
UNIT 26 INGREDIENTS OF GOOD GOVERNANCE

Structure

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26.0 OBJECTIVES

After going through this unit, you will be able to

- state the importance of governance in the context of formulation and implementation of economic policies;
- explain the features of good governance;
- identify the characteristics of functionaries involved in the governance and implementation of economic policy;
- describe the state of affairs prevailing in the governance of the Indian economy;
- evaluate the governance sceneries prevailing in India.

26.1 INTRODUCTION

We have looked at various aspects of Indian Economic Policy in Blocks 1 to 7. These related to availability of resources and infrastructure, development strategies adopted and economic reforms ushered in over the last 25 years, development and administration of policies relating to different sectors and aspects of the economy, especially in a federal set up. All the steps detailed in these Blocks consist of a complex of policies enunciated and implemented over the years. These policies have put the Indian economy on a higher and rising growth path from the so called “Hindu rate of growth” of 3 per cent per annum, it achieved during the period before the Eighties. Its average annual rate of growth of Gross Domestic Product (GDP) has, for instance, risen to 5.5 per cent during the period 1997-2002, 7.8 per cent during the period 2002-07 and 8.2 per cent during the first four years of the Eleventh Five Year Plan period. The share of India’s GDP in World GDP has gone up from 1.5 per cent to 2.8 per cent between 2000 and 2011. The investment rate and the savings rate have also steadily moved up over successive five-year plan periods. (Planning Commission, 2011).

Units in Block 4, on the other hand, delineate the major problems that continue to plague us even today, despite all development efforts and creditable performance on the GDP front, like poverty, social and economic inequalities, unemployment, regional disparities and the ever-eluding phenomenon of “inclusive growth” that keeps a majority of the population away from the fruits of development and the mainstream of national life. A few parameters of the quality of life of people in India reflect the disquieting state of affairs. Incidence of poverty is still at a high level and levels of unemployment are still a little above the 1993-94 levels. A major proportion of the employment opportunities (according to CDS criterion) generated during the period 2004-05 and 2009-10 has been in casual employment, especially in construction. Enrolment ratios have risen sizably at all levels of education but quality of education remains a challenge. Every third woman is undernourished (35.6 per cent have a low BMI¹) and every second woman is anaemic (55.6 per cent). Sex ratio in the age group (0-6) continues to decline. The Total Fertility Rate (TFR) remains at 3.3 in four large States (UP, MP, Bihar and Rajasthan). (Planning Commission, 2011).

Such a state of affairs shows how far the country is from the Welfare State it wished to become. While this could be due to inadequacies in the development policies/strategies pursued so far, there could be other reasons too. The most well designed policies and programmes may not yield the desired benefits or provide benefits to their target groups or lead to unintended or even undesirable consequences, *if their implementation is indifferent or faulty*. Such indifferent or faulty implementation arises from incompetence and/or apathy on the part of those implementing/supervising/monitoring such policies/programmes. Corruption in implementation like identification of beneficiaries or allowing their access to benefits of the programmes/policies *for a consideration* or letting vested interests corner the benefits of the programme. This would be clear from the following examples. (i) A well designed project for providing housing for the poor, formulated by the Public Works Department (PWD), is executed by a properly chosen contractor, with PWD engineers being responsible for ensuring that the houses are as per the standards/specifications prescribed in the awarded contract. The contractor makes use of substandard material and processes in constructing the houses, with PWD engineers ignoring these malpractices, having been suitably compensated for the purpose. The beneficiaries of the project start facing problems like leakage in the roof, widening cracks on the wall, etc., soon after moving into the allotted houses. A few years later, the houses also collapse, causing injuries, some of them fatal, to members of the beneficiary families. (ii) Government launches a self-employment scheme in which an unemployed gets 75 per cent of his/her project cost from the bank and the rest from the government, also routed through the bank. However, the self-employed soon ends up a *defaulting debtor to the bank*, not because of any infirmity of his/her project but because of he/she being left with capital that is too small to support any viable economic activity after giving away a sizeable part of the loan received as bribe to bank officials for sanctioning the loan. (iii) It is not uncommon to find fair price shops diverting food grains meant for the Public Distribution Scheme (PDS) to the open market and earning a profit along with the supervising PDS officials at the expense of PDS beneficiaries. Thus if access to opportunities for human development is determined *not on the basis of equity, merit and the law of the land but by power and pelf*, the objectives of the development process, especially those like inclusive growth, poverty eradication, etc., get distorted. Other issues that also arise in this

¹ Body Mass Index (a person's weight in kg.) , (the square of the person's height in meters).

regard are, the relevance of policies and programmes to the beneficiaries concerned, involvement of the beneficiaries/citizens at the decision and implementation stages and effective mechanisms for redress of grievances of the public *vis à vis* public services. All these questions have a bearing on the way benefits of economic growth get distributed in the society and *even economic growth itself*. (Annexure I gives you an idea of the macro-economic impact of corruption). This complex of processes of decision-making and implementation and those related to questions raised above, or 'governance' as it is referred to, will engage our attention in this Unit.

26.2 WHAT IS GOVERNANCE?

The concept of "governance" is not new. It is as old as human civilisation. Of late, it is being used frequently in development literature in the context of tackling poverty and the consequences of lopsided economic growth. Definitions of governance vary from broad and all-inclusive ones like "rules, enforcement, mechanisms and organisations" (The World Bank, 2002) to those with a sharper focus like "the exercise of political authority and the use of institutional resources to manage society's problems and affairs" (The World Bank, 1991). The Worldwide Governance Indicators (WGI) Project of the World Bank struck a middle path by defining it as "the traditions and institutions by which authority in a country is exercised; this includes the process by which (a) governments are selected, monitored and replaced; (b) the capacity of the government to effectively formulate and implement sound policies; and (c) the respect of citizens and the state for the institutions that govern economic and social interactions among them". The WGI Project attempted the measurement of two key dimensions of governance in each of these areas: (a - i) voice and accountability and (a - ii) political stability and lack of violence; (b - i) government effectiveness and (b - ii) regulatory quality; and (c - i) rule of law and (c - ii) control of corruption. (Kaufmann, Kraay & Mastruzzi, 2010). The UNDP Regional Project on Local Governance in Latin America looked at the process of governance to consist of "the rules of the political system to solve conflicts between actors and adopt decisions (legality)"; it can also describe the "proper functioning of institutions and their acceptance by the public (legitimacy)"; and "it can also be used to invoke the efficacy of government and the achievement of consensus by democratic means. (participation)". (cited in Applebaugh J, 2010). This is a widely cited definition. UNESCAP (2010) defines it as "the process of decision-making and the process by which decisions are implemented (or not implemented)".

The Tenth Five Year Plan (2002-07) document brings in to the definition also the ultimate objective of the State in human development. According to it, governance relates to the management of all processes that define the social environment which permits and enables individuals to raise their capability levels and also provides opportunities to enable them to realise their potential. These processes cover every aspect of life and impact every level of human enterprise. These cover the State, the civil society and the market, each of which is critical for sustaining human development. The State is responsible for creating a conducive political, legal and economic environment for building individual capabilities and encouraging private initiative. The market is expected to create opportunities for the people, civil society facilitates the mobilisation of public opinion and good governance and people's participation in economic, social and political activities. (Planning Commission, Govt. of India, 2001). The Second Administrative Reforms Commission (SARC), set up by the Government of India suggest measures to

achieve a proactive, responsive, accountable, sustainable and efficient administration of the country at all levels of government, and views governance as “primarily a series of operations with the ultimate objective of maximising citizens’ welfare”. (SARC, 2009, Preface).

All these definitions (including the WGI definition, when suitably adapted) would be applicable to all levels of Government — local, provincial and national. But governance is important to all organisations and entities — corporates, non-governmental organisations (NGOs) and others, including international relations. The Commission on Global Governance (CGG) (1995) adopted a very comprehensive definition that covers these entities too. It looked at governance as “the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest.” (The UNESCAP definition is also general enough to cover all entities like the CGG’s definition).

The definitions enumerated above show that ***governance, be it at any level or of any entity, involves core elements like***

- a) ***the exercise of power or authority and decision-making by a group of people for and on behalf of, or affecting, a larger group (stakeholders or community) and the enforcement of decisions taken,***
- b) ***institutional arrangements or the enabling environment for the purpose, and***
- c) ***the role of the larger group in (a) and(b) and the mechanisms that facilitate such role.***

Check Your Progress 1

- 1) Do you think that quality of life of people in India reflect the disquieting state of affairs? Give reasons.

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- 2) How the term ‘governance’ has been defined by UNDP in its project on local governance?

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- 3) State the core elements of governance.

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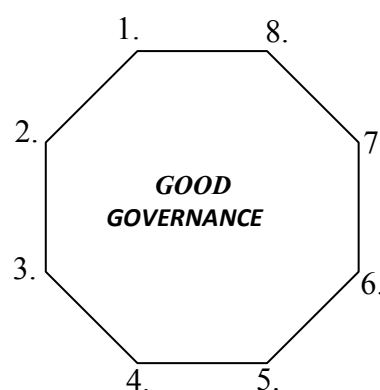
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26.3 FEATURES OF GOOD GOVERNANCE

What is good governance? What aspects of governance (of a country, community or organisation) matter from the point of view of the objectives of good governance? The WGI project indicates some areas of concern in this regard. According to the United Nation's Commission on Human Rights, key attributes of good governance include transparency, responsibility, accountability, participation and responsiveness to the needs of the people and good governance is thus linked to an enabling environment conducive to the enjoyment of Human Rights and promoting growth and sustainable human development. SARC (2009, Chapter 2) and UNESCAP (2011) identify the following eight attributes, shown schematically (see figure), of good governance.

GOOD GOVERNANCE

- 1) Participatory,
- 2) Consensus-oriented,
- 3) Accountable,
- 4) Transparent,
- 5) Responsive,
- 6) Equitable and Inclusive,
- 7) Effective and Efficient and
- 8) Follows the Rule of Law.



UNESCAP (*ibid*) elaborates further. "It (good governance) assures that corruption is minimised, that the views of the minorities are taken into account and that the views of the most vulnerable in society are heard in decision-making. It is also responsive to the current and future needs of society".

One may add another feature of good governance to this list. That is **good governance functions as the trustee of the governed**. This is almost the same as the aspect "responsible" listed in the UN Human Rights Commission's list of attributes of good governance referred to above.

Let us take a look at each of these nine attributes in some detail.² It would be observed that most of these attributes imply each other or lead to each other.

1) Good Governance is Participatory

Participation of people, irrespective of class, creed or gender, in choosing the instrumentality of the State, namely, government at different levels, is the first and important mode of participation in governance. An electoral system that ensures free and fair elections through which people can choose, without fear or favour, their representatives and, through them, the government that will work for their welfare, is the corner stone of good governance. Their participation in decision-making and formulation of policy and implementation of policy is the next step for good governance. Such participation may be *direct*, as is possible in the elections referred to above and in the functioning of village councils (*gram sabhas*), or *indirect*, through legitimate intermediary institutions (the legislatures) or representatives (members lawfully elected by people to the legislatures or *gram panchayats*), as in a representative democracy. A representative democracy does not, however, ensure that policy-making processes take note of the concerns of

² The rest of this Section is based largely on ESCAP (2011) and SARC (2007, 2007a and 2009).

the most vulnerable sections of society, though mechanisms like reserving certain electoral constituencies for such sections of society (like those reserved in India for Scheduled Castes/Tribes) are steps to prevent such gaps in participation. In any case, such a desirable impact on decision-making is possible only if participation is well informed and organised, which in turn can be brought about only by facilitating freedom of expression, association and peaceful assembly, building up of capabilities for constructive participation and an organised civil society, where “civil society” refers to the group or groups made up of all who have a stake in the process of decision-making and implementation (stakeholders) other than government and the armed forces. Civil society organisations promote the participation of the people in the governing process through bringing to the fore (i) the views of the public on various issues (ii) creation of awareness of issues of importance for the community along with information relevant to such issues and (iii) fighting for the rights of the people or of specific sections of society. Effective participation of the people and civil society in the governance process also has the potential to reduce corruption.

2) Good Governance is Consensus-oriented

The process of decision-making in any country involves several formal and informal actors or stakeholders — the elite, the farmers’ associations, NGOs, political parties, financial institutions, international donors like the World Bank and the IMF, multinationals, industry associations, lobbyists for various interest groups, caste/community associations and so on, besides the government and the armed forces. Points of view on the issue being considered for decision would be as many and as varied as the actors or interest groups involved. Good governance calls for (i) mediation between the different interests involved to arrive at a **broad consensus on *what is in the best interest of the society*** and (ii) suitable mechanisms to facilitate such a process. It is important to note here that good governance is to evolve a consensus on “what is in the best interest of the society” and not to let the more powerful and stronger sections of society have their way.

3) Good Governance is Accountable

Being accountable is to be answerable for one’s actions, or inaction. This is an essential feature of good governance. Government has to be accountable to the public who elected it to function for their benefit. Besides government institutions, all organisations – private corporate entities and firms and civil society organisations and even the Professions – have to be accountable to the public and their institutional stakeholders, like shareholders, directors in the company’s Board and customers/consumers, and members of the organisations/associations concerned, that is, whoever is affected by the decisions and actions of the organisations/entities concerned. Institutional mechanisms should exist to ensure that accountability of government/organisational entity to the people/stakeholders is transparent and governed by *suitable* laws enacted for the purpose. Some examples can be mentioned here. Government submits itself to questioning of its activities and performance in the appropriate legislatures and in the committees of the legislatures (for instance, the Estimates Committee of the Parliament in India). Government’s performance and connected accounts of expenditure are subjected to audit by an independent national audit authority established by law (the Comptroller and Auditor General in India) and its report on the audit is discussed in Parliament and its committees (Public Accounts Committee of the Indian Parliament). A corporate entity or a company likewise places a record of its performance in the form of annual reports and audited balance sheet and accounts before the shareholders of

the corporate entity or members of the association concerned (the stakeholders) at the Annual General Body Meeting (AGM) of the share holders/members for discussion and approval, as required in the Memorandum and Articles of Association of the entity and the relevant laws of the country.

Again, two types of questions are related to accountability. One is the right to information. Information sought by the citizen (or the stakeholder) has to be made available to him/her. (The Right to Information Act, 2005 enacted in India that provides for this in the case of the government, is an example). This is a one-way flow of information answering the question '*what*'. For instance, information may be sought (and obtained) on the number of persons benefiting from the implementation of a certain scheme of the Government. The second type involves not just '*what*' but also '*why*' and, therefore, facilitates a two-way flow of information with citizens providing a feedback on the work of government functionaries. Examples of mechanisms for the purpose are (i) Citizen's Charters (a promise on the part of the organisation on the standards of service that it would provide to citizens, implying that the organisation and its functionaries are answerable for any shortfall in such standards), (ii) service delivery surveys, (iii) social audits³, (iv) citizens' report card and (v) outcome surveys. In the United Kingdom (UK), for instance, a Standing Committee on Standards in Public Life, an independent advisory body appointed by the Government of the UK, conducts at regular intervals surveys on public attitudes towards conduct in public life and publishes its reports on these surveys. An example of a mechanism available in the private sector, is the guarantee/warranty card for a commercial product or service.

Accountability of governance entities to stakeholders is a major instrument of curbing corruption in administration.

4) **Good Governance is Transparent**

Transparency implies openness and accountability. An organisation can be called transparent when its decision-making process and the manner of its functioning are open to the scrutiny of the public/stakeholders and the media and to public discussion. The process of decision-making and implementation should also be in accordance with appropriate rules and regulations. Information on the decision and its implementation should be freely available to those who will be affected by these. Indeed information on these should be directly accessible to all stakeholders. Sufficient information should be provided in easily intelligible formats, directly and through the media. Communication formats chosen should take due note of the levels of literacy and education and the digital divide in the population and the reach of the media and should also steer clear of possible distortions of the communication by vested interests acting against the objective of transparency or the policy in question. Transparency is a bulwark against corruption in administration and facilitates participation by the public in the decision-making processes and contributes to a grassroots level, functioning democracy.

5) **Good Governance is Responsive**

Good governance calls for a responsive governance system. One could distinguish two types of responsiveness in governance. All entities making up the governance system should be alive to current and emerging needs of the stakeholders and their aspirations and formulate plans and policies well in advance to tackle such needs

³ Audit of citizen-service-oriented activities of government departments by clients or beneficiary groups or civil society groups - one way of getting information on, and prevention of wrong-doing in, such activities.

as they arise promptly. This calls for the agencies to develop empathy for the problems, difficulties and aspirations of the community they serve. *In other words, governance should be citizen-centric, or the governed should be the focus of all the efforts of governance.* The second is to attend to, ***within a reasonable timeframe***, the problems, grievances and issues that are brought to their notice or those that come to their notice. For instance, an application for a service (the issue of a ration card to the applicant, in India) should be processed and the service delivered (the desired ration card or a clear guidance regarding any additional requirement, the applicant has to fulfill to become eligible for the ration card) within a reasonable period of time. This timeframe for the delivery of the service should also made known to all stakeholders so that they are aware of the time it would take for their demand for the service to be fulfilled. Such responsiveness alone can lead to the community or the stakeholders reposing its/their trust in the governing agency and also reduce corruption in governance.

6) **Good Governance is Equitable and Inclusive**

Good governance ensures that all members of the community are equal and have equal opportunities to (i) improve and maintain his/her well being, (ii) develop his/her capabilities to the fullest extent, (iii) earn his/her livelihood with dignity and freedom, (iv) participate in the social, cultural, political and economic processes of the community and (v) shape the destiny of his/her community. Only then would all feel that they have a stake in the community and none would feel excluded from the mainstream of society. Society's well-being is then assured. Age-old prejudices, socio-cultural mindset and exploitative economic and social organisation lead to social and economic inequalities and the marginalisation of certain sections of society. These inequities and exclusions tend to perpetuate themselves and become part of the social scene and even social norms. The success of governance lies in its capacity to alter such prejudices, practices and mindset to bring about a social change to usher in an equitable and inclusive society. Affirmative action in the form of positive discrimination in favour of the marginalised, education and the empowerment of the vulnerable sections of society are among the kind of measures that will facilitate the necessary social change to achieve this goal.

7) **Good Governance is Effective and Efficient**

Government tries to meet the needs of society through development processes and institutions in the public and private spheres. These make use of available resources – natural resources like land, water and minerals, financial and physical capital and human resources – for the purpose. These processes also often harm ecology and the environment leading to loss of forest cover, land erosion, pollution of the atmosphere (the Bhopal Gas Leak in December, 1984, for example), waterways and sources of drinking water, over-exploitation of non-renewable resources like coal and oil, global warming and climate change and even the livelihood of certain vulnerable sections of society like the *adivasis*. These can be prevented only when (a) project proposals are appraised with regard to their impact on the environment and (b) the impact of projects on the ground on the environment (due to emission of untreated harmful gases, storage of harmful gases or chemicals without observing the prescribed safety norms and letting out untreated industrial effluence and wastes, for example) is continuously monitored by the project authorities and the government agencies concerned. Good governance ensures that the satisfaction of society's needs is achieved (i) by making ***efficient*** use of available resources, (ii) by ***sustainable use of resources*** and (iii) ***protection of the environment***. Only governance practices designed to overcome pressures

exerted by vested interests in favour of (i) development projects that have adverse consequences for the environment and to vulnerable sections of society and (ii) projects that are of questionable value and benefit to society or sections thereof, would qualify for good governance.

8) **Good Governance is Rule of Law**

Good governance needs a fair legal framework that is enforced strictly and impartially. There should be full protection of human rights, especially those of minorities. All should have equal protection of the law and none should be above law. A fair legal framework will call for an incorruptible, efficient and impartial police force and an independent, incorruptible judiciary. There should be free access to the judiciary. Judicial processes should not be so costly that the poor and the not so well off cannot afford to seek judicial intervention in their problems. Dispensation of justice should also be quick since justice delayed is not only justice denied but also a damper on people taking recourse to the courts to establish their Rights or to seek redress of their grievances.

9) **Good Governance Functions as a Trustee of the Governed**

The ingredients of good governance also include another important feature – it ***functions as a trustee of the people of a country or the stakeholders in an entity or organisation***. Sovereign power resides ultimately in the people and the instrumentality of the State, namely, the government elected by the people, is expected to exercise this power *only on behalf of them and for the common good, as their guardian and trustee*. The governed have *entrusted* their destiny in the hands of the government. All actions taken by the government – be it the utilisation of natural resources, mobilisation and utilisation of financial resources, formulation and implementation of policies and programmes – should, therefore, be taken *only for and on behalf of the people and in a manner that is in line with the trust reposed in the government by the people*. It is the government of the people, by the people and for the people. This, in respect of natural resources for instance, means that the people are the designated owners of the natural resources in any country and while the State may be deemed to have a proprietary interest in such resources, good governance requires that the *state act only as a guardian and a trustee of the people in ensuring* that the ownership and control of these resources are distributed so as to best sub-serve the common good. The doctrine of public interest casts on good governance the responsibility of protecting such national assets (including the environment) for the enjoyment of the general public (the present and future generations) rather than permitting its use for private ownership or commercial purposes. Characteristic features of good governance practices like transparency, equitability, accountability and the rule of law all come into play in this aspect of good governance.

This principle is easily seen to apply to any organisational entity and the resources these employ by substituting ‘stakeholders’ and ‘governing bodies/councils/boards elected by them or empowered by them’ in the place of ‘people’ and ‘governments’ respectively.

The nine attributes of governance detailed above would facilitate the ushering of a society that is free of corruption, inequity, injustice, negation of basic rights, poverty and marginalisation of the vulnerable sections of society. Good governance, as described here, is clearly an ideal. Very few countries would come close to achieving good governance in its totality. Nevertheless, it is necessary to take steps to move towards this ideal in order to ensure sustainable human development.

Check Your Progress 2

- 1) List the key attributes of good governance.

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- 2) How do civil society organisations promote the participation of the people in governing process?

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- 3) What is the major instrument for controlling corruption in administration?

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- 4) Identify the development process which harms ecology and environment.

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26.4 CHARACTERISTICS OF FUNCTIONARIES INVOLVED IN GOVERNANCE

We have attempted, in the foregoing paragraphs, an enumeration of the characteristic features of good governance. What are the desirable characteristics that those who work in governance systems should possess so that these systems lead to good governance?

- Let us look at some ancient wisdom on the subject. Kautilya's *Arthashastra* elaborated the traits of the king of a well governed State : "In the happiness of his subjects lies his happiness, in their welfare his welfare, whatever pleases himself he does not consider as good, but whatever pleases his subjects he considers good". Plato, the Greek Philosopher, stressed the importance of the association of the wise with good governance when he said, "the punishment suffered by the wise who refuse to take part in government is to suffer under the government of bad men". Confucius described righteousness as the foundation of good governance and peace. (SARC, 2007, the Preface).
- The political leadership elected by people in representative democracies (the Ministers and the legislators), the modern equivalent of rulers of countries in the past, operates the government, the instrumentality of the State, with the assistance of the bureaucracy appointed by the government. All those who

work the governance system, or the public servants or holders of public office, are of course as much subject to the law of the land and the constitution as any of their fellow citizens. According to SARC (2007, Section 2.2.6), “the standards of behaviour of public servants should be more stringent than for the ordinary citizen”, as they are entrusted with the responsibility for shaping the destiny of the people and “it is at the interface of public action and private interest that their conduct should be inspired by principles of ethics and good conduct.” Such good behaviour is also expected of the professions, since doctors, engineers, chartered accountants, lawyers, etc., too work for the public or the public cause and often find themselves at the interface of public action and private interest.

- The features of good governance enumerated in Section 3 would imply that holders of public office should be honest; their integrity should be beyond question; they should be impartial and objective in their actions and dealings with people; they should be imbued with a sense of public service; they should have empathy for the problems, difficulties and aspirations of the people they serve, especially those of the poor and the vulnerable; they should be conscious of the fact that they are accountable for their actions; they should have respect for the law of the land and the rules and regulations to which their organisation is subject; they should respect the rights of the people they deal with; their decisions and actions in their official capacity should be transparent, with reasons given for specific course of action, when necessary; they should be efficient so that the public service delivery they are responsible for is quick; they should have the capacity to resist pressures from vested interests while carrying out their functions; and finally, they should realise that they are public servants, that is, their ultimate boss is the people and this realisation should shape their behaviour, decisions and actions.
- “The Nolan Principles” set the gold standard for holders of public office. The Lord Nolan Committee (Committee on Standards in Public Life), propounded, in its first report (Nolan, Lord, 1995), the *Seven Principles of Public Life that should guide all holders of public office*. In view of the Committee, these apply to all aspects of public life and should benefit *all who serve the public*. The seven principles, which include almost all those mentioned in the preceding paragraph, are detailed in Annexure II. These are of general applicability to all democracies and could form the basis for formulating a code of conduct for public functionaries in such governance systems. The guidelines for formulating codes of ethics and codes of conduct for Ministers, legislators, the bureaucracy, the regulators, the professions and the judiciary in India and the means of monitoring their implementation/enforcement in a transparent manner, recommended by SARC (2007, Chapter 2) also set standards of behaviour for good governance.

26.5 GOVERNANCE IN INDIA

We have tried in Sections 26.2, 26.3 and 26.4 to describe what governance is, what the features of good governance are and what traits should those who work a system of governance possess to make it a system of good governance. Let us examine what the position of India is in this regard.

- India has an elaborate legal framework and institutional structures underpinned by its Constitution. The Fundamental Rights enshrined in the Constitution and

the Directive Principles of State Policy in the Constitution embody the concept of a Welfare State. The Constitution ensures that Indian citizens are entitled to a number of rights enforceable in a court of law, like the Right to Life, the Right to Freedom of Association and Speech and the Right to Education, social and economic equality, equality before the law and equal protection under law. Every citizen of age 18 and above has a right to vote in elections to Parliament, the State Legislatures and local bodies. These elections have also been organised frequently and have generally been fair — keeping alive democratic system of governance in India. The Right to Information Act, 2005 and Citizens' Charters put up in a number of Government Organisations facilitate transparency in Government processes. The government has taken affirmative action to bring the socially challenged like the Scheduled Castes and Tribes and the Backward Classes and the physically challenged to the mainstream of society through constitutional, legislative and policy initiatives. Watchdog institutions like the Comptroller & Auditor General (CAG), the Election Commission, the Central Vigilance Commission (CVC), the National Commissions for the Scheduled Castes, the Scheduled Tribes, the Backward Classes, Women and the Minorities, the National and the State Human Rights Commissions, the Securities and Exchange Board of India (SEBI) and the Reserve Bank of India (RBI) oversee and check malpractices in areas coming under their respective jurisdictions. Agencies like the Ministry of Environment & Forests give environmental clearance to projects before Government clears these for implementation. Parliamentary Committees and Committees of the Legislative Assemblies review actions of Government in the Centre and in the States. The Select Committee of Parliament, the Standing Committee (of Parliament) of the Ministry concerned and the Standing Committee (of Parliament) on Finance examine, in consultation with the public and experts (for example, the Food Security Bill, 2011), legislative Bills brought before Parliament and revise these for the consideration of Parliament or even reject some of these Bills. (The National Identification Authority Bill, 2010 is an example). Similar mechanisms exist in the Legislatures at the State levels. The system of parliamentary committees is becoming more and more consultative, as various stakeholders, including the state governments, present their cases before these committees, says National Social Watch (NSW) (2011).

- e-Governance has been gradually introduced over the years in various government operations and services, especially at the cutting edge of administration to cut down delays in the delivery of services and reduce the scope for mal-practices and corruption. A Computerised Public Grievance Redress and Monitoring System (CPGRAMS) and a National e-Governance Programme were launched in 2001/02 and 2006 respectively. Some notable examples of faster public service delivery are computerisation of booking rail, road and air tickets, banking operations, on line banking and electronic transfer of funds, issue of passports, on line examinations, on line registration of complaints and tracking their processing (Punjab and Bihar), E-Seva (Andhra Pradesh) and FRIENDS - Fast, Reliable, Instant, Effective Network of Services - (Kerala) simplifying transactions between the Government and the citizens for payment of utility bills and for different services, E-Choupals (Madhya Pradesh) for farmers selling their produce and Rural Kiosks – Rural Service Delivery Points (RSDP) – for e-seva through the internet for payment of utility bills and provision of farm information, Bhoomi Centres in Karnataka providing a printed copy of the extract of the record of rights, tenancy and crops for a fee of Rs.15, issue of driving licenses with minimum human

interaction in the process (Bengaluru and Mysore) and Lifelines Education – A Mobile Query System, delivering critical education advisory support services to school teachers through mobile phones (Rajasthan). (see www.indiagovernance.gov.in) and (SARC, 2007, pp.135-6). The use of ICT, networking and satellite technologies has also enabled easier and quick access to news, information and knowledge of students and teachers and others through the TV and the internet.

- A number of non governmental organisations (NGOs) promote the participation of civil society in the governing process through bringing to the fore (i) the views of the public on various issues (ii) creation of awareness of issues of importance and (iii) fighting for the rights of the people or of specific sections of society. Some examples are the Mazdoor Kisan Shakti Sagatan (MKSS), Rajasthan, Catalyst Trust, Chennai, Public Affairs Center, Bengaluru, People's Union for Public Liberties, National Election Watch, Delhi, the Center for Public Interest Litigation, (SARC, 2007, 126-8), India Against Corruption (IAC) and Team Anna. Some examples of such groups successfully putting pressure on erring governments to reform corrupt practices are: (i) The MKSS gained access to employment rolls, vouchers, beneficiary lists and completion and utilisation certificates of local public works and handed these over to the villagers concerned for scrutiny in *Jan Sunvai* (public hearings). Instances of large scale corruption like *false* muster rolls, *false* bills and vouchers and *false* completion and utilisation certificates were unearthed in these public hearings. The Government of Rajasthan *had to introduce serious reforms like the creation of a ward sabha with powers to conduct social audit of government programmes, approve proposals for public works and certify proper execution of works*. (ii) Parivartan, a Delhi based NGO, exposed corruption in the Public Distribution System (PDS) by using the RTI Act to gain access to stock registers of fair price shops and detecting diversion of large quantities of rice, wheat and oil, intended for the public, to the open market (*ibid* pp –127-8). (iii) IAC and Team Anna successfully mobilised public opinion *against* corruption in public life and in favour of an independent institution to investigate cases of corruption to punish the guilty.
- Media is free and vigilant about public affairs. Sting operations constitute a recent addition to its armoury to unearth corrupt practices. The Press Council of India guards the freedom of the press. Media has exposed several unethical or irregular practices in public life, as for example corruption in the procurement of weapons for the armed forces (tehelka.com), influencing and winning over of a witness for one of the parties to litigation (NDTV) and the sale of S-Band spectrum to a private company by Antrix Corporation of the Department of Space. (The Hindu).
- Finally, there is an independent Judiciary that interprets the Constitution, upholds the Constitutional Rights of Indian citizens, punishes violations of the law of the land and also strikes down laws and policies made by the Executive that run counter to the provisions of the Constitution. A Law Commission examines the effectiveness of the laws of the land over time and recommends changes needed in the laws. The Supreme Court (the apex court) devised an innovative device since the Eighties – the Public Interest Litigation (PIL) – to enable any person or civil society group to approach the court seeking legal remedies in cases where public interest is at stake. It has acted even on post cards/letters from individuals, articles in newspapers and petitions from a

wide cross section of people. This has not only facilitated the access of the poor and the vulnerable and civil society groups working for their welfare to courts but also led to some significant judicial pronouncements in areas of concern to good governance like human rights (the rights of detainees/prisoners, conditions in prisons, custodial violence, arbitrary arrests and the rights of the victims of crime), the environment, the judiciary and public accountability of public officials and the development of legal principles like “the polluter pays” and “award of compensation for constitutional wrongs”. (Desai, Ashok and Muralidhar, S., 2000, especially Section 4). The Court’s positive pronouncements in areas of civil liberties, social and economic rights and development and on issues of rural and urban governance over the years show the judiciary’s vital role as a guardian of rights and of order in society. These also prompted the Law Commission to point out to the government the persistence of poverty due to faulty implementation of laws dealing directly or indirectly with it and to request it to give top priority to the implementation of the judgments rendered by the Courts in both letter and spirit so that the lot of the have-nots is ameliorated. The Delhi High Court did not hesitate to reiterate its decision, in a case relating to the RTI Act, to uphold an individual’s right to request for information about the declaration of personal assets of Supreme Court judges when the Chief Information Officer of the apex court questioned the legality and correctness of the decision. (NSW, 2011).

Thus most of the institutional structures considered necessary for ensuring good governance exist in India and as, noted above, with some good governance outcomes. Yet, the present governance scenario in India is far from satisfactory, as indicated below.

- A majority of the people – the poor and the illiterate – is unaware of its entitlements. Rights, violations do occur; the socially disadvantaged sections of society are treated badly, discriminated against, socially segregated and even assaulted by others and the police often look the other way. Women, even the educated ones, fare no better.
- Notwithstanding the efforts of the Election Commission to rid the election process of the influence of money and muscle power and corruption, elections continue to be driven by these factors, thereby preventing a real competition for political power. What has been the performance of the Parliament? The first thing to note is the worrying trend of the loss of Parliament’s time by disruption of its proceedings: the Lok Sabha lost 30 per cent of its scheduled time in the winter session of 2009-10 and the Rajya Sabha 13 per cent. The second is that the Parliament’s attention to legislative business has waned over the years: the number of bills passed by the Lok Sabha declined from 47 in 2008 to 41 in 2009; the time devoted to legislative business has come down; 27 per cent of the bills were passed after debates lasting less than five minutes; only 17 per cent of the bills were debated for over three hours; and the average participation of MPs in discussions on bills declined from 11.5 MPs per bill in 2008 to 8.8 MPs per bill in 2009. Further, only about half of the members of Parliamentary committees attend the meetings. The level of performance of MPs, as reflected by attributes like attendance, participation in debates, questions asked and private members’ bills moved, also did not seem to have any relationship with their re-election and popularity in national news networks, raising questions about the relationship between performance and the broader electoral process. The third is the issue of *potential conflict*

of interest: the last ten years has seen an exponential growth of industrialists, businessmen and those from allied groups getting elected to the Lok Sabha and Rajya Sabha. About 25 per cent the members of the 15th Lok Sabha and about 10 per cent of the present Rajya Sabha are industrialists, businesspersons, traders and builders. Finally, government accepts only half of the recommendations of the Parliamentary committees. (National Social Watch, 2011).

- The implementation of development schemes of the Five Year Plans, especially those meant for the weaker sections of society, is lax and benefits hardly flow to the target groups. And corruption adds to the problem. For example, some recent studies on the government's flagship programme MGNREGA scheme found that the scheme is not delivering: these highlighted discrepancies between employment generation reported under the scheme and the actual days generated and other worrying aspects like the use of machines in project work instead of employing people (in Jharkhand), late payment of wages, poor asset creation and poor monitoring. (Nayar, 2012). As the National Social Watch (2011) observed, government's flagship programmes have not been able to fine-tune themselves to the myriad problems of implementation at the grass roots. Irregularities in the licensing of 2G spectrum operators were uncovered and the consequent loss to the public exchequer assessed by the CAG in his audit report *a few years after the event* but the Telecom Regulatory Authority and the Telecom Commission could have prevented such questionable decisions from being taken. Ultimately, the Supreme Court struck down the approach adopted for grant of license as "wholly arbitrary, capricious and contrary to public interest apart from being violative of the doctrine of equality" and cancelled all the licenses issued. [Supreme Court, 2012, paras 77 and 81(i)]. Pollution of the environment continues despite laws for protection of the environment. India has the world's most toxic air according to a recent study by Yale and Columbia Universities. (see the websites of the universities). Environment Impact Assessment (EIA) reports that form the basis of environment clearance orders of the government for industrial projects have been found to use "cooked (up) data" or "wrong data" resulting in substandard EIA reports. (National Green Tribunal, 2012). The Information Commission and its counterparts in the States have shown some success but the success of the commissions is limited to the highly literate. Sadly, there have also been attempts by government to dilute the contents of the RTI Act. Sections of the media are entangled in the vice of paid news and some media stars have been found to be hobnobbing with the powerful and the compromised.
- Corruption is prevalent in all walks of life. SARC (2009, Chap. 2) quotes a number of studies in this regard. Studies by Samuel Paul's Public Affairs Centre show that one in every four persons in Chennai, one in eight in Bengaluru and one in 17 in Pune ends up paying a bribe in dealing with agencies such as the urban development authority, electricity boards, municipal corporations and telephones. The Confederation of Indian Industries (CII) study of 1999 covering 210 private contractors found 60 per cent of them confirming the price payable to secure a government contract as 2 to 25 per cent of the contract value. Officials interviewed for a World Bank assessment of December 2003 believed it to be 5 per cent of the contract price, while contractors interviewed asserted that it was 15 per cent to cover all branches of government and that it was built into the contract price. 60 per cent of the

respondents queried about the services provided by the Income Tax Department in the “India Corruption Study 2005” by Transparent International, India conducted in alliance with Center for Media Studies (CMS) agreed with the public perception of corruption in that department. Bribes paid to income tax officials by purpose of payment showed that 43 per cent were for filing income tax returns, 21 per cent for ensuring income tax refunds, 13 per cent for under-assessment of tax, 12 per cent for the issue of PAN card and 10 per cent to reduce penalty. Another CMS study also found that a majority of the citizens is not satisfied with the delivery of public services, that there is hardly any effective complaint redress system in most deptts., that staff behaviour is a matter of concern and that most are not tuned into the changing expectations of citizens.

- The Law Commission observed (166th Report, 1999) that the rate of conviction under the Prevention of Corruption Act, 1988 was ridiculously low and formulated a bill “The Corrupt Public Servants (Forfeiture of Property) Bill” for enactment. SARC (2007, pp. 74-75) also endorsed it. This has not been acted upon so far.
- The judiciary is over-burdened — the number of cases pending in the courts has crossed 4 crores and this has resulted in miscarriage of justice in many instances. Access to the courts remains difficult, time-consuming and expensive. Research has established that of the 24,666 letters/post cards/petitions received by the Supreme Court asking for its intervention in cases that might qualify as PIL, only 226 were placed before judges on admission days and only a small proportion of these were heard as regular hearing matters. The rest were rejected. (NSW, 2011). Seeking judicial redress is, therefore, hardly an option for the poor and the not so well off. The only option for them then is to suffer injustice. The image of the judiciary is not also squeaky clean now, with the number of cases of alleged corruption against judges increasing.
- A high level, independent, strong, effective and credible anti-corruption watchdog has long been felt, especially in the context of the failure of existing mechanisms to curb corruption. The First Administrative Reforms Commission’s recommendation for such a watchdog – the *Lok Pal* – led to the appointment of *Lok Ayuktas* in several States but repeated attempts to enact a central legislation to set up a Lok Pal at the national level failed. The SARC noted that the experience with the existing *Lok Ayukta* institutions was rather unfortunate: some were abolished overnight; others found that the government did not act upon their recommendations; and a third group functioned without sufficient powers to be effective. Only the Karnataka institution appeared to function effectively, aided by its investigating agency. The SARC, therefore, recommended the setting up of a strong Lok Pal type of institution at the national, state and local bodies levels. (SARC, 2007, Sections 4.3 to 4.5). The latest attempt to enact legislation to set up such an institution attracted a nation wide movement for a strong and effective *Lok Pal*. The Bill, however, failed to get through the Parliament.
- ***Institutional mechanisms for corporate governance in India*** have evolved over the years in response to problems of (the lack of proper) governance in this sector.
- The responsibility for acting as the trustee of the interests of shareholders and other investors and other stakeholders in the company, namely, the customers,

the suppliers/vendors, employees of the company and the society at large, rested primarily on the Board of Directors (BoD) of the company, with the Company's Act, enacted in 1956, providing the statutory regulatory mechanism for it in the Eighties. These mechanisms did not perform as well as these should have.⁴

- The public financial institutions (PFIs), a major source of long term debt to the corporate sector and, therefore, holders of a big share of its equity (by conversion of loan into equity) by the early Eighties, did not utilise their power to monitor corporate performance of financially assisted firms because of (i) political pressure on them to support the promoters of the firms (ii) the tendency of the Courts to uphold the so called preferential rights of the promoters and (iii) their own reluctance to take on such a role. Till 1992, the size of the Non-Performing Assets (NPAs) increased because the PFIs (i) *did not openly reckon bad debts or their Non-Performing Assets (NPAs)* on the presumption that all dues from the assisted firms would be ultimately recovered due to the underlying govt. guarantee (ii) had no incentive to regularly examining their portfolios to identify poorly performing assets for necessary action and (iii) corruption among PFI officials. A clear case of misutilisation of taxpayers' money – mis-governance – on the part of all concerned.
- Companies did not make efficient use of the capital accumulated. An analysis of 99 firms in cotton textiles, engineering, chemical and other industries showed that the performance during the period 1979-83 of the firms where FIs held large and 'real' equity was worse than other firms and that the larger the size of the institutional holding in the firm the greater was the inefficiency of the firm, this being due to easy availability of capital and no serious monitoring by FIs. Another study pointed out that one half of the sick businesses in India were operationally sick and one half of these were sick due to corruption. Corrupt practices of corporate management included diversion of corporate funds into personal or family coffers through inter-corporate investments, executing functions like sales, purchase, transport, construction, repairs, advertising, etc., through family-owned firms, acceptance of short weight or inferior quality goods from suppliers in return for kickbacks, under-invoicing of exports and over-invoicing of imports, sale of good products as 'seconds' and extravagant perquisites to managers/others. Sick companies did not go in for options like take-over, merger or liquidation/exit but chose the BIFR (Bureau of Industrial and Financial Reconstruction) route. This route was a long and tortuous one for the creditors and the employees' (Provident Fund savings) but a win-win situation for the promoters. Observers noted that despite a staggering amount of sickness in the economy, there were no sick promoters or business groups! Thus there was not only a lack of corporate governance but there was also corporate mis-governance and further, *mis-governance by the joint governors – company BoDs, the PFIs and the Government*.
- Deregulation of the capital market, trade and the financial system in 1991 saw a spurt in the number of issues and the amount of capital raised between 1991-92 and 1994-95. But these declined sharply to very low levels during 1997-98 because of unethical business practices, scams and frauds like (i)

⁴ The material on corporate governance that follows is based on Joshi (2004, Chapters 5 & 7).

Harshad Mehtas manipulations on the stock exchanges that ultimately led to tarnishing of the image of several companies and some banks and losses to retail investors, (ii) equity allotment at discount rates to controlling groups, preferential issues, rigging of share prices, exorbitant pricing of new issues, accounting jugglery, lax project implementation, over-priced foreign issues, etc., all with adverse consequences for minority share holders, (iii) disappearance of companies – an estimated 30 to 40 per cent of the companies floated in the boom years 1991-94 vanished without starting business. [‘vanishing companies’ is a continuing phenomenon – see Deptt. Company Affairs (DCA) (2010, p-55)]. This loss of confidence and hope of retail investors in the equity market led to companies resorting to private placement (private sale of debt or equity by companies rather than a public offer in the capital market).

- The Unit Trust of India (UTI), which, with its flagship scheme US-1964 had mobilised small savings on a large scale (its corpus grew from Rs. 5 crores in 1964 to Rs. 21,378 crores in 1998), became sick in 1998 when the NAV of the US-1964 unit fell below its face value. It suspended repurchase operations of the scheme in 2001. This was all due to UTI’s reckless and dubious involvement in equity issues after 1994, picking up securities for investment without professional skill and often against the advice of its Equity Research Cell, continuing to pay dividends on the units even as their value was getting eroded *by dipping into its reserves* and non-disclosure of information on the performance of any scheme. Government bailed out the UTI.
- The cost of mis-governance in companies (those referred to in the preceding paras) was thus borne by retail investors and the taxpayer and the provisions of the Companies Act, 1956 regarding investor protection were not invoked to bring any relief to investors. The blame of mis-governance would thus cover Government too.
- Stock market scams and corporate financial frauds exposed the limitations of a fragmented approach to investigation. The Report of the Expert Committee (Mitra Committee) on Bank Frauds (2001) called for systemic reforms like strict enforcement of the regulator’s guidelines, compliance certificates, a punitive approach to defining scams as serious offences with the burden of proof shifting to the accused, a separate investigation machinery, fast track courts, a Statutory Fraud Committee under the RBI and a legislation for the investigation of financial frauds, prosecution and recovery and restoration of property. The Naresh Chandra Committee on Corporate Audit and Governance (2002) stressed the need for investigation of corporate financial frauds by a Serious Frauds Office (SFO), a multi-disciplinary team of experts. However, only a multidisciplinary Serious Frauds Investigation Office (SFIO) was set up to carry out investigations under section 235 to 247 of the Companies Act. As of March 2010, SFIO has submitted to DCA reports on 51 of the 73 referred to it (2 of the 51 have been dismissed or stayed by the Courts) and 22 are under investigation. Later, SARC (2007, Section 3.7) noted that the Banking Regulation & Development Act, 1949, the Companies Act, 1956 and the SEBI Act, 1992 and the organisations concerned (RBI, DCA and SEBI) are not adequately empowered to prevent large scale fraudulent practices and to deal with the criminality involved in these and suggested the creation of an SFO (in place of SFIO) that should work under the supervision

of a high level Serious Frauds Monitoring Committee (SFMC) chaired by the Cabinet Secretary and with representatives from areas and aspects concerning the work of the SFO. It would take up cases *suo moto* or upon references from the Central and State Governments. However, no action has so far been taken by Government in this direction.

- Thanks to a number of initiatives taken in the last 15 years by CII, SEBI and DCA, corporate governance structures have been strengthened. The Companies Act was amended to incorporate governance provisions. Further, compliance with the provisions of Clause 49 (as revised by SEBI in October 2004), on corporate governance, of the listing agreement between stock exchanges and companies whose shares are listed therein was made mandatory by SEBI since December, 2005.
- Despite these recent steps, another fraud was committed recently. The Chairman, Satyam Computer Services *confessed* in 2009 to his personal involvement in it. He had started inflating the company's income since 2001, adding the additional revenue to profits to impress his customers with the company's size and growth. The company bought with its board's approval 100 per cent stakes in an infrastructure firm of his family, an unrelated line of investment, but cancelled the deal soon after, due to shareholder opposition. It is odd that the company's bogus production, income and profits as also mis-governance *all got through all the gatekeepers all these years* – the Software Technology Parks of India, which issued certificates of software production, the banks where the profits were shown parked as FDs, the auditors, the Government that was paid Tax Deducted at Source and the tax on deposits and those monitoring compliance of Clause 49 – the stock exchanges and SEBI! (Bhandari & Others, 2009, pp. 34 & 60).

Clearly, the structures necessary for good governance that exist in India have not all, or always, led to good governance outcomes. Apparently, the structures have hollowed out and have tended to become mere symbolic structures. The need of the hour is to make these structures function effectively in a manner befitting a system of good governance. The reports of the SARC and the examples of the continuing labours of the Committee on Standards in Public Life in the United Kingdom are sure to help in this long haul towards the ideal of good governance. However, only a strong political will on the part of the nation's leadership and concerted pressure from civil society will give the necessary momentum to this effort.

Check Your Progress 3

- 1) Identify the traits of the King of a well governed state.

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- 2) State the principles of public life as set by the Lord Nolan Committee.

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- 3) State the institutional structure as provided in the constitution of India towards good governance.

- 4) Do you think that existing institutional structure towards good governance is merely a symbolic thread?

26.6 LET US SUM UP

India continues to face problems like poverty, inequalities and unemployment, a sluggish rate of growth of regular employment, the challenge of quality in education, low levels of health and nutrition, especially of women and children and the problem of ensuring inclusive growth, despite its economy achieving high levels of growth in the last three decades. This raises questions regarding ‘governance’ or the processes and mechanisms involved in policy making and implementation and in ensuring a fair distribution of the benefits from these among people.

Governance of a country, or for that matter, of any entity, has some core elements like the exercise of power and authority and decision making by a group of people *for, and on behalf of, or affecting* a larger group of people and the enforcement of these decisions and the enabling environment and institutional arrangements for the purpose. Good governance is characterised by nine essential features: participatory, consensus oriented, accountable, transparent, responsive, equitable and inclusive, effective and efficient, rule of law, and trustee of the governed.

Good governance is clearly an ideal. Nonetheless, we must move towards it to ensure sustainable human development.

The kind of behaviour expected of public servants follow from the features of good governance — honesty, integrity, impartiality, empathy for the needs of the people, accountability for their actions, respect for the law of the land and the rights of people, openness, efficiency and credibility as the trustee of the people’s interest. The Nolan Principles and the codes of ethics and conduct recommended by SAARC set the standards in this regard.

India has an elaborate legal framework and institutional structures underpinned by its Constitution providing a number of rights enforceable in a court of law, social and economic equality, equality before the law and equal protection under law. Every adult has a right to elect legislative bodies at all levels. The Right to

Information Act, 2005 and Citizens' Charters put up in a number of government organisations seek to facilitate transparency in Government processes. Affirmative action to bring people belonging to the socially and physically challenged to the mainstream of society is part of public policy. A number of watchdog institutions oversee and check malpractices in areas coming under their purview. Protection of the environment is an accepted policy of the government, backed by the necessary legal and institutional mechanisms. Committees of the elected bodies review actions of Government in the Centre and in the States. E-governance systems seek to cut down delays and the scope for corruption in the delivery of public services. NGOs promote the participation of civil society in the governing process and some have successfully forced erring governments to initiate reforms to reduce corruption. Media is free and vigilant. Finally, there is an independent Judiciary that interprets the Constitution and upholds the Rights provided in it to Indian citizens and has generally functioned as a guardian of rights and of order in society. Thus, most of the institutional structures considered necessary for ensuring good governance exist in India.

Yet, the present governance structures in India have not always led to good governance outcomes. A majority of the people is unaware of its entitlements and Rights violations do occur. The socially disadvantaged sections of society and women are treated badly, discriminated against, socially segregated and even assaulted by others with impunity. The influence of money and muscle power and corruption continue to dominate elections. There are worrying trends in Parliamentary processes like loss of time in the sittings of Parliament due to disruption of its proceedings, participation of MPs in its work and the declining time devoted to legislative matters. The benefits of development schemes, especially those for the weaker sections of society, hardly flow to the target groups. Corruption continues unabated despite institutional mechanisms in place to check it. So is the case with pollution of the environment. The success of the RTI Act is limited to the highly literate. Sections of the media are entangled in the vice of paid news. The judiciary is over-burdened, leading to miscarriage of justice in many instances. Access to courts is difficult (and oddly enough, now even for PLIs), time-consuming and expensive, scaring away the poor and the not so well off from them. The image of the judiciary is also somewhat tarnished, with the number of cases of alleged corruption against judges increasing. Efforts to set up a high level, independent, strong, effective and credible anti-corruption watchdog, in the context of the failure of existing mechanisms to curb corruption in public life, have not borne fruit so far.

Structures for corporate governance have evolved over time and in response to problems arising from the lack of proper governance. As the part of this Unit dealing with corporate governance shows, the corporate scenario is replete with instances of mis-governance by companies and public finance institutions (PFIs) and even mis-governance by joint-governors — companies, PFIs and the government and, financial frauds (like vanishing companies), all of which resulted in retail investors losing their money, despite the provisions of the Companies Act, 1956. Recent steps like the amendment of the Companies Act, the setting up of SFIO and the SEBI's directive making compliance with "Clause 49" regarding corporate governance by companies mandatory should serve to improve corporate governance. However, steps along the lines recommended by the Mitra Committee and SARC require to be taken, especially when a financial fraud like the one at Satyam Computer Services has occurred after, and in spite of, these recent steps to improve corporate governance.

The structures necessary for good governance that exist in India have not thus always led to good governance outcomes. These seem to have become mere symbolic structures. Only a strong political will on the part of the nation's leadership and concerted action from civil society can lead this country towards the goal of good governance and rid this country of the problems that plague us.

26.7 EXERCISES

- 1) "It is necessary to take steps to move towards good governance to ensure sustainable human development" – Comment.
- 2) How far India is from the welfare state it wished to become? To what extent the implementation of development policies adopted so far are responsible for this state of affairs?
- 3) How far the development policies and programmes have been people centric? To what extent the benefits of economic programmes and policies have flown to the intended beneficiaries.
- 4) Do you agree that the existing institutional structure in India have not led to good governance outcome"? Give reasons in support of your answer.

26.8 SOME USEFUL BOOKS

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26.9 ANSWERS OR HINTS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) See Section 26.1
- 2) See Section 26.2
- 3) See Section 26.2

Check Your Progress 2

- 1) See Section 26.3
- 2) See Section 26.3 under point 1
- 3) See Section 26.3 under point 3
- 4) See Section 26.3 under point 7

Check Your Progress 3

- 1) See Section 26.4
- 2) See Section 26.4
- 3) See Section 26.5
- 4) See Section 26.5

ANNEXURE I

Macro-Economic Impact of Corruption

Decisions influenced by payment of bribes to public functionaries, or corruption in public life in general, have adverse macro-economic consequences. The Sixth Report on Ethics in Governance submitted by SARC refers to the conclusions of a number of studies on the subject. These are briefly summarised here to give you an idea of the macro-economic impact of corruption. [SARC, 2007, Annexure I(2), pages 215-6].

- 1) Paulo Mauro's Study: High levels of corruption are associated with lower levels of investment as a share of GDP in a cross section of countries. Such countries invest very little in human capital and in particular investment in education is only minimal.
- 2) Study of Knack and Keefer: High levels of corruption mean reduced investment, a lack of credible guarantees of property and contract rights and poor institutionalisation of government.
- 3) Shang – Jin Wei's Study: Corruption acts as a tax on FDI. A one-point increase in tax decreases FDI by 5 per cent.
- 4) Robert Cooter's Study: A society with high levels of corruption has low levels of social interaction and weakness in the rule of law.
- 5) Study of Isham, Kaufmann & Pritchett: Societies with high levels of corruption have low levels of mass participation in politics and weak protection of civil rights.
- 6) Study of Easterly & Levine: A society with a large incidence of corruption is characterised by deep ethnic divisions and conflicts.

The Seven Principles of Public Life

The Committee on Standards in Public Life under the chairmanship of **Lord Nolan** was set up in 1994 by the Prime Minister of the United Kingdom, initially to deal with concerns about the unethical conduct among Members of Parliament, including accepting financial incentives for tabling parliament questions and issues over procedures for appointments to public bodies. The Committee subsequently became a Standing Committee – an independent advisory body to the Government – to monitor, report and make recommendations on all issues relating to standards in public life. Sir Christopher Kelly, KCB now heads it. Its First Report – “Standards in Public Life” (Nolan, 1995) propounded the seven principles of public life. These are as follows [*ibid*]:

1) Selflessness

Holders of public office should act solely in terms of public interest. They shall not do so in order to gain financial or other material benefits for themselves, their family or their friends.

2) Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3) Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4) Accountability

Holders of public office are accountable for their decisions and their actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5) Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6) Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7) Leadership

Holders of public office should promote and support these principles by leadership and example.

These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public.