10

Governance

INTRODUCTION

10.1. The Eleventh Plan vision of inclusive growth, reducing poverty and bridging the various divides that continue to fragment our society can only be achieved if there is a significant improvement in the quality of governance. There are many different definitions of good governance but it is generally agreed that good governance must be broadly defined to cover all aspects of the interface between individuals and businesses on the one hand and government on the other.

10.2. In our situation, good governance should cover the following distinct dimensions.

- As a democratic country, a central feature of good governance is the constitutionally protected right to elect government at various levels in a fair manner, with effective participation by all sections of the population. This is a basic requirement for the legitimacy of the government and its responsibility to the electorate.
- The government at all levels must be accountable and transparent. Closely related to accountability is the need to eliminate corruption, which is widely seen as a major deficiency in governance. Transparency is also critical, both to ensure accountability, and also to enable genuine participation.
- The government must be effective and efficient in delivering social and economic public services, which are its primary responsibilities. This requires constant monitoring and attention to the design of our programmes. In our situation, where the responsibility for delivery of key services such as primary education and health is at the local level, this calls for special attention to ensuring the effectiveness and efficiency of local governments.

- Governments at lower levels can only function efficiently if they are empowered to do so. This is particularly relevant for the PRIs, which currently suffer from inadequate devolution of funds as well as functionaries to carry out the functions constitutionally assigned to them.
- An overarching requirement is that the rule of law must be firmly established. This is relevant not only for relations between the government and individuals enabling individuals to demand their rights but also for relations between individuals or businesses. A modern economic society depends upon increasingly complex interactions among private entities and these interactions can be efficiently performed only if legal rights are clear and legal remedies for enforcing these rights are swift.
- Finally, the entire system must function in a manner which is seen to be fair and inclusive. This is a perceptional issue but it is real nonetheless. Disadvantaged groups, especially the SCs, STs, minorities and others, must feel they have an equal stake and should perceive an adequate flow of benefits to ensure the legitimacy of the State.

10.3. Achieving a successful outcome in all these dimensions is not easy, and the effects of initiatives taken today will take time to manifest themselves. Nor is it easy to measure the extent of progress achieved. It is also important to recognize that perceptions are important and perceptions of the state of governance depend upon the expectations of the people. These expectations are rising as indeed they should, and from this perspective, we need to recognize that while increased concern about inadequacies of governance may not reflect an absolute deterioration in the quality of governance, they do point to rising demands that need to be met.

TENTH PLAN EXPERIENCE

10.4. The Tenth Plan drew attention to the implementation of good governance in the following terms:

'Governance relates to the management of all such processes that, in any society, define the environment which permits and enables individuals to raise their capability levels on the one hand, and provide opportunities to realize their potential and enlarge the set of available choices, on the other. These processes, covering the political, social and economic aspects of life impact every level of human enterprise, be it the individual, the household, the village, the region or the nation. It covers the State, 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 people. Civil society facilitates the mobilization of public opinion and people's participation in economic, social and political activities.'

10.5. A number of steps were taken in the Tenth Plan period aimed at improving the quality of governance.

- The RTI, 2005 was brought into force. This applies to Union and local agencies, local governments and societies which receive public funds, and empowers citizens.
- The All India Service Rules were amended, providing a certain fixed tenure for specified posts to be notified by the State and Central Government. It will help promote accountability.
- A new Value Added Tax regime was introduced which simplifies the tax systems and has enormous positive implications for major reforms in the tax structure.
- Electoral funding reforms were introduced, promoting transparency and fairness and creating tax incentives to donors and disclosure of antecedents of candidates contesting for public office.
- An e-Governance Plan for 27 major areas was adopted designed to assist, improve delivery of services and digitization of information.
- Initiatives on participatory governance were introduced under the NREGA, NRHM and other measures.
- A policy for VOs was announced by the Central Government, reflecting the importance of the voluntary sector in promoting participatory systems.

- A NDMA was established to bring more focused attention to this important area and to initiate preparatory work to make responses to disasters more effective.

10.6. In 2005, the Second Administrative Reforms Commission (ARC) was constituted to prepare a detailed blue print for revamping the public administration system. The First ARC, was constituted in 1966 and subsequently several committees and commissions have examined and given recommendations on various aspects of reforming governance. The Second ARC has been given very comprehensive Terms of Reference and it has been asked to suggest measures to achieve a proactive, responsive, accountable, sustainable and efficient administration for the country at all levels of government. The Commission has already submitted six reports on different aspects of administration. It is also working on several other areas including civil service reforms, citizen centric administration, and reorganizing the structure of the government.

10.7. The Department of Administrative Reforms and Public Grievances has proposed a framework for good governance in the form of a Code of Governance. The main components of this Code are: (i) improving service delivery; (ii) development of programmes for weaker sections and backward areas; (iii) technology and system improvement; (iv) financial management and budget sanctity; (v) accountability and transparency; (vi) public service morale and anti-corruption; and (vii) incentivizing reforms.

10.8. The federal structure of the country provides an opportunity for measuring different States on an index of good governance. It is important to measure the performance of the States on developmental schemes apart from the indicators mentioned above, give them appropriate weightage and index them on this basis. The process could be finalized by a high-level independent expert group and it is important that it be part of the discussions with the States so as to bring to the centre stage issues relating to governance which, otherwise, in the absence of any specific financial outlays, go unrecognized. The index can also be used for giving incentives to the States.

CHALLENGES FOR THE ELEVENTH PLAN

10.9. The Eleventh Plan must build on the initiatives already taken and seek to achieve a decisive improvement in governance in the Plan period. Some of the major challenges are:

- The Plan accords priority to providing access to quality health care and education, particularly in the rural areas and for girls, minorities, SCs and STs, backward classes and BPL families. It also emphasizes programmes of employment under the Rural Employment Guarantee Programme. Access to clean and good quality water, sanitation, housing and electricity are also critical. These services are delivered at the local level and this calls for both empowerment and accountability of the relevant authorities and effective monitoring of service delivery, particularly for low income groups.
- Effective administration of the rule of law resulting in efficient criminal and civil justice system delivering swift decisions and, particularly, ensuring access to the poor is of extreme importance. An effective security and policing system is required for Naxalite affected and communally sensitive areas.
- The Plan relies heavily on a dynamic private sector to expand investment and create new employment opportunities. This requires developing a business-friendly environment, enabling setting up and exiting of business and promoting efficiency, matching world standards.
- Space must be provided to VOs for developing citizen initiatives, acting as a watchdog on government systems and strengthening group initiatives. This can only be done if full transparency is assured.
- Finally, it is necessary to tackle the problem of corruption which is widely perceived as being all pervasive and is a major source of complaint about the quality of governance.

10.10. To meet these challenges it is necessary to take initiatives on a broad range as discussed in the rest of this chapter.

DECENTRALIZATION AND STRENGTHENING PANCHAYATI RAJ INSTITUTIONS (PRIs)

10.11. As pointed out earlier, a large part of Plan expenditure is now accounted for by development programmes and schemes for rapid eradication of poverty and delivery of various services that are mostly in the realm of local government functions. Some of these are State sector schemes and others are CSS which are part of the Central budget, but deal with areas which are in the realm of the States. In spite of the massive flow of funds, there is widely shared concern that the results have not been commensurate with the investments. A comprehensive reform of how these schemes are implemented is necessary.

CENTRALLY SPONSORED SCHEMES (CSS)

10.12. A critical assessment of the performance of CSS reveals the following deficiencies:

- Most of them exist as silos planned and implemented as stand-alone schemes with little horizontal convergence or vertical integration, resulting in multiple sub-sectoral district plans, unrelated to each other. At times they are even mutually conflicting, prepared without any integrated vision or perspective of what is needed at the district level.
- The schemes are often too rigid and do not provide the flexibility needed for adaptation according to the different development needs at the local level. There is also too much micro management without any mechanism to understand the local situation and respond to it properly.
- There is no consistent approach in the design of delivery mechanisms. At times, independent structures are created for each scheme resulting in multiplicity of such structures at the local level with no interaction or coordination among them.
- The extent of professional support to the design, implementation and monitoring of these schemes is quite weak at the national, State and local levels. Often, line departments with generalist approaches control the implementation process without having the necessary competence.
- In spite of stated objectives aiming at the quality of outputs and outcomes, there is not enough outcome-based evaluation and the programmes are mostly monitored on an expenditure basis.

10.13. The architecture of the continuing and new CSS will need to be radically altered and the instrumentality of implementation fundamentally changed. In this context, there are a number of arguments in favour of giving local governments a pivotal place in CSS in keeping with their constitutional mandate of economic development and social justice.

- By their very nature, local governments are democratic systems, especially at the level of Gram Sabhas and Ward Committees. They are laboratories of multi-level pluralist democracy, facilitating the achievements of consensus on development issues at the lowest level of government. At the local level, groups learn to co-exist, cooperate, negotiate and arrive at acceptable decisions and even marginalized groups can gain confidence and

move on from token participation to higher forms of direct social action for the collective good.

- Local governments are in a better position to appreciate problems holistically and come out with cross-sectoral solutions. They are better suited to exploit local production possibilities and adopt technologies which can be handled locally. They also have quicker outreach and can provide faster feedback.
- As local governments are closer to the people, they are capable of identifying local priorities and entering into partnership with communities for the management of assets and facilities.

10.14. These arguments show that there is a strong case for strengthening PRIs so that they could bring about the desired results through effective planning and implementation of CSS. This, however, does not mean that things would happen naturally. Assiduous preparation is called for and a conscious strategy of capacity building is needed, accompanied by intense monitoring.

DISTRICT PLANNING

10.15. In order to achieve the best outcome in terms of balanced development with convergence of resources and enforcement of inter-sectoral priorities, it is necessary to shift to integrated planning at the grass roots level leading to the preparation of District Plans. The CSS which lend themselves to effective grass roots level planning are:

- Poverty reduction programmes like the SGSY, SGRY, National Rural Employment Guarantee Scheme (NREGS).
- Human Development schemes like SSA, Mid-day Meals, Literacy, Rural Health Mission and ICDS.
- Social Assistance Schemes like the NSAP and National Old Age Pension (NOAP).
- Schemes for provision of minimum needs like Accelerated Rural Water Supply Programme and Swajaladhara, TSC, IAY, PMGSY and RGGVY.
- Area development schemes like BRGF, Hariyali, National Watershed Development Project for Rainfed Areas, WGDP, DDP and Drought Prone Areas Programme.
- Schemes in the productive sectors like agriculture, horticulture, and animal husbandry.

10.16. These and other sector schemes need across the board restructuring to facilitate the following:

- Assignment of responsibilities to different levels of PRIs for planning, implementation and monitoring.
- Harmonization of existing planning and implementation arrangements and institutions with the Panchayati Raj setup.
- Evolution of criteria for allocation of funds to different levels of PRIs as may be appropriate.
- Introducing enabling provisions to make available technical support for planning and implementation.
- Introduction of a common planning process facilitating an integrated approach to the identification of problems and preparation of plans for tackling them by pooling resources from the relevant schemes. This has to be attempted in the Eleventh Five Year Plan.

10.17. Typically, the process of decentralized planning would involve the following steps:

- Needs assessment and priority setting through participatory fora like Gram Sabhas and SHG networks.
- Situation analysis using locally available data through simple methods supplemented by Participatory Rapid Appraisal techniques.
- Resource assessments from the various sources of funds available to them, including from various CSS.
- Formulation of a vision of development as well as strategies for attaining the vision by PRIs through a process of interaction with stakeholders and local experts.
- Development of project ideas based on need assessment and situation analysis by expert Working Groups at different levels of PRIs.
- Consolidation of development proposals of the Working Groups.
- Prioritization of proposals and allocation of resources to the prioritized proposals.
- Preparation of project reports in detailed formats.
- Vetting of project reports on technical and financial aspects by Technical Advisory Groups of DPC.
- Integration of projects into plans by PRIs.
- Consolidation of PRI Plans into District Plans
- Clearance of the Plan by the DPC.

10.18. In order to ensure that the proposals of different PRIs merge into a District Plan, it will be necessary to develop a framework, both sectoral and cross-sectoral, at the district level through a multi-level and iterative planning process with assessment and prioritization being

made at the lowest level and then consolidated at higher levels. There will be areas where differences may arise on relative priorities but it is possible to evolve a reasonable consensus through dialogues and discussions which are then reflected in actual plan preparation. For decentralized planning to happen the following are essential:

• DPCs, which are a constitutional requirement, need to be fully strengthened. They need to function not just as Committees but as full-fledged institutions.
• DPCs should be assisted by Technical Advisory Groups for different sectors consisting of professionals from Government, academic institutions and non-government organizations as well as civil society.
• DPCs should be encouraged to network with academic and research institutions within the district.
• The Planning Commission, with the approval of line Ministries, should issue common guidelines for preparation of plans in a converged manner, utilizing the resources of CSS in the functional area of local governments.
• State governments should issue detailed guidelines for decentralized planning leading to District Plans within the framework stipulated in the report of the Expert Group.

10.19. To support decentralized planning, the Planning Commission would consider the following:

• Provide assistance to States to set up offices of the DPC as well as to provide technical support.
• Over a period of time, generate a local statistical system by increasing the sample size of National Sample Surveys so that interpretation is possible at least at the level of the Block, if not the village.
• Identify one expert institution in each State as was done for the preparation of the State Development Report, and assign it the task of preparation of pilot District Plans through action research, in partnership with the States and local governments.

EMPOWERING PANCHAYATI RAJ INSTITUTIONS (PRIS)

10.20. For the PRIs to meet their obligations, they need to be adequately empowered through the devolution of functions, finances and functionaries. They also need to be answerable to the Gram Sabhas. Empowerment along these lines is the single most significant reform of governance that could change for the better, the relationship between

government and its interaction with the ordinary citizen. Several steps to ensure the centrality of Panchayats in planning and implementation of key CSS have been taken in the period leading up to the Eleventh Plan.

• The NREGA provides guaranteed employment in rural areas, with PRIs as the principal authorities for planning and implementation.
• The ambitious plans for universal elementary education and primary health care are to be delivered with full involvement of the local community through PRIs.
• BRGF is planned for and implemented by the Panchayats and Nagar Palikas in 250 backward districts.
• In the Eleventh Plan, in the agriculture and allied sectors, preparation of district and local level agriculture plans have been mandated for utilization and resources available under all new programmes and schemes. To fulfil this ambitious mandate, Panchayati Raj will require substantial, enhanced backing by the Central Government, in association with State Governments, for training and capacity building of PRIs, as also the provision of attractive incentives to States for the empowerment of PRIs

10.21. States can no longer delay or sidestep the devolution of functions, funds and functionaries to the Panchayats. Activity mapping, resulting in the assignment of activities relating to a function to each level of the Panchayats, is a critical trigger for effective devolution. There are two central principles that underlie a good activity mapping exercise. First, is the principle of subsidiarity, in terms of which tasks are placed at that level alone where it is best performed and no other. Second, is that activity mapping should touch all levels of the government and not merely the three levels of Panchayats. Constitution of the DPCs is mandatory under the Constitution. States must therefore quickly meet the obligations of completing activity mapping and constituting DPCs.

10.22. Unfortunately, a major weakness thus far is that the devolution through legislative or executive order of functions to Panchayats is not matched by a concomitant transfer of funds to them. Panchayats have also not utilized effectively whatever limited powers of taxation they possess. The key to ensuring effective devolution of States and Central Plan Funds to Panchayats at all levels lies in the creation of a Panchayat sector in the plans and budgets of both the State and Union Governments. This

will provide a repository within the accounting structure which makes clear the financial resources that are placed with the Panchayats for them to efficiently perform the functions devolved upon them. The demarcation of a Panchayat sector in State and Central budgets will make it easier to ensure that there is no mismatch between functional and fiscal devolution.

PARTICIPATION AND HARMONIZING COMMUNITY-BASED ORGANIZATIONS WITH PRIs

10.23.   Decentralization allows direct citizen participation in different aspects of development and governance. The Gram Sabha is, in a sense, the fourth tier of governance facilitating direct democracy and face-to-face accountability. This critical institution of Panchayati Raj has to be further strengthened through action, research and semi-structured processes of developmental dialogue, needs assessment, priority setting, oversight monitoring and social audit.

10.24.   In addition to Gram Sabhas, several other fora such as SHGs, management committees, anganwadis and similar stakeholders' institutions enhance participation and accountability. In addition, the mechanism for securing transparency and accountability at all levels needs to be strengthened and made a critical component in implementation

10.25.   For PRIs to be effective, they have to reach out to communities, especially the poor, and involve them in the development process. So their relationship with various people's groups becomes important. Over the last two decades, several CBOs have sprung up, sometimes as spontaneous people's groups for developmental action or as consciously organized ones as part of a development project or programme. The objectives behind setting up such groups include:

* Participatory planning
* Local resource mobilization
* Efficiency in implementation
* Inculcating a culture of self help
* Facilitating NGO involvement
* Ensuring sustainability through takeover of operation and maintenance functions
* Potential to develop as interest groups
* Empowerment of communities

10.26.   It is important to be clear about the relationship between community-based organizations, which includes SHGs and user groups, and PRIs as people's institutions. Community-based organizations cannot be equated with PRIs, nor should they be viewed legally as people's institutions. These are as 'efficient' substitutes of 'weak' or 'partisan' PRIs. Project-based CBOs are largely uni-dimensional, socio-economic groups focused on benefits from a particular project. They can certainly be efficient delivery vehicles for development programmes. But PRIs have a broader reach as local governments performing a range of governance and developmental functions. They are political entities and their function entails reconciling and satisfying the development aspirations of different groups of people. As such they are accountable to the entire population within their jurisdiction and not to a small circle of beneficiaries of a project or a programme.

10.27.   It is often not understood that CBOs can perform their stated objectives even more efficiently without devaluing their social capital or reducing their capacity for public action, if they are seen as thematic and functional sub-systems of PRIs and conceptualized as community wings of PRIs. The creation and strengthening of CBOs could become the next step in democratic decentralization, after the strengthening of PRIs.

10.28.   Conceptually, structurally and procedurally, CBOs should draw their powers and resources from PRIs, not in a relationship of subordination or agency functioning but in a spirit of social contract. This would ensure account-ability to PRIs even while protecting the autonomy of CBOs; in such a scenario, CBOs could complement and strengthen PRIs even while carrying on their social action to retard negative tendencies like partisanship and corruption.

10.29.   For achieving the linkages between PRIs and CBOs, massive capacity building efforts are required. The PRIs should be trained on the role and mode of functioning of CBOs, especially entry norms, procedures of functioning, MIS norms and accountability systems. The CBOs should be sensitized on the legal and functional role of PRIs and on the need to work closely with them.

REHABILITATION AND RESETTLEMENT

10.30.   Problems related to land acquisition for development projects and rehabilitation and resettlement of those displaced have been a source of considerable dissatisfaction, and perceived unfairness of past policies and practices has been an important example of perceived weakness in governance. There is an obvious need for striking a fair balance between those whose land is being

acquired and are thereby affected vitally, and the need for land for development. The issues relating to the Sardar Sarovar Project in Gujarat and more recently, on Nandigram in West Bengal and in the Posco Plant in Orissa, have reinforced the need for a policy based on a comprehensive consideration of various issues.

10.31. The National Policy on Resettlement and Rehabilitation was effective from February 2004 after it was notified by the government. This laid down immediate provisions for resettlement and rehabilitation of project-affected families and the States, public sector undertakings or public bodies were free to offer better packages. The entire issue has subsequently been considered in pursuance of the Common Minimum Programme (CMP), which called for a 'more effective' system of resettlement and rehabilitation for tribal and other groups displaced by development projects. A new rehabilitation policy has, therefore, been formulated. In order to further strengthen this process, proper amendments in the Land Acquisition Act are to be undertaken.

10.32. Some of the salient features of the new Policy are:

• The Policy, which was notified in October 2007, aims to promote, as far as possible, non-displacement or least displacement alternatives;
• Adequate rehabilitation package, and acceptance and implementation of the rehabilitation process with the active participation of affected persons.
• Special care for protecting the rights of and ensuring affirmative State action for the weaker sections of society, especially the members of SCs/STs along with an obligation on the State for their treatment with concern and sensitivity.
• Providing a better standard of living than before and sustaining their income above poverty-line, to the affected families. It also aims to integrate the rehabilitation concerns into the developmental planning and implementation process.

10.33. Other salient features of the Policy are:

• A social impact assessment of projects involving physical displacement of 400 or more families or 200 or more families in tribal or hilly areas, desert development programme blocks or other Schedule I and II areas. Public hearing in the affected areas will be mandatory and the report will be examined by experts in the field, including social sciences and rehabilitation.

• Special concern for vulnerable populations by having lifetime monthly pension to affected persons above 50 years or age, disabled, orphans, unmarried girls, and so on.
• Special provisions for SCs and STs.
• People's participation right from the mandatory public hearing stage to consultation with Gram Sabhas and public hearing at the social life assessment stage.
• The benefit of allotment of land for all those who propose to become marginal farmers. However, this benefit has been made subject to the availability of government land.
• House sites and at least one job for each affected families.

10.34. Implementation of the new policy will protect the interests of those whose property is being acquired and provide more generous compensation and rehabilitation. The policy will be monitored effectively during the Plan, and based on the experience of its functioning and inputs from various stakeholders, such changes would be considered as may be appropriate.

SHIFT IN FOCUS FROM INPUTS TO OUTCOMES

10.35. Traditionally, government schemes are evaluated in terms of expenditure incurred and adherence to process requirement. It is necessary to shift the focus from vertical input controls to horizontal coordination and monitoring of outcomes. The need for horizontal coordination is evident from the fact that interventions in one area, say, rural drinking water and sanitation, affect outcomes in health, which affect outcomes in education. These examples can be multiplied. Given the manner in which government structures are organized at the Centre and States, horizontal coordination is very necessary to achieve the desired outcomes. Mechanisms for this coordination, convergence and synergy at all levels have atrophied or are non-existent. Reinstating dynamic coordination, to break through excessive hierarchy and securing teamwork and mechanisms for vertical coherence and horizontal coordination to achieve outcomes is a major challenge at all levels of government. Emphasis will be laid on effective monitoring on outcome at all levels. The district level and other functionaries will need to be strengthened with authority and powers so that they are made fully accountable for the outcomes.

Monitoring and Evaluation

10.36. Since the Eleventh Plan substantially increases public investment in many critical sectors, a major concern would be that of monitoring the quality of expenditure. A

Committee with representations of both the Centre and States would be set up to formulate a plan of action to improve the quality of public expenditure in key result areas and enable its public monitoring. This Committee would have a time frame of three months to give its report and would be part of the Eleventh Plan monitoring.

10.37. Ever since the concept of planning was introduced in India, the task of evaluating development schemes and programmes for improved and effective implementation has been recognized. Accordingly, the Programme Evaluation Organization (PEO) was established in 1952 and functioned relatively independently for about four decades. However, since then, the capacity of PEO has suffered even though the need for proper evaluation of plan programmes has grown and is likely to grow further for the Eleventh Plan. Keeping this in mind, the Eleventh Plan will need to substantially strengthen monitoring and evaluation capacity. While monitoring is an internal activity of programme management carried out by the implementing department, evaluation is the assessment of the appropriateness of design and implementation of ongoing projects and programmes which can be done concurrently during implementation of a programme by the agency involved, but also requires independent agencies like PEO to conduct studies from time to time. Given the current weakness of PEO and the even worse State of State Evaluation Organizations, it is necessary during the Eleventh Plan to rejuvenate the existing organizations and also network with evaluation capacity that exists outside the government. For this, the following need to be addressed:

• Lack of Baseline Data

The baseline data for many schemes/programmes are not available, which becomes a serious bottleneck in measuring the performance indicators of the programme's outcome and impact. New schemes should, as far as possible, be approved only after the baseline has been determined.

• Identification of Inappropriate Indicators

In almost all the cases, the process and outcome indicators of the programmes are not appropriately identified for collection of relevant information, which makes it difficult to attempt the meaningful analysis of the monitored data. New schemes should indicate clearly the indicators that could be monitored.

• No follow-up Action on M&E of Results

There is an in-built mechanism introduced in each of the flagship programmes for earmarking a certain percentage of total allocation of funds annually for monitoring and evaluation. Yet, there is a complete lack of follow-up action on the results of monitoring and evaluation of these programmes. There should be a transparent data depository of results of in-house monitoring which could also be utilized by independent evaluators.

• No Mechanism for Data Analysis

There is no in-built mechanism introduced in the programmes for making an analysis of the monitored information. This aspect, including proper impact analysis of programme components utilizing results of pilots for the purpose, needs to be emphasized during the Eleventh Plan. For this, the outside government would need to be harnessed.

10.38. With the renewed importance attached to evaluation, a new Central plan scheme, namely, Strengthening Evaluation Capacity in government, was introduced in 2006–07. The allocation for the scheme in 2007–08 was Rs 26 crore. To enable PEO to undertake evaluation of prioritized programmes and schemes at the behest of the Planning Commission as well as various ministries of the GoI, this outlay will be stepped up substantially in Eleventh Plan. Quality evaluation of various programmes and projects would not only bring improvement in public sector performance, but would also address a broad range of issues relating to economy, efficiency, sustainability and relevance of public sector funding and development intervention.

E-GOVERNANCE FOR BETTER SERVICE DELIVERY AND PROGRAMME DESIGN, IMPLEMENTATION AND MONITORING

10.39. Since good governance is about all aspects of governments' interface with (i) Citizens (G2C) and (ii) Businesses (G2B), e-Governance aims at the use of technology and process re-engineering for more efficient service delivery to both citizens and business, and also for more effective delivery of various programmes, projects and schemes.

10.40. In an increasingly connected virtual world of knowledge in cyberspace and with increasing spread of

Internet and web-based information systems, time and distances have shrunk, and service delivery is now possible on 'anytime, anywhere' basis. Sequential steps in service delivery can in some cases be processed in parallel, making simultaneous delivery possible. Government interface with people can be re-engineered in a manner that human discretion is minimized. In programmes like e-seva, government functionaries do not interface with the public and private providers man the front-end service-delivery kiosks. The service provider does not have authorization to alter government records and those who manage the records do not interface with the people. In the process, corruption gets minimized and the entire service delivery process becomes more transparent.

10.41. If attributers of good governance are transparency, efficiency, responsiveness cost effectiveness and accountability, e-Governance is the means to attain these attributers through application of technology.

10.42. The National Knowledge Commission had, in the context of e-Governance, suggested that to make an immediate impact on citizens, it is critical to identify and simplify important processes and services, say 15 to 20 to begin with, which are currently cumbersome, bureaucratic and prone to unnecessary delays and corruption. Initially these services could include providing online record of land rights, computerized land registration, computerized transfers, computerization of social security schemes, birth and death certificates, proof of residence, issue of ration and ID cards, and so on.

PROCESS RE-ENGINEERING

10.43. The first and most crucial element of this agenda has to be a change in the procedures of various government departments. Over a period of years, very few of these procedures has been reviewed. Recently, when the review of procedures applicable for passports was undertaken, it was observed that for ordinary citizens, availing passport facilities is well night impossible unless they take the help of intermediaries. The form for getting a passport was quite complicated. Further, the procedures which were prescribed envisaged verification by police at various places where the persons were staying in the past few years. This led to enormous delays and harassment. Similar, complicated procedures for issue of ration cards, caste certificates, driving licences or depositing taxes are

also in vogue. There is a strong need to revise them and make these more citizen-centric.

10.44. While the above processes could be prioritized, it will be necessary to have a comprehensive review of all those deliverables which impact on the availability of services to the common citizen.

E-GOVERNANCE INFRASTRUCTURE

(i) Unique Identifiers

10.45. In a citizen-centric system of governance, the citizen's satisfaction becomes the measure of success of both service delivery as well as programme delivery. A citizen's identity, therefore, becomes important both in developmental as well as regulatory administration. The absence of a reliable system for such purposes has been an impediment to improving targeting of developmental schemes and reducing leakages in the delivery system. Many major individual-oriented government programmes incorporate a provision for collection of information at the individual/family level. In most cases, this is undertaken as a de novo exercise without reference to similar exercises undertaken in the past by other government departments and sometimes even by the same department. The absence of a system of updation of such purpose-specific databases and the lack of a system for corroboration among such departments are also factors leading inevitably to expensive, time consuming and error-prone de novo surveys for data collection for each scheme. To create a common platform for service/programme delivery, it is proposed to create a unique ID (UID) in the G2C domain and Corporate Identity Number (CIN) in G2B domains as unique identifiers of citizens and businesses, respectively.

• UID FOR INDIAN RESIDENTS

It is important for both service delivery and programme delivery in the G2C domain.

10.46. The long-term objective of the UID Project is to create a Core Database (CDB) for all residents, each having a unique identification number, which is regularly updated and is easily accessible to, and is used by, all departments for identification of residents in the country. This CDB would be used as the basis for identifying a person and enabling cross-linkage of major databases in the country. It is envisaged that the UID could significantly reduce identity related fraud, reduce leakages

and allow for better targeting of government schemes. The implementation strategy involves creation of Central and State UID authorities who would be responsible for implementation and maintaining the UID.

- **UID FOR INDIAN CORPORATES/BUSINESS ENTITIES—MCA 21:**

In the G2B domain.

10.47. The Ministry of Company Affairs (MCA) is implementing an e-Governance initiative called 'MCA 21 e-Governance Project'. The objective of the MCA 21 programme is to improve speed and certainty in the delivery of MCA services. All available services from MCA—including filing of documents, registration of companies and public access to corporate information—are provided through a secure portal with the help of secured electronic filing through e-Form. The use of digital signatures has been mandated to carry out e-filing in conformity with the Information Technology Act, 2000.

10.48. At the time of registration of a company, they are given a CIN, which works as a unique identifier of a company, in the case of an Indian Company. To facilitate better outreach, the Ministry has introduced a scheme of Certified Filing Centres (CFC) wherein the practicing professionals (Chartered Accountants, Company Secretaries and Cost Accountants) have been authorized to set up the CFCs and provide services to the stakeholders on a user charge basis.

10.49. The concept of a Director Identification Number (DIN) has also been introduced for the first time with the insertion of Sections 266A to 266G of the Companies (Amendment) Act, 2006. As such, all the existing and intending Directors of Corporate entities have to obtain a DIN.

- **SMART CARDS**

10.50. The UID Project will eventually become the underpinning of the Citizens Smart Card Project of the Ministry of Home Affairs—both are aimed at identifying citizens, providing them a unique identity and in case of the MHA project, also will provide a Smart Card which has all this information.

10.51. The smart card would have a memory partitioned into distinct modules representing different entitlement groups for which free services or implicit/explicit subsidies are given. These include food and nutrition, energy (kerosene, LPG, electricity), education services, health services, civic amenities and services (drinking water, latrines/sanitation), employment (National Rural Employment Guarantee) and economic/farming (fertilizer, irrigation water, MSP). These separate modules could, in principle, be managed by the ministry/department under which the group falls. They would be responsible for setting up and maintaining the back-end financial and database system that is vital to eliminating errors of omission and commission and improving delivery efficiency. These departments/ministries would control the entry of data into their own module of the smart card.

10.52. Any subsidy received by any individual would be entered on his/her smart card when the goods or service is delivered/charged for by the authorized supplier (for example, the fair price shop, kerosene/LPG dealer, fertilizer outlet). The rules and regulations for delivery of subsidy and its reimbursement to the goods/service supplier would be defined by the concerned department. The data entered on the smart card should, however, be accessible by all monitoring/evaluating agencies so that they can put together a picture of what subsidies are being received by whom, as well as those who are not receiving a subsidy for which they are eligible.

10.53. The smart card initiative for service delivery may encounter many initial teething problems. It will be necessary to conduct pilot studies before extending it to all parts of the country.

(ii) Service Delivery Infrastructure

10.54. While the Mission Mode Projects (MMPs) would enable the back-end computerization of various departments, thereby e-enabling them for 'any time, any where' service delivery, to achieve the vision of providing government services at the doorstep of the citizen, a common service delivery platform is being created. The three important elements that form the basis of this effective service delivery framework are, State-Wide Area Networks (SWANs), the front-end outlets for the service delivery, that is, the CSCs and the SDCs, as discussed in the following sections.

- **STATE-WIDE AREA NETWORKS (SWANS)**

The government has approved the scheme for establishing SWANs in 29 States and six UTs across the country at a total cost of Rs 3334 crore. This scheme

envisages the establishment of an intra-government network with a minimum of 2 Mbps connectivity from the State headquarters to block headquarters through the District headquarters. The SWAN project provides the connectivity to facilitate the rolling out of citizen-centric services under various MMPs under the National e-Governance Plan (NeGP). The SWAN Scheme is at an advanced stage of implementation and it is expected that the SWAN would be ready in most States by end 2008.

• COMMON SERVICE CENTRES (CSCS)

The government has approved the scheme of establishing CSCs across the country. The CSC scheme envisages the establishment of 100000 broadband Internet enabled kiosks in rural areas which would deliver government and private services at the doorstep of the citizens. An additional 10000 CSCs would be set up in semi-urban/urban areas. Visualizing a honeycomb pattern with one village surrounded by six villages, this implies that each village would have a CSC either within its own area or in an adjoining village. The CSC Scheme would be a bottom-up model for delivery of content and services like e-Governance, education, entertainment, tele-medicine, agriculture, and so on, and is being implemented in an entrepreneur driven, PPP mode. CSCs are also expected to be operational in most States by end 2008.

• CONNECTIVITY FOR THE LAST MILE

The CSC Scheme is the first step towards ubiquitous broadband reaching up to the village level. The connectivity infrastructure is being created through three distinct initiatives. The first two seek to use the infrastructure already created by BSNL for last mile connectivity, and the third seeks to use the resources available under Universal Service Obligation Fund (USOF).

Leveraging BSNL rural exchanges

Existing BSNL rural OFC exchanges (approx. 20000) are being upgraded to allow them to provide broadband (512 Kbps) connectivity to about 25000 CSCs, with partial funding support from the Department of Information Technology (DIT). These exchanges, once upgraded, would also be able to provide connections within a radius of 4–5 km to other users as well.

Wireless Connectivity from BSNL

In those areas where there are no other existing telecom service providers, BSNL towers are being used to provide wireless broadband connectivity, with partial funding

support from DIT. It is expected that a further 25000 CSCs would be able to be connected in this manner.

Last mile connectivity through USOF

The USOF will be inviting existing TSPs to provide last mile connectivity with funding provided by the USOF. This initiative would provide connectivity to the remaining 50000 CSCs.

• STATE DATA CENTRES (SDCS)

State Data Centres are proposed to be established across 29 States and six UTs in the country, along with Disaster Recovery (DR), in order to provide shared, secured and managed infrastructure for consolidating and securely hosting State-level data and applications. SDC would provide better operations and management control and minimize the overall cost of data management, IT management and deployment. SDCs would ordinarily be located at the State headquarters and help the State Government, State line ministries and departments in providing central repository (database consolidation), application consolidation, State Intranet/Internet portal, State messaging infrastructure, remote management and business continuity site needed for their G2G, G2C and G2B services. The various MMPs, both at the Central level, State level and also the integrated services of the NeGP are expected to use SDCs to deliver their services. This infrastructure would be created during the Eleventh Five Year Plan.

NATIONAL e-GOVERNANCE PLAN FOR BETTER SERVICE DELIVERY AND MISSION MODE PROGRAMMES

10.55. The Government approved the National e-Governance Plan (NeGP) in May 2006 with the following vision: 'Make all Government services accessible to the common man in his locality, throughout common service delivery outlets and ensure efficiency, transparency and reliability of such services at affordable costs to realize the basic needs of the common man.' As can be seen, the one major difference from the 'computerization' initiatives of the past is the focus on delivery of services to citizens.

10.56. The architecture for e-Governance envisaged in NeGP aims to leverage e-Governance optimally to radically change the way government delivers services to citizens; addresses developmental challenges in key areas like education, health and agriculture; implements major programmes; and even the way it conducts its own business. In fact, key governance objectives like citizen-

TABLE 10.1
List of Mission Mode Projects

S. No.	Central Government Category	State Government Category	Integrated Services Category
01.	Income Tax	Land Records	EDI (e-Commerce)
02.	Passport Visa and Immigration	Road Transport	e-Biz
03.	MCA21	Property Registration	CCSs
04.	Insurance	Agriculture	India Portal
05.	National Citizen Database and UID Project	Treasuries	EG Gateway
06.	Central Excise	Municipalities	e-Courts
07.	Pensions	Gram Panchayats	e-Procurement
08.	Banking	Commercial Taxes	
09.	e-office	Police (UTs initially)	
10.		Employment Exchanges	
11.		e-district	

Source: DIT/GoI.

centricity, transparency and efficiency cannot be achieved without extensive and pervasive use of technology.

10.57. The NeGP currently consists of 27 MMPs and eight support components to be implemented at the Central, State and local government levels. The full list of MMPs and components may be seen in Table 10.1.

10.58. The NeGP seeks to lay the foundation and provide impetus for the long-term growth of e-Governance in the country. It also seeks to create the right governance and institutional mechanisms, lay down appropriate policies and set up the core infrastructure, all of which would facilitate implementation of various programmes and projects of the government. A body under the Chairpersonship of the Prime Minister has been constituted to prescribe deliverables and milestones, and monitor periodically the implementation of NeGP.

ICT APPLICATIONS FOR BETTER PROGRAMME IMPLEMENTATION AND MONITORING

10.59. ICT interventions are a pre-requisite for effective implementation and delivery of flagship programmes. The proposed NREGS stipulates the provision of employment for a minimum of 100 days a year for at least one adult per rural household. For this scheme to be properly implemented, it will be necessary for every village Panchayat to maintain a register enumerating eligible adult individuals in every family. This would need to be converted into a workers' register. All government departments with works programmes in rural areas would

have to create village-wise works registers, which would then have to be centrally aggregated and catalogued village-wise at the district/block headquarters.

10.60. Each potential worker would have to be given a UID and would have to be assigned to the aggregated village-wise works register so that an account can be kept for 100 days of employment for one member from each family. In a nutshell, this would require works and workers inventories to be created and stored in a central data depository at the district headquarters. ICT solutions are all the more needed to plug the following loopholes:

• Inflated Schemes
  – Inflated quantity of work, depressed productivity, inflated person day estimates
  – Bogus registrations
  – Registration of dead persons, minors and medically unfit persons, duplicate and/or proxy registration, fictitious registrations
• Fraudulent Requisition of Funds
  – False measurement, inflated progress of works, omitting an operation or work item
• Inflated Muster
  – Ghost workmen, bogus attendance
• Fraudulent Wage Payment
  – Under payments, dependant fraudulent payments

10.61. The following schematic diagram depicts a possible technology enabled delivery system for implementation of the NREGP.
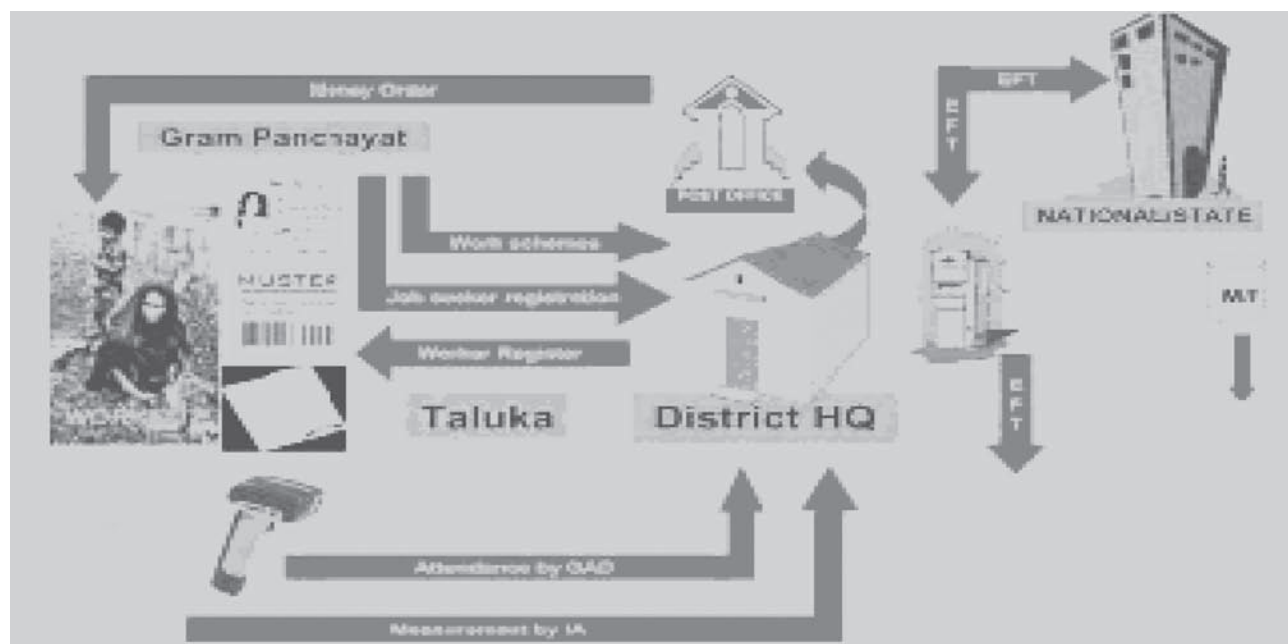
FIGURE 10.1: Delivery System for Implementation of NREGP

• Use of ICT in Major Flagship Programmes

While approving the NeGP, the government directed that for major projects like Bharat Nirman and Rural Employment Guarantee Schemes, the concerned line Ministry concerned should make use of e-Governance and automation techniques in implementation from the inception stage. Significant steps have been taken by the Ministry of Rural Development to use ICT in the implementation and monitoring of the NREGA and PMGSY, through its NREGASoft and Online Management Monitoring and Accounting System (OMMAS) applications developed by the NIC.

• NREGASoft and OMMAS

The MoRD, with the assistance of NIC, is capturing information related to NREGA right from the stage of registration of the worker. This information is also linked to the Rural Household Survey database of the concerned State. Information relating to worker registration, demand for work, payment of wages, and so on, can be captured through this application. Similarly, information relating to fund transfer and payments made, as well as information relating to the status of various works can also be captured. Currently, at the national level, information on the status of works under NREGA is being captured and is available on the Web.

Similarly, information relating to road data, district rural road plan, proposal formulation and submission to the Ministry and clearance/sanction/release of funds is being captured through OMMAS. All districts are carrying out data entry using the online package from district HQs.

• Smart Technologies and Flagship Programmes

The use of Global Positioning Systems in the construction industry, Radio-frequency Identification for logistics and biometrics and smart cards for identification and security purposes is now well established. Handheld devices as a means of delivering real time information from the field has also come of age on account of the telecom revolution in the country in the private domain and the explosive growth and innovation in the handheld devices sector, making them affordable on a mega scale.

LOCATION-SPECIFIC PLANNING USING GEOGRAPHICAL INFORMATION SYSTEM

10.62. Planning for sustainable development has been a challenge, as it requires substantial amount of data on all aspects of development. In emerging technology paradigm, GIS has emerged as a powerful tool which has the potential to organize complex spatial data into layered information with tabular relationships.

10.63. The Planning Commission has put in place a Web-enabled 23-layered GIS database to facilitate location specific planning by creating hierarchical spatial database and application services. The multi-layered GIS database provides comprehensive data village wise—geographical data, river basin/watersheds/micro watersheds data, physical infrastructure (roads/electricity/rail roads), social infrastructure (education and health facilities), urban and rural settlements, demographic data, amenities data, soil/forest cover data, and so on.

10.64. The Planning Commission has also taken up a project, being implemented by the NIC, for creating computer aided digital utility mapping for six mega cities—Ahmedabad, Bangalore, Chennai, Hyderabad, Kolkata, and Mumbai. The project envisions collating information from all concerned organizations and analysing the same for each utility, for example, water, sewerage, electricity, roads, communication, gas pipeline, and so on, by creating large-scale digital maps for the concerned cities, with an aim to help in urban planning, disaster preparedness and infrastructure management. The database is expected to be a major aid to planning, development and management of urban utilities. It will also provide the GIS information base for a vehicle navigation/tracking system based on GPS. The Ministry of Urban Development has a project for carrying GIS to other cities of India. Both these projects will help decision makers in effective planning by making a paradigm shift in resource allocation from the broadcast mode to a location specific, need based mode.

VOLUNTARY ORGANIZATIONS (VOs)

10.65. A National Policy on VOs has been notified by the Central Government in July 2007, which aims to further strengthen, promote and develop such institutions. The Policy has the following objectives:

- To create an enabling environment for VOs that stimulate their enterprise and effectiveness and safeguard their autonomy.
- To enable VOs to legitimately mobilize necessary financial resources from India and abroad.
- To identify systems by which the government may work together with VOs on the basis of the principles of mutual trust and respect, and with shared responsibility.
- To encourage VOs to adopt transparent and accountable systems of governance and management.

10.66. In a democracy, VOs act as public 'watch dog' and a major check on arbitrary exercise of power by the Executive and other organs. Many such organizations are also doing remarkable work in implementing certain projects, some of which are funded by the government. During the course of the Plan, efforts will be made to strengthen such institutions and integrate their vigilance supervision over many of the programmes which affect the common citizen. Effective measures must be taken to implement the policy for improving governance.

CORRUPTION

10.67. One of the biggest challenges in improving governance is to act against corruption, which is widely seen as having seeped into the administrative fabric. This is a stupendous task but if a nation wishes to move forward rapidly, provide efficient services to all its citizens and especially aim at inclusive growth, it must address this question quickly and seriously. Some international agencies have rated India among nations with a high degree corruption. For example, the Transparency International Index for 2006 ranks India at 70th position (Index 3.3) along with Brazil, China, Egypt, and Mexico. This is an improvement over 2005 when it was rated at the 88th rank (Index 2.9), but the scale of the problem is too large to allow any complacency. Corruption in public services has today assumed serious dimensions. In the last few decades, its scale, growth and spread have significantly increased. Different levels of governments have become implicated in corrupt practices in mutually reinforcing ways. At each of these levels, corruption has tarnished the image of government functionaries. Serious introspection and decisions are required to meet the challenge.

10.68. It is necessary to act on two fronts. First, the punitive approach of identifying those guilty and punishing them must be strengthened. Second, and as important, is the need to make concerted efforts to develop systems which are less vulnerable to corruption. Reduced administrative discretion of greater transparency at all levels, combined with a vigilant civil society and Press can make a substantial difference.

10.69. Corruption not only undermines the moral fibre of the society but can have serious and irreversible practical consequences for politics, economic development and governance. In an overwhelmingly corrupt society, value-based politics loses its meaning. The legitimacy of government based on impartial application of the rule

of law no longer holds. Resources which ought to be available to the exchequer for welfare and development are diverted into the private coffers of certain individuals. Honest public servants are demoralized while the corrupt are rewarded. Corruption is a major factor in the wastefulness, inefficiency and inequities we find in public administration today. It particularly affects the poor who cannot afford to pay. The burden of corruption saddles the private sector, and ultimately the consumer, with high costs and an inefficient infrastructure. Many more ramifications of corruption can be identified, but what is important to appreciate is that as corruption intensifies and accelerates, it tends to perpetuate itself in even widening and deeper forms. No time can, therefore, be lost in efforts to arrest and roll back this pernicious process.

10.70.   There is widespread concern in India about the scale, spread and consequences of corruption. However, the daunting nature of the problem has generated a feeling of helplessness and apathy in the public mind, resulting in cynicism, fatalism or in arguments that rationalize corruption. Alternatively, escape is sought in sweeping solutions such as, for example, radical constitutional changes, wholesale deregulation and privatization of the economy and decentralization of most governmental activities. An agenda for removing corruption will thus far have to be worked upon in the Plan.

10.71.   Some suggestions which need to be seriously worked upon are:

- The Prevention of Corruption Act, 1988 and other related laws need to be reviewed with an effective role assured for the Central and State Vigilance Commissions. They should have wide powers with independent budgets and staff so as to be able to initiate and pursue investigations on their own.
- Strengthening the 'watch dog' role of the Comptroller and Auditor-General of India and his establishment in order to ensure probity, transparency and accountability in all public financial transactions. This will involve, inter-alia: (i) wider powers for audit, (ii) prompt publication and discussion of audit reports, (iii) follow-up by the vigilance machinery of financial irregularities brought to light by audit, and (iv) provision for audit based on references from citizens and investigative reports in the media.
- Tackling corruption in public utilities and in municipal and other services provided by the State and its agencies.

This will involve (i) the adoption of clear and verifiable standards for performance, (ii) institution of transparent practices and systems and (iii) adequate mechanisms—such as Ombudsman—for the redressal of public complaints and grievances.

- A thorough and systematic review of all legislations, rules and executive orders which involve discretionary decisions, thereby creating financial stakes and inducements for the giving and taking of bribes. The objectives will be to eliminate, or considerably reduce the role for discretion in governmental actions, discipline the exercise of discretion, where inescapable, through objective and transparent guidelines, and provide public access to information relating to discretionary decisions having direct or indirect financial implications.
- Formulation and enforcement of a code of conduct to regulate relations between government and private enterprises, domestic and multi-national. Enterprises which violate the code of conduct should be blacklisted with due publicity.
- Appropriate self-policing arrangements should be developed by independent authorities and professions such as the judiciary, lawyers, doctors, media persons, chartered accountants, architects and contractors.

10.72.   In addition to the above suggestions, it is also necessary to consider initiatives, which would address aspects of the political system, which often encourage corruption. These include the following:

- To provide State funding for candidates to an appropriate extent and subject to appropriate criteria, drawing upon practices followed in a number of other democracies.
- To tighten the anti-defection law to ensure that legislators are not bought and sold. No split in the legislature parties should be recognized unless it is followed by a split in the parent political organization on the basis of issues. There should also be a bar on defectors being rewarded with political office.

CIVIL SERVICE REFORMS

10.73.   A serious effort will have to be made to protect honest civil servants. Protecting the public services from political interference and abuse of power on the part of politicians will involve: (i) enforcement of objective and transparent criteria and procedures for appointments and promotions; (ii) definite tenure for civil servants holding

senior positions. The abridgement of tenure through transfers should be for objective reasons to be recorded in writing; (iii) Public Service Commissions/Administrative Tribunals should have a role in monitoring tenure, transfers and promotions; (iv) no civil servant should be suspended without the prior concurrence of the Public Service Commission; (v) rules of business in government should be strictly enforced, particularly the recording of reasoned orders in writing; and (vi) protection for civil servants who expose corrupt practices.

10.74. An important question today is developing a climate of probity in public life. Codes of ethics, therefore, need to be developed for civil servants and other public functionaries. A number of countries, like the UK and Spain, have developed their code of ethics. The ARC has made extensive recommendations on these issues.

10.75. Some of the values which a civil servant could be mandated, to follow are objectivity, integrity, neutrality, dedication to public service, transparency, exemplary conduct, accessibility and efficiency.

10.76. These values have also been studied in the context of developing an Act for the Civil Services. Some principles which they should observe in their functioning are:

- Allegiance to the various ideals enshrined in the preamble to the Constitution;
- Apolitical functioning;
- Good governance for the betterment of the people to be the primary goal of civil service;
- Duty to act objectively and impartially;
- Accountability and transparency in decision making;
- Maintenance of the highest ethical standards; and
- Ensuring economy and avoidance of wastage in expenditure.

RULE OF LAW: POLICE AND JUDICIARY

10.77. Rule of Law requires equality before law and equal protection of the law. The sine qua non of fairness of Criminal Justice Administration is that law should be enforced by Police without fear or favour. Furthermore, the judicial system must protect innocents and punish the guilty. Even though the police and judiciary are conventionally considered as non-developmental and regulatory arms of the State, the Eleventh Plan takes these to be upholders of the rule of law, which is the bedrock of democracy and development. Respect for human rights and equality for all social groups are the preconditions

for political participation and a peaceful society. Viable institutions based on the rule of law improve the chances of settling conflicts peacefully. The legal system provides certainty and the necessary framework for sustainable economic and social development. For instance, establishing and enforcing property rights clears the way for capital formation and a market economy. In addition, a reliable legal and judicial system reduces uncertainties and related investment risks. Thus, transparent predictable legal provisions lay the foundation for vigorous economic activity, investment and growth. Accordingly, capacity building in the police and judicial system has been accepted as a legitimate activity for Plan funding in the Eleventh Plan.

10.78. The police is the instrument of coercive power of the State and this power has to be exercised transparently, with maximum restraint but with telling effect. The effectiveness of the beat constable, as well as the station house officer, has only declined progressively since Independence. Over the years, increasing politicization and corruption, overstretched duty hours and low policing intensity (that is, ratio of police personnel to population) have only contributed to the decline in their credibility. In the 1950s, a single beat constable used to effect the arrest of several offenders, but today a posse is needed for the same task. If this trend is to be reversed, the majesty of law must be re-established and public perception will have to be changed so that a policeman is seen as the person responsible for the public safety, an ace investigator and a professional crime-buster. His achievements will have to be rewarded and misconducts punished relentlessly. Once this is done, it will be necessary to change the legal system so that it gives greater credence to the policeman deposing in a court of law. In special circumstances, his solitary evidence should be relied upon for securing convictions. Conversely, it will be necessary to hold the police officer fully accountable for the depositions made by him. Any falsification of evidence should make him liable to the severest punishment. This change is fundamental to realigning the criminal justice administration system.

10.79. Once this is achieved, the conviction rate will increase, perpetrators of crime will get punished and judicial processes will start buttressing the deterrent effect of law. The current vicious circle of poor policing, poor investigation, half-hearted prosecution, hostile witnesses and high acquittal rate will get converted into a virtuous cycle of greater professionalism in investigation, more responsible prosecution, higher conviction rate and

lesser crime. A more orderly society is the bedrock of planned development.

10.80. The police need to stay ahead of crime and criminals and counter the threats posed by destabilizing forces. Police also need to be equipped to effectively handle emergent challenges of newer criminal and economic offences. Increased reliance on science and technology will also be central to contemporary developments in policing. Today, technology enables us to view crime perpetration, detection, registration, investigation, prosecution, adjudication and incarceration as a seven-stage continuum. It is possible to follow and monitor the crime and the criminal from the time of the perpetration of crime to the time of its adjudication and resultant conviction.

10.81. This requires a unified database on a shared network to monitor the progress of each case till the delivery of the punishment. It will also enable evaluation of the performance of investigators and prosecutors more systematically and enable High Courts to supervise the subordinate courts more effectively. State governments should be encouraged to establish an integrated portal for crime and punishment. The portal will have two tracks:

- The Crime and Punishment Tracking System will monitor crime from the time of its detection, through registration, investigation, prosecution and adjudication.
- The Criminal Tracking System will create a nation-wide system of biometric data capture relating to criminals at the time of arrest, with digital equipment for lifting, recording and storage of fingerprints at the police station level and a powerful search engine for matching fingerprints with those in the database across the country. This will help in creating comprehensive criminal history sheets of individual criminals, habitual offenders and perpetrators of repeat-crimes. Subsequently, more sophisticated databases could be built based on DNA fingerprinting and other biometric identifiers, such as retinal image identification system and Lambdoid Sutures. These could be handled by suitable equipment at district HQs. Fingerprint data capture should be provided for in each police station, as well as in jails.

10.82. It is proposed to provide Rs 2000 crore towards a scheme for Technology Upgradation of the Investigation and Prosecution function, Crime and Criminal Tracking Network, which will establish a secured database on a Web-based, secured network containing information on crimes and criminals and will provide extensive infrastructure for biometric data capture. In all, Rs 7000 crore has been provided in the Plan for various schemes of the Ministry of Home Affairs.

10.83. Wide-ranging reforms in the field of police administration at senior levels are already on the anvil after the Supreme Court had intervened in matters of transparency relating to the appointment of Director Generals of Police and other police functionaries and their tenures. The recommendations of the Soli Sorabjee Committee on some of the issues would form an important input in further strengthening reforms in this area.

10.84. There is today a serious problem posed by Naxalism. A number of districts in the States of Bihar, Jharkhand, Chhattisgarh, Orissa, Maharashtra, and Andhra Pradesh are afflicted by it. The delivery of public services in many of these areas is a serious issue. Resources will be provided to the States to supplement their efforts and ensure access to the people who are suffering from the effect of Naxalism. It is not merely a law and order problem but also a developmental challenge, and the affected States require a combination of political, developmental and perception management responses as part of a holistic strategy. Some of these could be in the field of education and health. Employment of more resources for them for development for the region would be a key issue during the Plan to gradually change the environment in such regions. A new initiative on the Plan side is proposed with an outlay of Rs 500 crore for improving village connectivity and meeting critical gaps in physical and social infrastructure and addressing unmet livelihood concerns in the Naxalite-affected areas.

10.85. Though India has a robust judicial system based on the Anglo-Saxon legal tradition, the process of delivery of justice to the common man is long and tortuous. The long list of pending cases in courts, frequent adjournments, dilatory tactics by some counsels and the practice of charging the client per court hearing/per diem and not on the outcome, are resulting in interminable litigation and unacceptable delays in adjudication.

10.86. As per the Supreme Court newsletter of July–September 2007, 44819 cases are pending in the Supreme Court and 3712715 cases are pending in the High Courts. Special attention will be paid to reforms that would speed up the judicial process. The Mid Term Appraisal had

suggested certain initiatives, which need to be pursued. Briefly, these were:

• Empowering the presiding officers of the courts to exercise better control over their case-lists or Lists of Business in a transparent manner. The List of Business Information System developed by the NIC can help courts monitor whether hearings are getting fixed with predictable periodicity and are beyond manipulation of court staff.
• More courts should be opened to tackle the large backlog of cases.
• Laws need to be reviewed for facilitating out-of-court settlements in civil cases and plea-bargain in criminal cases.
• The counsel–client relationship and counsel fee payment system need to be brought under some principled regulation to make the judicial process more client-friendly, creating an incentive for counsels to ensure early delivery of decisions.
• There is also a need to provide greater finality to adjudicatory processes. Currently, judicial processes meander through an interminable process of inter-locutory injunctions and appeals against interlocutory orders. This can be simplified by enhancing the power of the court to review its own orders, to enable it to bring about a self-correction at the interlocutory stage.
• There is a strong case for moving from a two-appeal system to a single appeal system to give finality to judicial pronouncements. Furthermore, frivolous recourse to filing appeals can be discouraged by imposing a heavy fee.

10.87. The application of information technology can bring about a sea change in the quality of management of casework and can substantially reduce the time taken in the disposal of cases. Under the directions of the Supreme Court and the Conference of Chief Justices, NIC has initiated COURTSIS (Courts Information System) covering all 18 High Courts. The Supreme Court has also started the use of e-signature. This has already enabled them to improve the court–litigant interface, with prompt delivery of copies of judgments, daily orders, case status information, and so on.

10.88. In the Tenth Plan, an ambitious target had been set to computerize all 14948 subordinate courts in the Districts (including 1734 fast track courts). The actual expenditure during the Tenth Plan was Rs 519 crore and the entire amount spent was on computerization of the courts. In the Eleventh Plan, it is proposed to provide Rs 1470 crore to the Department of Justice. Of this, Rs 740 crore is being assigned for computerizing and networking of district and subordinate courts and for establishing e-courts and video-conferencing facilities in courts and jails, and Rs 700 crore for capacity building and infrastructure for Judiciary. An e-Committee has been set up for this purpose, which has prepared an ambitious computerization project to be implemented in three phases over the Five Year Plan period. The Department has also prepared a new scheme on the 'Study of Judicial Reforms and Assessment of Status' that will address the needs of capacity building and training of judicial officers, at all levels.

10.89. While computerization and networking of all courts will enable better administrative supervision and control by High Courts over the disposal of cases in subordinate courts on a daily basis, the full benefits of IT will be realized when the judicial processes start getting re-engineered in the following manner:

• Allowing e-filing of plaints, written statements, affidavits, counter-affidavits and rejoinder affidavits.
• E-filing of examination-in-chief is made admissible in evidence.
• Permitting cross-examination of witnesses in remote locations (that is, outside courts) through video-conferencing and making it admissible in evidence.
• Providing touch screens in witness boxes to enable witnesses to draw site-plans of scenes of occurrence in complicated sessions cases.
• Allowing audio-recorded/audio-video-recorded versions of evidence in order to reduce the time of the court in recording evidence. Once the technology is perfected, speech to text transcripts can also be made admissible in evidence.
• Video-conferencing can be deployed by courts more effectively as an aid to judicial processes in following situations:
  – Securing evidence of witnesses in remote locations or those not able to attend the court.
  – Securing evidence of vulnerable witnesses like rape victims, who may want to avoid the public gaze.

– Conducting identification proceedings.
– Physically distancing the witnesses from the criminals in the identification parade. This will enable the witness to identify the offender fearlessly.
– Dispensing with the transportation of undertrials to and from jail for periodic appearances before magistrates. This will reduce instances of custodial escapes.

10.90. In order to implement these proposals, the judicial processes will need to be re-engineered and amendments made in the Evidence Act, 1872; Criminal Procedure Code (CrPC) and Civil Procedure Code (CPC). This should not be difficult, considering that Singapore, which had similar legislation/regulations in place because of the shared British colonial past, has successfully re-engineered its judicial processes to enable e-courts in order to bring about expeditious disposal.

NEW REGULATORY STRUCTURES

10.91. A new area, which is relevant to determine the quality of governance, is the growth of independent regulators who now perform some of the functions earlier performed by governments. Their role is particularly evident in the infrastructure sectors where the economic policy changes of the past ten years or so have led to a shift from the earlier system, where infrastructure was provided almost exclusively by the public sector to a system where private suppliers of infrastructure services are actively encouraged. The reasons for the shift and its potential benefits have been extensively discussed elsewhere in the Plan document. In this chapter we focus on the fact that the shift has involved the development of new regulatory structures which perform some of the functions earlier performed by governments and which, therefore, have governance implications. The emergence of the regulatory State in the area of infrastructure is the natural consequence of the fact that infrastructure sectors have an element of natural monopoly. Consumers do not always have the choice of choosing alternative service suppliers (there is usually only one airport or road servicing an area) and when they do, as in the case of telecommunications, each service provider must be part of a network where access and connectivity become important. For these reasons, it is necessary for sectors which have opened up to private suppliers, to have regulators who can ensure that the interests of the consumers are adequately protected and

also that the producers are fairly treated. Competing suppliers have to be assured a level playing field, and where government entities are also suppliers only regulators independent of government can carry credibility.

10.92. Economic regulation in such situations should be designed to achieve the effective functioning of competitive markets and, where such markets are absent, to mimic competitive market outcomes to the extent possible. Regulation can also be used to achieve a range of non-market objectives, which include ensuring universal and equitable access, consumer protection and maintaining safety and health standards.

10.93. The regulatory framework that has emerged in the infrastructure sectors is characterized by the establishment of independent regulatory commissions. However, the system has developed autonomously within each sector, with relatively little coordination or cross fertilization of ideas. Box 10.1 captures the broad legislative and institutional framework currently prevailing in different sectors. It is evident that there are significant differences across sectors. An issue that needs to be addressed is whether a fresh look is needed at the regulatory structures that have evolved, taking account of the experience gained thus far.

CONSTITUTIONAL AND LEGAL FRAMEWORK

10.94. The three general principles which are critical to regulatory institutional design are discussed below.

Separation of Power

10.95. The separation of powers principle is complied with when rule-making and administration of rules are vested in the regulatory institution without combining judicial functions, which are reserved for a differently constituted body. Such a regulatory institution would essentially perform the erstwhile role of the government in making rules and enforcing them through licensing and other mechanisms. The administration of these rules would require the regulator to function in a quasi-judicial manner in conformity with the principles of administrative law. However, the adjudicating tribunal must be headed by a judicial member whose appointment and conditions of service are comparable to those holding similar positions in the Judiciary. This adjudication tribunal must be insulated from the rest of the regulatory system and must adopt a process of the highest judicial standards to

resolve the disputes before it. The institutional framework that has emerged in the telecom and electricity sectors broadly conforms to the doctrine of separation of powers with the regulators functioning as quasi-judicial bodies while appeals against their orders are heard by Appellate Tribunals that resemble judicial bodies in form and character. This principle has also been applied to the competition and securities regulatory regimes.

Box 10.1
Legislative and Institutional Framework

Sector	Relevant Statutes	Regulatory Authority
Transport • Roads • Rail • Airports • Ports	– National Highways Act of India, 1998 – Central Road Fund Act, 2000 – The Control of National Highways (Land and Traffic) Act, 2002 – Indian Railway Board Act, 1905 – Railways Act, 1989 – Aircraft Act, 1934 – Airports Authority of India Act, 1994 – Air Corporations (Transfer of Undertakings and Repeal) Act 1994 – Indian Ports Act, 1908 – Major Port Trusts Act, 1963	No transport sector regulatory authority. • National Highways Authority of India acts as the regulator as well as the operator. • States have floated their own corporations or agencies. • Investors have no recourse to an independent roads regulator. • Indian Railways act as the operator as well as the regulator. • Investors have no recourse to an independent railways regulator. • Airports Authority of India is the operator as well as the regulator. Director General of Civil Aviation and the Bureau of Civil Aviation Security (BCAS) regulate safety and technical aspects only. • Investors have no recourse to an independent airports regulator. • Proposal to set up the Airports Economic Regulatory Authority (AERA). • Tariff Authority for Major Ports (TAMP) has the sole function of tariff setting. • Investors and users have no recourse to an independent ports regulator on other matters such as dispute resolution, performance standards, consumer protection and competition.
Energy • Power	– Electricity Act, 2003	No energy sector regulator • Regulatory commissions at the Centre and States with very extensive functions and powers. • Track record not as yet convincing.
• Oil and Gas • Coal and Lignite	– Petroleum and Natural Gas Regulatory Board Act, 2006. – Petroleum Act, 1934 – Oilfields (Regulation and Development) Act 1948 – Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 – Coal Bearing Areas (Acquisition and Development) Act 1957 – Mines and Minerals (Regulation and Development) Act 1957 – Coal Mines Nationalization Act, 1973 – Coal Mines Conservation and Development Act, 1974	• The Petroleum and Natural Gas Regulatory Board regulates the refining, processing, storage, transportation, distribution and marketing of petroleum, petroleum products and natural gas. • Director General of Hydrocarbons licenses and regulates the exploration and optimal exploitation of hydrocarbons. • No regulatory authority for coal. Control by Ministry (Coal Controller) and through nationalized corporations.

(Box 10.1 contd.)

(Box 10.1 contd.)

Sector	Relevant Statutes	Regulatory Authority
Communication • Posts • Broadcasting • Cable TV • Telecom and Internet	– Communication Convergence Bill, 2001 – Indian Post Office Act, 1898 – Prasar Bharati (Broadcasting Corporation of India) Act, 1990 – Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act 2007 – Cable Television Networks Regulation Act, 1995 – Telecom Regulatory Authority of India Act, 1997 – Indian Telegraph Act 1885 – Indian Wireless Telegraphy Act 1933 – Information Technology Act 2000	No communication regulatory authority. • The draft Bill proposes a sectoral regulator to promote, facilitate and develop the carriage and content of communications (including broadcasting, telecommunications and multimedia). It is currently being reviewed in consultation with stakeholders. • No posts regulatory authority. Proposal to create a new regulatory body. A draft amendment bill is open for consultation. • Private participation allowed in the FM radio sector through licensing. No regulatory authority exists for radio and TV broadcasts. A draft bill is currently being subjected to consultations with stakeholders. • Draft Broadcasting Services Regulation Bill, 2007, is open for consultation. It proposes setting up a Broadcast Regulatory Authority of India. • TRAI has the responsibility of tariff setting and interconnection for cable operators. • TRAI has been given the responsibility to regulate telecom and Internet service providers. • Provides for the regulation of carriage and content of cable TV broadcasts.

Democratic Accountability

10.96. In the earlier model of public sector provision of infrastructure services, the Ministry was responsible for setting policy and for various aspects of the delivery of services by the suppliers and was accountable to Parliament for all these functions. With the emergence of private suppliers, the various functions have been unbundled. The Ministry is responsible for policy but the regulator is responsible for many of the functions earlier performed by the Ministry, especially on issues such as price caps, quality of service, etc. The Ministry is responsible for service delivery by the public sector suppliers but not by private sector suppliers. It is also not responsible for balancing the competition between suppliers, which is left to the regulator. This raises the question of the regulator's accountability. To be truly independent the regulator must not be accountable to the Ministry. However, if it is not accountable to the Ministry then perhaps it should be made responsible to the Legislature. This raises the issue of how precisely such accountability can be established. Legislative oversight cannot be absolute. In particular, it must be limited in one significant respect: those decisions of a regulator which are open to appeal before an appellate tribunal or court should be exempt from legislative scrutiny to avoid a clash of jurisdictions. However, it would remain open to the Legislature to review the regulations or policies underlying such decisions.

10.97. Second, the regulator needs to be made responsible to the people at large. This is possible by adopting processes and systems whereby interested citizens or groups of citizens may seek and acquire information, make representations and be accorded full process and participation rights. This capacity of citizens must be extended to both the rule making and quasi-judicial aspects of regulatory functions. The role of CSOs should also be recognized and enhanced. Requiring the regulator to rest decision making on publicly articulated rationale and persistently making them engage with the people at large, is the most effective way for regulatory institutions to earn democratic legitimacy. Further, this is an effective safeguard against regulatory capture by special interest groups. However, it should be recognized that the requirement of engaging with CSOs would by itself fail to achieve the desired results unless the regulators are themselves made accountable to the Legislature.

Federal Principle

10.98. The Constitution distributes legislative and executive power vertically between the Union, State and local government. As the subjects of economic regulation are often divided between Union and State competencies, the regulatory structure should reflect this distribution. An elementary glance at the different regulatory structures for telecom and power may suggest that, so far, the federal principle has been grasped and accommodated. However, problems remain in other areas. Wherever a multi-level regulatory framework is created, as in the electricity sector, a common policy approach backed by uniform enforcement and dispute resolution processes must be ensured. As domain knowledge and regulatory expertise is scarce, a centralized knowledge bank can be maintained in every sector so that all regulators are able to access sufficient information. These initiatives will help promote consistent and coordinated regulation of crucial sectors of the economy.

UNIFORM REGULATORY FRAMEWORK

10.99. As indicated in Box 10.1, the creation of independent regulatory agencies in the last 15 years has proceeded on a sectoral basis, where each line ministry or State Government has constituted a regulator for a particular sector of the economy. This sectoral approach has resulted in an uneven regulatory environment. There is no regulator in some sectors (for example, roads and railways), partial regulators in others (ports and airports) and relatively comprehensive regulators in some (telecommunications and electricity). It is appropriate to review the experience in these sectors and benchmarking them against international best practices to see what changes, if any, are needed. Several issues arise.

Objectives

10.100. There is need for clear articulation of the objectives of regulating the infrastructure sectors so that divergent mandates for sectoral regulators are eliminated. In particular it is important to emphasize that competition is the best safeguard for consumer interests and, therefore, regulation should aim at removing barriers to competition and eliminating the abuse of market power. In those segments of infrastructure services that are amenable to competition, regulation should be light handed and tariff-setting could be left to competitive markets whereas segments that have elements of monopoly should be subjected to close regulation. In all cases, performance standards should be regulated for ensuring quality of service. Regulation should also extend to determination of tariffs for the supply of goods and services, like railways and coal, so long as the market structure remains monopolistic.

10.101. Competition can be promoted by operating on the assumption that each of the infrastructure sectors can be broadly divided into carriage and content segments, and while the carriage element may involve a natural monopoly, content lends itself to competition. Content normally refers to electricity, gas, data or voice. On the other hand, carriage refers to transmission lines, networks, exchanges, airports, ports, highways and other fixed assets. While carriage is typically regarded as a natural monopoly, content is eminently amenable to competition. In order to enable competition in the content segment, the carriage should be subjected to non-discriminatory open access under close regulatory oversight, including determination of tariffs. Where technology or market structure enables adequate competition in carriage, its regulation could remain light handed. These aspects must be clearly addressed in the overarching approach to regulation.

Institutional Framework

10.102. To be effective, all regulatory institutionsshould normally be empowered to make regulations, issue licenses, set performance standards and determine tariffs. They should also have the powers to enforce their regulations, licence conditions and orders by imposing punitive measures, including suspension or cancellation of licences. They may adjudicate on disputes among licensees and between the licensees and government, subject to review in appeal before an Appellate Tribunal that is headed by a judicial person. In the discharge of their functions, the regulatory commissions should be governed by the principles of administrative law and should be expected to act as quasi-judicial entities.

Independence and Autonomy

10.103. Efficient and credible regulation requires that the regulatory authority should be independent and that the regulators should be persons of competence and integrity. To achieve this, it is necessary to review the existing system from this point of view. This includes a review of the qualifications laid down for regulators and the procedures for selection, the remuneration of regulators and their terms of service to see whether they are capable of attracting the most suitable persons instead of naturally leading to the

appointment of retiring civil servants, the degree of autonomy which the regulator has from the administrative Ministry concerned, which is linked to the extent of financial autonomy they enjoy. The Planning Commission has consulted extensively on these issues and will come up with comprehensive proposals for change for the consideration of the government.

Participatory Regulatory Process

10.104. An important aspect of the system of independent regulation is that it provides a structured method of participation. This requires the regulator to adopt a consultative process that ensures avenues for participation by stakeholders. Its proposed annual plan of action and its consultation papers should be freely available on the Internet. The two central functions of the regulator, rule making and the enforcement of rules, should be standardized across regulators to ensure that opportunities for intervention are made available at every stage of the regulatory process.

Regulation and Competition

10.105. Defining a workable division of labour between the regulator and the competition authority is a key to predictability as also for eliminating the possibilities of forum shopping. Presently, competition and regulation laws ignore the potential jurisdictional overlaps between the two areas of law. Sections 3, 4, 5, and 6 of the Competition Act, 2002 which are the key substantive provisions of law, are not market specific and apply generically to regulated and unregulated markets. So it is inevitable that sectoral regulators and the competition authority will issue directives to the same market players, which are likely to conflict given the diverse perceptions of the respective authorities.

10.106. There is a minimal institutional interface between the regulator and competition authorities. Though Section 21 allows any statutory body, which includes a regulator, to refer matters that may potentially violate the competition law, this is optional and regulators may choose not to do so. Further, by creating an interface which is limited to dispute resolution, the statute leaves open a wide scope for disagreements, which may best be resolved before they have matured into legal disputes.

10.107. The Competition Commission of India (CCI) has conducted its own analysis of the interface between

regulation and competition in India and explored three possible modes of interaction. First, mandatory consultation between regulators and competition authorities before any action is taken in regulated industries may be a formal and effective technique. This may be institutionalized by allowing some members of each institution to participate in the decision-making processes of the other. Second, each authority must have the right to intervene in any dispute adjudication before the other. If such a participation right is prescribed by allowing each institution an intervention right in any dispute, this will allow for a reasonable degree of inter-institutional communication. Finally, the competition authority and regulator may be given precise roles in any regulated industry.

Multi-Sectoral Regulators

10.108. Another important issue is whether we should consider establishing multi-sectoral regulators for (i) communications; (ii) electricity, fuels and gas; and (iii) transport. This would eliminate proliferation of regulatory commissions, help build capacity and expertise, promote consistency of approach and save on costs. In the case of States, a single regulatory commission for all infrastructure sectors may be more productive and cost-effective as compared to sectoral regulators for each sector. States should be encouraged to consider this approach and the scope of their existing electricity regulators could be extended to other sectors.

Appellate Tribunals

10.109. The effectiveness of regulators can be severely compromised if their decisions get locked up in appellate courts. Constitution of appellate tribunals on the lines of the telecom and electricity appellate tribunals would help address this concern. These tribunals should be headed by eminent persons of judicial background and may consist of subject matter specialists. Separate appellate tribunals could be constituted for the three major segments, that is, energy, communication and transport. Another approach could be to constitute a single appellate tribunal for all regulatory commissions with regional benches. The respective merits of these two options could be evaluated before arriving at a conclusion.