigants. NCMS report(2012) also talks about this.
- Adding courtrooms, residential complexes and digitalization is one dimension – the other is on providing access to people at all levels of social order – standard facilities that will remove social and economic barriers to justice at the lowest level of court systems.
- Funds are scarce and competing demands are there.
- Timely utilization of available resources and projection of future demands critical to bridge demand –supply gaps in infrastructure and modernization.

# Background on sources of funds – FC awards

- Administration of Justice non-plan, non-development expenditure.
- Centre spent for Supreme Court, Central Tribunals; States spent on High Courts and lower judiciary.
- Need for enhancement of resources – upgradation of administration.
- FCs were the primary mode initially.
- Sixth FC (1974-79) gave grants for judiciary (along with other sectors) to 8 out of 15 states – mainly for manpower deficit.
- Seventh (1980-84), Eighth (1985-89) and Ninth FCs (only for one year 1989-90) gave both revenue and capital grants for manpower and construction of additional courts and residences.
- Eleventh FC (2000-05), Thirteenth FC (2010-15), Fifteenth FC (2020-26) gave separate grants, Tenth and Twelfth skipped.
- Fifteenth FC grants not accepted by President.
- Designed to address gaps in manpower, infrastructure and training (13<sup>th</sup> FC)

# Background on sources of funds – CSS, Central sector Schemes.

- The Department of Justice implementing Centrally Sponsored Scheme(CSS) for Development of Infrastructure Facilities for Districts and Subordinate Judiciary since 1993-94.
- CSS started after Ninth FC did not recommend upgradation grants.
- Central assistance provided to the State Government / UT Administrations for construction of court halls and residential units for Judicial Officers / Judges of District and Subordinate Courts.
- Scheme extended beyond 31.03.2021 with new features like Lawyers Hall, Toilet complexes and Digital computer rooms added for the convenience of lawyers and litigants.
- Court halls and residential units. Sharing pattern- 60:40 in respect of States other than North Eastern and Himalayan States; 90:10 for NEH States; and 100% in respect of UTs.
  - Total of Rs.8709.78 crores released to states between 1993- (March) 2022.
  - Rs.3444.70 released up to 2013-14 and Rs 5265 crore since 2014-15.
  - BE 2023-24 is Rs. 1061 crore (Rs.858 crore in 2022-23)
  - Covers approx. 60 % of total funds – balance from States.

# Background on sources of funds – CSS, Central sector Schemes.

- Other smaller CSS are there.
- Designing Innovative Solutions for Holistic Access to Justice in India (DISHA) – outlay of Rs.40 crores (2021-22), Rs. 48.15 crores (2022-23) and Rs.40 crore in 2023-24.
- Assistance for establishing Gram Nyayalaya – Rs.8 crores (2021-22) and Rs.10 crores (2022-23)
- Establishing Fast Track Courts for Crime under National Safety of Women- Nirbhaya Adalats) – Rs.200 crores(2022-23)
- Separate component for NER states

# Background on sources of funds – CSS, Central sector Schemes.

- E-Courts scheme under Central Sector scheme (100% Central share)
- Phase –I : 2011-15 – Outlay Rs.935 crores and utilization was meagre 68% i.e. Rs. 639.41 crores.
- Phase-II : 2015-23 – Outlay Rs.1670 crore and expenditure was higher at Rs.1688.43 crores.
- Funds are transferred to E-Committee under Supreme Court and kept in a separate bank account.
- For Phase –III DPR (Budget announcement of Rs. 7000 crores) is now finalized and process of sanction started.
- In BE for 2023-24 only a token provision kept.

# Implementation challenges (disparities, shortcomings)

- **Tardy utilization of funds**

- ❖ 13<sup>th</sup> FC period only 20% of Rs.5000 crore utilized – important recommendations not implemented.
- ❖ E-Courts Phase I only 68% could be utilized
- ❖ For infra scheme – Nyay Vikas portal gives information.

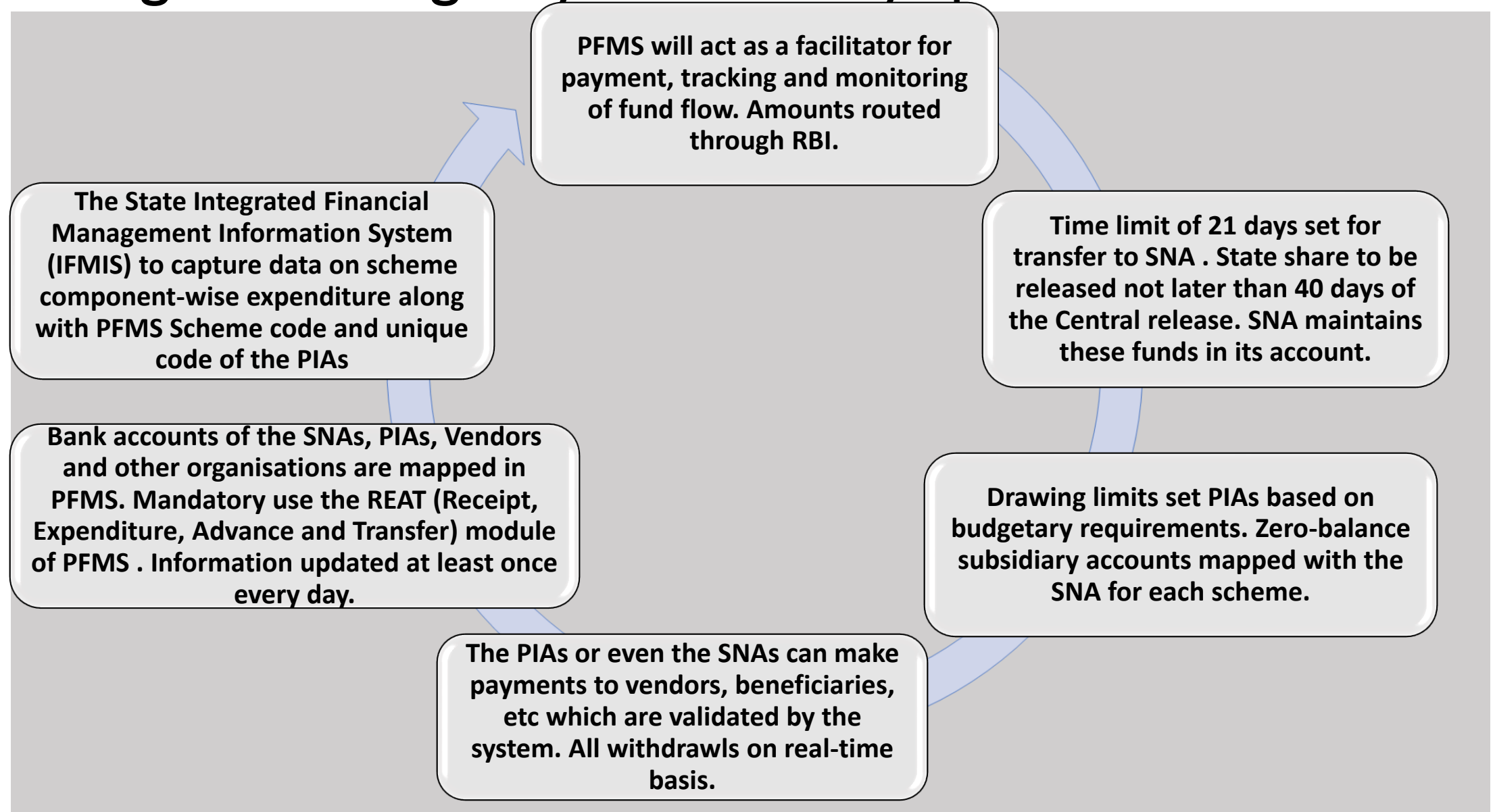
- Coordination issues between different Executive Departments and Judicial Functionaries - pointed out by CAG.
- Mismatch between state projections and Centre's allocation – corrected in the new guidelines where some unit costs have been fixed – key problem is that Centre's allocation is determined by budgetary provision and not State demands.
- Poor preparation of estimates.

# Implementation challenges (disparities, shortcomings)

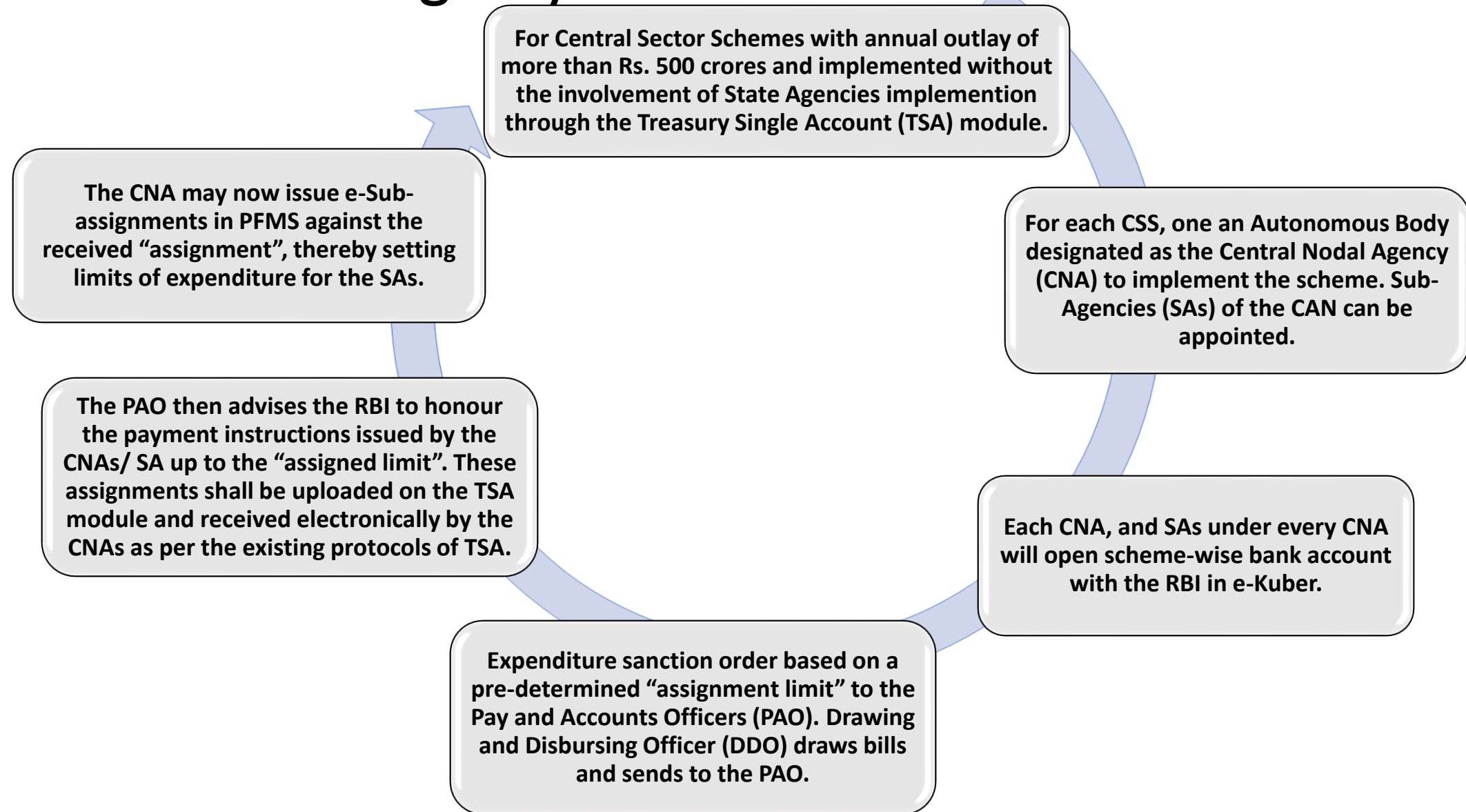
- Poor planning and construction – CAG report for UP points out neglect of proper feasibility report - some steps taken for standardized design by DoJ.
- Bureaucratic inefficiencies – procedural delay at different stages – frequent issues with utilization certificates - even now DoJ reports large number of UCs pending for 1993-2019 period.
- Nyay Vikas points to significant gap between sanction and commencement of projects.
- DoJ itself does not encourage transparency and accountability – no evaluation of performance audit done for the entire scheme.
- Arbitrariness in disbursal of funds.
- Absence of effective coordination mechanism at State and district level.



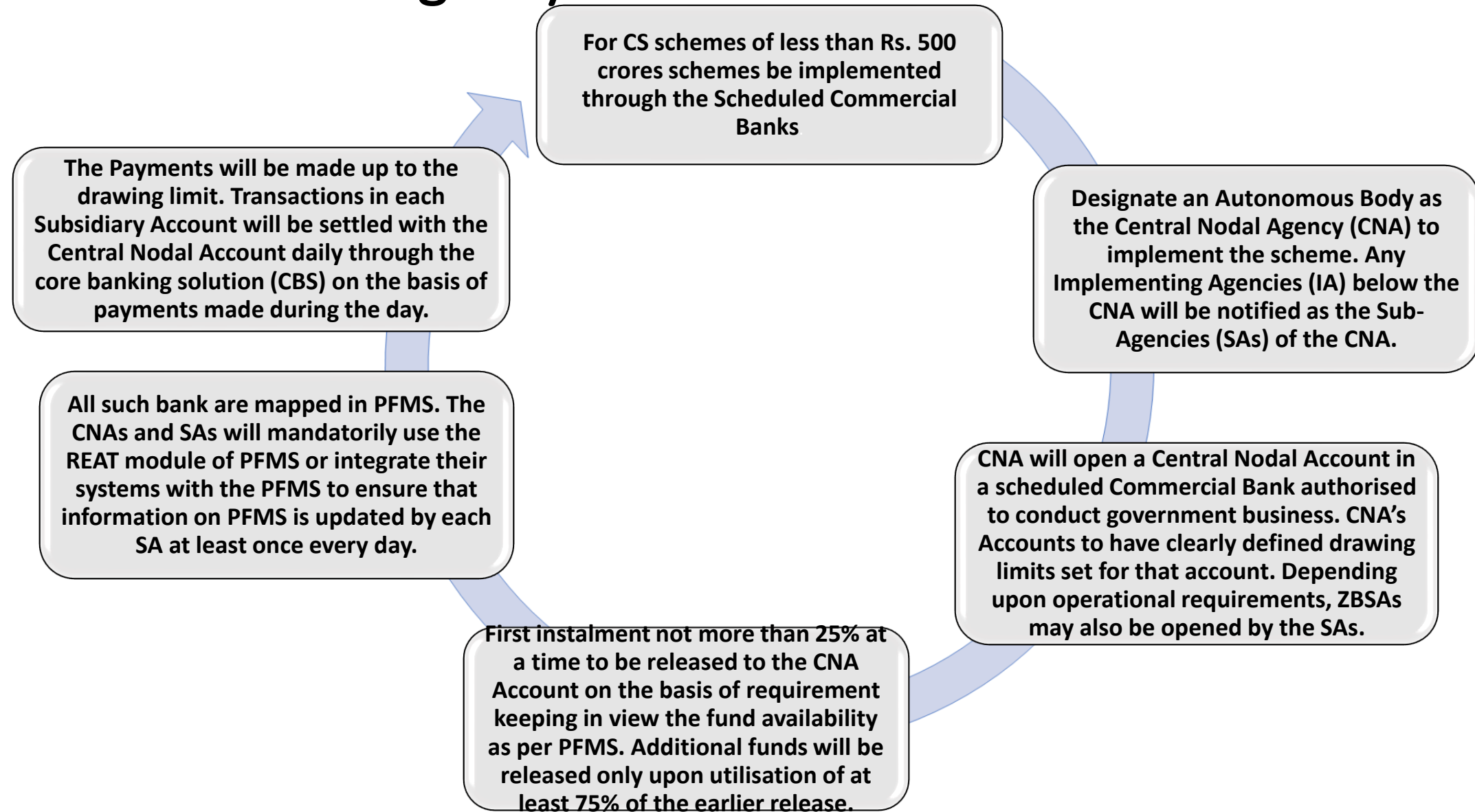
# Single Nodal Agency for Centrally Sponsored Schemes



# Central Nodal Agency for Central Sector Schemes- Model 1



# Central Nodal Agency for Central Sector Schemes- Model 2



# Improvements in Procurement and contract rules

- General Financial Rules, 2017 - contain basic procurement policy and general overview of the procurement process.
- Procurement Manuals (Manual for Procurement of Goods, Manual for Procurement of consultancy and Other Services in 2017, and Manual for Procurement of Works in 2019) – updated in 2021 and 2022 with emphasis on quality parameters over cost.
- E-tender system - Central Public Procurement Portal (CPPP) has been set up for providing comprehensive information and data relating to public procurement and is accessible at [www.eprocure.gov.in](http://www.eprocure.gov.in).
- Government e Marketplace (GeM) set up in 2016 - aims to enhance transparency, efficiency and speed in public procurement- provides the tools of e-bidding, reverse e-auction and demand aggregation to facilitate the government users, achieve the best value for their money.

# Steps to improve fiscal management and better utilization of resources.

- Despite several committees at State level and District level, implementation problems persist.
- Need for domain expertise in finance, accounts, engineering, architecture and administration has been emphasized – NIPFP paper based on FSLRC discussions calls for an Indian Courts and Tribunal Services (ICTS) – some have suggested a separate Directorate for Finance and Accounts.
- ADRs and Fast Track/Special Courts to take care of pending cases under Electricity Act/POSCO etc.
- Four step structure suggested.

# Steps to improve fiscal management and better utilization of resources.

- Suggest each High Court to set up a Project Implementation Unit (PIU) with personnel drawn from Administrative Service, Finance and Accounts, Technical services, Technology experts from NIC/State IT, Judiciary. – manned by persons on deputation or retired recently but chosen with care and proper evaluation of expertise and credibility.
- Consider the suggestion of 13<sup>th</sup> FC to have Court Managers to assist the judges in administrative duties.
- Empower and delegate responsibilities to the PIU.
- Oversight Committee with experts chosen from the same fields to monitor the implementation and quality – NHAJ has been successful in doing this.
- State level empowered Committee (SLEC) under Chief Justice of HC with Chief Secy, Fin Secy, Secy (Buildings), Law Secy, Secy (IT) to monitor and review physical and financial targets, take corrective steps and resolve inter-departmental problems – meet at least once in a quarter.
- Replicate empowered Committee at district level with Dist. Judge and Collector.

Thanks