

causing irreparable damage to the earth's biosphere. Part of the answer to this potential obstacle to further technological development is to invent and use new and less polluting forms of technology and energy<sup>14</sup>.

**The Industrial Resource Base**

Industrial resource base comprises minerals, different forms of energy, water supplies, skilled labour force, and human knowledge. There is limit to the availability of these and this limitation checks the advancement of technology.

But technology itself offers an answer to shortage of all resources. It has potential to discover new materials, substitutes for existing ones and new uses for existing materials. It also has potential to develop human knowledge and discover newer and newer forms of energy.

Technology need not be perceived as a threat to the resource base of society.

**Social Institutions**

A third factor limiting technology is social values and institutions that may be inconsistent with the full productive potential that is present in technology.

An example is seen in Western Australia, where aborigines prevented two international mining companies from drilling for oil at a spot considered sacred by the tribal group. According to their tribal legends, the spirit of a giant sacred serpent is sleeping under the ground where the oil was discovered. Australian labour unions supported the aboriginal demands to halt drilling by boycotting the site and threatening to blacklist all other mining operations of the two companies. Anthropologists estimated that Western Australia may have as many as 200,000 sacred sites like this one, thereby posing a considerable problem for mining and drilling operations there.

Many societies, perhaps most of those that adopt modern technology, encounter similar less dramatic problems in arriving at a decision between their traditional social institutions and the new trends of technological development.<sup>15</sup>

There are ethical issues associated with technology and most of these relate to information technology. With regard to the information technology, employees generally use various devises as shown in Table 6.6.

Desktop computer	Beeps/Pager	<b>Table 6.6</b>  <i>New Technologies Used on the Job</i>
Fax machine	Intranet/Network	
E-mail	Desktop computer	
Answering machine	Tablet computer	
Voicemail	Video conferencing	
Cellular phone	Personal electronic organiser	
Internet	Robotics	
CD-Rom		

(Source: Adapted from *Business Ethics*, Laura P.Hartman, TMH, 2003, p.654)

The above devices no doubt, have greatly contributed to increased productivity, expanded job-related knowledge, improved communication, improved time management, relieved job stress and balanced work and family needs. But the ethical issues created by the new technologies are challenging. The ethical issues of new technologies are shown in Table 6.7.

<b>Table 6.7</b>	<b>Sabotage systems/data of current co-worker or employer</b>
<i>Unethical Activities Associated with New Technologies</i>	<b>Sabotage systems/data of former employer</b>
	<b>Access private computer files without permission</b>
	<b>Listen to a private cellular phone conversation</b>
	<b>Visit pornographic websites using office equipment</b>
	<b>Use new technologies to unnecessarily intrude on co-workers' privacy (such as paging during dinner)</b>
	<b>Copy the company's software for home use</b>
	<b>Create a potentially dangerous situation by using new technology while driving</b>
	<b>Use office equipment to network/search for another job</b>
	<b>Wrongly blame an error you made on a technological glitch</b>
	<b>Make multiple copies of software for office use</b>
<b>Use office equipment to shop on the Internet for personal reasons</b>	

(Source: Laura P.Hartman, op.cit. p.660)

## STATUS OF TECHNOLOGY IN INDIA

India, like any other third world country, attained political independence after prolonged colonial rule and exploitation. The country entered the modern world in a state of economic backwardness and poverty of a large section of its people. It is obvious that technology must attend to the basic problems of food, clothing, health and housing of people. At the same time, rapid industrial development through latest technology is necessary to catch up with the advanced countries.

With these objectives in mind, Government of India set-up Research and Development establishments, space research centres, medical research centres, agricultural research establishments, oil exploration centres, power development projects and the Council of Scientific and Industrial Research. Besides, several universities and institutes have been set up to provide higher education in science, technology and management. As of today, there are 4700 intermediate/junior colleges, 144 universities, and 44 deemed universities in the country. Also there are more than 500 science and technological institutions, and 1220 in-house research and development laboratories. There is also the Department of Science and Technology, an administrative wing of the government, to coordinate the activities of all research and technical activities in the country. (Also read the last section in this chapter).

With all these, our country ranks eighth among Asian Countries in the technology front (Read Box 6.5 and Table 6.8)

## Box 6.5

## The Asian Technology Leaders

Rank	National orientation*	Socio-economic infrastructure	Technological infrastructure	Productive capacity**
1	Singapore	Taiwan	Japan	Japan
2	Japan	Singapore	South Korea	Singapore
3	South Korea	Japan	Singapore	Malaysia
4	Malaysia and Taiwan	South Korea	China	South Korea
5	Hongkong	Hongkong	Taiwan	Taiwan
6	Indonesia	Malaysia	Malaysia	Hongkong
7	China	Indonesia	India	India
8	India	China	Indonesia	China and Indonesia

\* Evidence that a nation is taking direct action to become competitive.

\*\* Physical and human resources devoted to manufacturing products and the efficiency with which these are used.

Note: In socio-economic infrastructure, India's position is No.9

(Source: *Business World*, 16-31 March, 1997)

	India	China	Russia	Israel	Singapore	Taiwan	South Korea
US Patents obtained	30 354	60 366	62 268	306 1188	39 438	62 5300	263 3953
R&D Spending (% of GDP)	1	1.2	1.2	4.7	2.3	2.3	2.9
Science and Engineering Graduates ('000)	316	337	218	14	53	49	

Table 6.8

Status of Countries (1993-2003)

In 2003, US inventors secured 88,000 US Patents.

The US Spent 2.7% of GDP on R&D

(Source: *The Economic Times*, October 10, 2004)

The Government also came out with a policy on science and technology spelling out its aims and the thrust areas. The salient features of the 2003 policy are mentioned below:

## Science and Technology Policy 2003

### Objectives of the Policy

- To ensure that the message of science (and technology) reaches every citizen of India.
- To ensure food, agriculture, nutritional, environmental, water, health and energy security of the people on a sustainable basis.
- To mount a direct and sustained effort on the alleviation of poverty, enhancing livelihood security, removal of hunger and malnutrition, reduction of drudgery and regional imbalances, and generation of employment.

- To vigorously foster scientific research in universities and other institutions.
- To promote the empowerment of women in all science and technology activities and ensure their full and equal participation.
- To provide necessary autonomy and freedom of functioning for all academic and R&D institutions.
- To use the full potential of modern science and technology to protect, preserve, evaluate, update, add value to, and utilise the extensive knowledge over the long civilisational experience of India.
- To accomplish national strategic and security-related objectives, by using the latest advances in science and technology.
- To encourage research and innovation in areas of relevance for the economy and society, particularly by promoting close and productive interaction between private and public institutions in science and technology.
- To substantially strengthen enabling mechanisms that relate to technology development, evaluation, absorption and upgradation from concept to utilisation.
- To establish an Intellectual Property Rights (IPR) regime which maximises the incentives for the generation and protection of intellectual property by all types of inventors.
- To ensure that all efforts are made to have high-speed access to information at affordable costs.
- To encourage research and application for forecasting, prevention and mitigation of natural hazards, particularly, floods, cyclones, earthquakes, drought and landslides.
- To promote international science and technology cooperation towards achieving the goals of national development and security, and make it a key element of India's international relations.
- To integrate scientific knowledge with insights from other disciplines.

### **Strategies to Realise Objectives**

In order to realise the above objectives, the policy spelt out several strategies. The strategies include:

1. To ensure science and technology governance and investments.
2. Optimal utilisation of existing infrastructure and competence.
3. Strengthening of the infrastructure for science and technology in academic institutions.
4. New funding mechanisms for basic research.
5. Human resource development.
6. Technology development, transfer and diffusion.
7. Promotion of innovation.
8. Interaction between industry and scientific laboratories.



9. Utilisation of indigenous resources and traditional knowledge.
10. Development of technologies for mitigation and management of natural hazards.
11. Generation and management of intellectual property.
12. Creation of awareness among public about science and technology.
13. Achieving international science and technology cooperation.
14. Build a new and resurgent India that continues to maintain its strong democratic institutions and traditions.

## **Institutional and Other Facilities to Promote Science and Technology**

Government has established series of research establishments and granted recognition to in-house R&D centres run by private industries and educational institutions. The Government has been offering many monetary and fiscal sops for the purpose. The facilities available are as follows:

### **Institutional Arrangement**

#### **1. Apex Level Organisations**

Department of Scientific and Industrial Research (DSIR)  
 National Research Development Corporation (NRDC)  
 Council of Scientific and Industrial Research (CSIR)  
 Department of Science and Technology (DST)  
 Department of Biotechnology (DBT)  
 Department of Space (DOS)  
 Department of Atomic Energy (DAE)  
 Department of Electronics (DOE)  
 Department of Defence R&D  
 Ministry of Non-Conventional Energy Sources  
 Ministry of Industry  
 Department of Mines  
 Department of Ocean Development  
 Venture Capital Companies for Technology Development

#### **2. Research and Development by Industry**

In-house R&D units recognised by the government. There are 1220 R&D units and the break-up is as follows:

Chemical and allied industries	425
Electrical and electronics industries	325
Mechanical engineering	240
Processing industries	180
Agro industries	50
Total	<u>1220</u>

Major Industry Associations such as FICCI, ASSOCHAM, CII, Indian Chemical Manufacturers Association and the like have also been active in promoting research.

### **3. Incentives**

- Income Tax relief on R&D expenditure
- Weighted tax deduction for sponsored research
- Accelerated depreciation allowance
- Five year tax holiday to commercial R&D companies
- Customs duty exemption on goods imported for R&D projects
- Excise duty waiver on patented products
- Excise duty waiver on non-commercial research institutions
- Price control exemption on domestic R&D based bulk drugs

### **4. New Technological Initiatives**

- Technology parks
- Joint R&D companies
- Joint Industry-National Laboratory Programme
- Joint Test/Evaluation Centres
- Technology-Business Incubation Centres
- Co-operative Research Associations for SSIs
- Commercial R&D companies.

## **QUESTIONS**

1. What is technology? What are its features?
2. Bring out the distinction between science and technology.
3. Explain the impact of technology on society.
4. Bring out the economic implications of technology.
5. Discuss the plant level impact of technology.
6. Bring out the forces that impact the growth of technology.
7. Bring out the salient features of our technology policy.

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# CHAPTER 7

## *Political Institutions*

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### CHAPTER OUTLINE

#### **Three Political Institutions**

- *Legislature*
  - *Executive*
  - *Judiciary*
  - *Judicial Activism*
- 

### LEARNING OBJECTIVES

**After reading this Chapter, you should be able to:**

1. *Understand that in our democratic set up, there are three political institutions.*
  2. *Know that the role of Legislature on business is considerable*
  3. *Appreciate that Executive has responsibilities to business and business owes many obligations to government.*
  4. *Understand that Judiciary is no more confined to its ivory towers and that its role in business is immense and is increasingly becoming activist.*
-

The influence of political environment on business is enormous. The political system prevailing in a country decides, promotes, fosters, encourages, shelters, directs and controls the business activities of that country. A political system which is stable, honest, efficient and dynamic and which ensures political participation of the people, and assures personal security to the citizens, is a primary factor for economic development.\* The rich countries of today owed their success mainly to the political systems they richly enjoyed.

A stable, honest, efficient and dynamic political system is essential for economic growth.

"There is today", comments John Kenneth Galbraith, "no country with a stable and honest Government that does not have or has not had a reasonably satisfactory state of economic progress."<sup>1</sup> He further argues that "In all these countries, the early emphasis was not on capital investment but on political and then on cultural development. In the United States, Western Europe, and more recently in Japan, a secure political context was stressed in both thought and action on economic development; it was considered the first requisite for economic progress."<sup>2</sup>

Two basic political philosophies are in existence all over the world, viz., democracy and totalitarianism. In its pure sense, democracy refers to a political arrangement in which supreme power is vested in the people. Democracy may manifest itself in any of the two fundamental manners. If each individual is given the right to rule and vote on every matter, the result is *pure democracy* which is not, however, workable in a complex society with a large constituency. Hence, the *republican* form of organisation follows whereby the public, in a democratic manner, elect their representatives who do the ruling.

Democracy comprises two types: pure and republican. Pure democracy requires every citizen to take part in governance. Republican democracy exists when leaders, elected by people, do the ruling.

In totalitarianism, also called authoritarianism, individual freedom is completely subordinated to the power of authority of the State and concentrated in the hands of one person or in a small group which is not constitutionally accountable to the people. Societies ruled by a pressure clique — political, economic or military — or by a dictator, plus most oligarchies and monarchies belong to this category.

During the First and Second World Wars, authoritarian governments began to appear in most mature economies. Even after the Second World War, the totalitarian system became most common in newly independent nations. Administrative efficiency of the dictators was cited as an advantage for coping with the problems of new-born States. Surprisingly, nearly two-thirds of the nations are ruled by dictators or monarchies even today (see Box 7.1).

Totalitarianism, in itself, is of three types: theocratic, secular and tribal. When a country's religious leaders also act as its political leaders, its political system is called a **theocracy**. Religious leaders frame and enforce laws and regulations

\* What is important is that the political system of the Government should be efficient and dynamic, besides being stable. Stability, though an important requirement, by itself will not guarantee economic prosperity as has happened to Tanzania. Nyerere ruled Tanzania for two decades and resigned in 1985 leaving a near-ruined country behind him. Similar is the story with Zaire under Mobutu and Zambia under Kenneth Kaunda.



**Box 7.1****Face of the Third World**

The Third World is immensely varied. In 1983, the World Bank listed 73 countries with per capita annual incomes below \$ 1700. Their combined population was just about 3000 million. They included colossal nations like China and India, as well as tiny nations. Infact, 45 poor nations had populations of less than 10 million. In religion, they ranged across all

the major ones — Hinduism, Islam, Christianity and Buddhism. A few were ideologically right wing, a few left wing, but majority had mixed economies, with both public and private sectors. Most were authoritarian regimes but there were also a few genuine democracies. (See Pradip N. Khandwalla's *Organisational Design for Excellence*, p.27).

Three forms of totalitarianism are in place: theocratic, secular and tribal.

that are based on religious beliefs. A political system that is under the control of religious leaders is **theoretic totalitarianism**. Afghanistan, some Sheikdoms of the Middle East and Iran are the countries which have such political dispensation.

A political system in which political leaders are guided by military and buerocretic power is called secular **secular totalitarianism**. In this, the military controls the government and makes decisions which it deems to be in the best interest of the country. An example is Pakistan. Until the early 1980s, secular totalitarianisms were common throughout Latin America. They were also found in several Asian countries, particularly South Korea, Taiwan, Singapore, Indonesia and the Philippines. Since the early 1980s, however, this form of government has been losing its ground. The majority of Latin American countries are now genuine democracies, while significant political freedoms have been granted to the political opposition in countries such as South Korea, Taiwan, and the Philippines.

A third form of totalitarianism is the **tribal totalitarianism**. This exists principally in African countries such as Zimbabwe, Tanzania, Uganda, and Kenya. Tribal totalitarianism occurs when a political party that represents the interests of a particular tribe monopolises power.

As between democracy and totalitarianism, which political doctrine is ideal for business is a relevent question. The choice is apparently difficult because there are countries that represent the two political philosophies and both have achieved tremendous economic prosperity. America is a super power and it has achieved its position under democratic dispensation.

Similarly, former USSR attained its once super-power status but under communism. Economic development demands a political system which guarantees stability, dynamism, purposefulness, security to citizens and the involvement of people in developmental activities. Authoritarianism, no doubt, ensures stability but may fail in other respects. Democracy, in contrast, guarantees peoples' participation. The right leader being elected, democracy also can ensure stability, security, dynamism and purposefulness.

It may be stated that democracy does not guarantee high rates of economic growth. Nor totalitarianism drives a country to slow economic growth. Rate of growth—the increase in the amount of goods and services produced by a nation—is influenced by many variables other than political and civil liberties. These include a country's tax system, policy towards foreign and domestic investment, political stability, judiciary, and the like.

Between democracy and totalitarianism, democracy is preferable for economic growth.

### THREE INSTITUTIONS

The political system under democratic dispensation, like ours, comprises three vital institutions, *viz.*, legislature, executive or government and judiciary.

#### Legislature

Of the three, the Legislature is the most powerful political institution vested with such powers as policy making, law-making, budget approving, executive control and acting as a mirror of public opinion.

The influence of the Legislature on business is considerable. It decides such vital aspects as the type of business activities the country should have, who should own them, what should be their size of operations, what should happen to their earnings and other related factors.

Democracy has three institutions, Legislature, Executive and Judiciary. Of the three, first is the most powerful one. But a typical business person interacts more with executive.

#### Executive or Government

Also called the 'state', the term Government refers to '*... the centre of political authority having the power to govern those it serves.*'<sup>3</sup> More or less a similar meaning is given by E.V.Schneider when he described government as '*that institution by which men everywhere seek to order society, that is, to control the structure and functioning of society.*'<sup>4</sup>

The founders of our Constitution provided for a federal set-up, with powers being divided between the national and the state governments. The powers and functions of the central and state governments are described in the Constitution. The emphasis throughout this section is on the role of national or central government in shaping, directing and controlling the business activities.

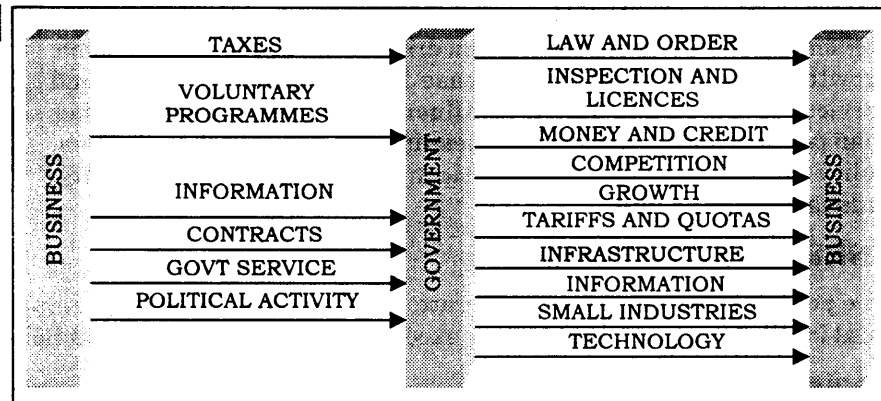
What are government's responsibilities to business? What are responsibilities of business houses to the government? Following paragraphs answer these questions.

#### **Business Responsibilities to Government**

Business firms have a number of responsibilities to the government (see Fig.7.1). Business firms must obey the laws of central, state and local governments. Such laws and regulations may pervade the entire gamut of a business enterprise. Business must go beyond obeying laws and regulations. It should look to the government for support, sustenance, encouragement and guidance. Business leaders must look upon government as a big brother who is wiser, more matured, more mellowed and less impetuous element in business. Business must also play a vital role in helping the government to develop its functioning capabilities. A few important responsibilities of business towards the government are explained below:

Figure 7.1

Responsibilities  
of Business to  
Government  
and of  
Government to  
Business



Captains of business houses need to go beyond mundane things. They need to take government as a big brother who is wiser, more matured, more mellowed and less impetuous element in business.

(a) *Tax Payment*: Taxes paid by business enterprises constitute a major source of revenue to the government. Firms themselves pay regular taxes on their sales, inputs and income and also deduct, at source, income taxes from salaries and wages of employees and remit the collections to the government.

(b) *Voluntary Programmes*: Business firms cooperate with government agencies on a voluntary basis in connection with various programmes such as withholding stated amounts from wages and salaries of employees for the purchase of National Savings Certificates, or giving special assistance to local governmental units in connection with drought relief, education, tree planting, sanitary works or recreational activities. In cooperation with the government, business firms train the unemployed and support non-discriminative recruitment of personnel and workmen. Business extends these facilities under the name of social responsibility.

(c) *Providing Information*: Political leaders, either because of inexperience or over enthusiasm, make certain decisions which may not be in the overall interest of business. The onus then lies with business leaders to place before the decision-makers the facts and problems, individually or through forums, and argue for the modification or change of decisions. Business leaders possess the necessary knowledge and experience to place their points of view before the political leaders.

(d) *Government Contracts*: Many business firms bid for government contracts and, if successful, carry out the resulting projects with the required specifications and standards. Housing projects, oil pipelines, turnkey projects and others are executed by private business houses for the government.

(e) *Government Service*: Business offers services of its leaders to the government. It is not unusual for business executives to lead or accompany delegations to foreign countries for exploring trade and industry prospects. Similarly, business leaders serve on various advisory boards constituted by the government.

(f) *Political Activity*: Political participation is a much debated subject today. There are arguments for and against participation of business in political activities. Justifying business-politics nexus G.D.Birla once said, "As the Bhagavad Gita

says, every man must do his duty — which means if you are a wealthy man, you must do your duty by your wealth, and his dharma is to provide for general welfare. If political action is involved in this, I don't see why I should fight shy of it". Edwin M. Epstein also support corporate involvement in politics. Involvement enhances the quality of pluralism and provides an additional safeguard against the authoritarian potential of a mass society.<sup>5</sup>

Opposition to business involvement in politics is equally strong. J.R.D. Tata once wrote: "I have never regretted my decisions to stay out of politics which I rationalised to myself by concluding that I could do more for my country in business and industry than in politics for which all my instincts in any case made me unfit". More powerful argument came from Arnold Maremont. Stated he: "It is my conviction that business ought, for its own good, to stay out of politics. I favour the widest possible participation in politics on an individual basis, for when it becomes the province of the elite few, our systems are in danger. It is when corporations begin running political classes, conducting political schools, and urging that their executives enter the political arena to expound the corporation's viewpoint that I become deeply fearful of the consequences".<sup>6</sup>

Business involvement in political activities generates varied arguments. Strong opinions are being expressed in favour and against involvement in politics. Arguments notwithstanding, captains of businesses do involve in political activities either by funding parties or by contesting elections.

Different viewpoints apart, business has been involved in political activities since long. Contrary to protestations of J.R.D. Tata, the Tatas did support political activities. They financed a number of organisations in Mumbai that are critical of what they call the Soviet model of development. They were also closely connected with the establishment of Swatantra Party in the 1960s. Birlas do much more. They run newspapers, finance political candidates and parties and even contest elections on their own. Infact, they have always played an active role in politics, and did so even before Independence, when it was much more hazardous to do so. Instances of this type are many. Nexus between business and politics is therefore, an established fact.

What are the ways of involvement is the next logical question. One way is to make monetary contributions to political parties, particularly at the time of elections. Corporate contributions to political parties have now been legalised in our country, merits and demerits notwithstanding. The other way of participation is for business leaders to contest elections as independents or on party labels. The third way of involvement is through lobbying which refers to behaviour after the elections and is concerned with securing legislation in the favour of business.

**Government Responsibilities to Business**

Government responsibilities to business (see Fig 7.1) are much greater than the obligations of business to the government. Government has the power, will and resources to decide, shape, guide and control business activities. Being democratically elected and having accepted the mixed economy, our government is clear about the role it has to play and the responsibilities it has to discharge towards business houses. As promoter and regulator of business activities, the government has been discharging its obligations quite effectively,

Responsibilities of government towards business are too clear. No business can function and survive without government's help.

failures notwithstanding. Specifically, the government's responsibilities towards business are as follows:

*Establishment and Enforcement of Laws:* Government establishes and enforces laws and regulations under which the business functions. Laws and regulations covering all aspects of business are enacted by the government. Government is responsible for providing the 'rules of the game', which make the business systems function smoothly and which help maintain competition, or if monopolies develop, to regulate them or supplement them by government operations. It is the responsibility of government to enforce the laws and to provide a system of courts for adjudicating differences between business firms, individuals, or government agencies.

*Maintenance of Order:* Government has the responsibility of maintaining order and protecting persons and property. It would be impossible to carry on business in the absence of a peaceful atmosphere.

This is borne out by the decline in the number of industrial licences issued to Punjab during 1986. The total number of licences issued during 1986 was 618. Of these, Punjab accounted for only 37 as against 94 the state has bagged in 1984. "This is perhaps", remarks *Economics Times* of March 14, 1987, "due to the disturbed conditions prevalent in the state". Read Box 7.2 for more details on the sordid state of lawlessness.

*Money and Credit:* The government provides a system of money and credit by means of which transactions can be affected. It is also the responsibility of the government to regulate money and credit and protect the integrity of the rupee, that is, to guard against rapid fall in its value.

*Orderly Growth:* Orderly growth implies balanced regional development, distributive justice, full employment and protecting the economy against 'booms and busts'. The Government has the resources and capabilities to ensure orderly growth.

*Infrastructure:* Business needs for its effective functioning such infrastructural facilities as transportation, power, finance, trained personnel and civic amenities. It is the responsibility of the government to provide these facilities.

*Information:* Government agencies publish and provide a large volume of information which is used extensively by business firms. Included are information services of the departments of commerce and industry, agriculture, labour, health, education, banking, atomic energy and host of others. These services carry on important activities in providing business firms and private citizens with objective and impartial information about economic and business activity in general, specific lines of business, scientific and technological developments and many other things of interest to business leaders.

Many state and local governments also provide information highly useful for business leaders in conducting their activities.

*Assistance to Small industries:* Small-size business establishments have special role to play in our economy. Being small in size, these firms face problems relating to finance, marketing, know-how and do-how and infrastructural facilities.



## Box 7.2

## Saga of Mayhem, Killings and Extortions

The state government's (Assam) ineffectiveness and the tea planters' money had created a Frankenstein's monster. No one really knew how to destroy it. ULFA hiked its demand on the tea majors to include a cess of Re.1 per Kg. As the kidnapping and killings increased, government was dismissed and President's rule imposed. That night (Nov 28, 1990), the army launched Operation Bajrang in the Brahmaputra Valley. Operation Rhino followed some months later, after state elections. In all, 3,500 ULFA members surrendered.

Four months later, ULFA demonstrated its muscle by kidnapping 13 senior government officials and a Soviet mining engineer. Two weeks later, the government was forced to release 400 ULFA detainees. Overjoyed by its success, ULFA went on a mad spree. During 1992-94, it gunned down police officers, Congress and BJP politicians, and five of Chief Minister's relatives. It also killed an ONGC engineer, kidnapped the head of Prag Bosimi Synthetics, murdered a manager of the Paul-run Assam Frontier, and drove out a French team of scientists. The toll rose rapidly to 400 executives.

ULFA's victories became a role model to a motley collection of terrorist organisations such as the Bodo Security Force (BSF). Like the ULFA, the BSF tapped tea managers for funds. One of its bigger successes was an attack on Subhir Roy, a manager of the Khaitan-owned Dimakuchi garden. On March 18, 1992, they stopped his car and abducted Roy and his driver. Khaitan was asked to pay a 'land tax' at the rate of Rs.20,000 per hectare to obtain his manager's release. During the negotiations, on April 3, the BSF gunned down a manager of the Kanoi-owned Panbari garden. Roy was released after 20 days of captivity. Like others before him, Khaitan vehemently denied that any ransom had been paid.

Today, the gardens are guarded night and day by Khaitan's private army. 2000 armed forces, 40 per garden, patrol its perimeters constantly. No manager is allowed to go outside the garden without some protection. If he does and he is kidnapped, it's his funeral. The management is not responsible for his ransom.

(Source: Gita Piramal, *Business Maharajas*, New Delhi, Viking, 1996, Pp.292-293)

It is again the responsibility of the government to provide the required facilities and encourage the small-scale sectors to grow.

*Transfer of Technology:* Government-owned research establishments transfer their discoveries to the private industry in order to put them to commercial production. The Indian Space Research Organisation (ISRO), a Central Government undertaking, has successfully spun off more than 130 products/processes from its labs to the Indian industry in the last decade. Of these, 110 are in active production. More striking success in the technology transfers is in the area of instruments for processing remote sensing data.

*Government Competition:* Government often competes with private business firms for the purpose of regulating competition, improving quality, or to supplement private activities with government programmes. In some cases, the government regulates the prices which may be charged for buyers.

**Inspections and Licences:** Government agencies conduct inspection activities—foods and drugs, for example, assuring quality products to consumers. Government issues licences to competent business establishments to carry on different activities.

Many developed countries use protectionist measures like quotas and tariffs to protect domestic industries.

**Tariffs and Quotas:** Tariffs and quotas are used by the government to protect business from foreign competition. One of the problems faced by exporting countries all around, particularly Japan, is the protectionist policies adopted by developed countries. Similarly, incentives and subsidies are granted by the government to encourage the development of home industries.

For many, the above obligations of the government may look irrelevant because of reforms introduced by the government in the recent past. While it is true that the reforms have resulted in the diminished role of the government, the role *per se* has not been abolished. Thus, industrial licensing continues though the list of industries subject to licensing has been pruned. Similarly, tariffs and quotas do exist though on a lesser scale.

### Judiciary

The role of judiciary is to ensure that the executive authority conforms to the general rules laid down by the legislature.

The third political institution is the Judiciary. Judiciary determines the manner in which the work of the Executive has been fulfilled. It sees to it that the exercise of executive authority conforms to the general rules laid down by the legislature, it may declare that the particular order issued is, in fact, *ultra vires*. It also settles the relationship between private citizens, on the one hand, and between citizens and the government upon the other, where these give rise to problems which do not admit of solution by the government.<sup>7</sup>

### Systems of Laws

Four systems of law govern business everywhere. They are (i) Islamic law, (ii) Common law, (iii) Civil or Coded law, and (iv) Marxist law.

There are four basic legal systems prevailing around the world: (1) Islamic law, derived from the interpretation of the Quran and found in countries where Muslims are in majority, (2) common law, derived from English law and found in countries which were under British influence, (3) Civil or code law, derived from Roman law found in Germany, Japan, France and non-Marxist and non-Islamic countries, and (4) Marxist legal system which has takers in communist countries.

The laws among these four systems and within each system vary considerably. Eventhough a country's laws may be based on the doctrine of one of the four legal systems, its individual interpretation may vary significantly—from a fundamentalist interpretation of Islamic law as found in Saudi Arabia to a combination of several legal systems found in the US, where both common law and civil law are reflected in the laws.

**Islamic Law:** Islamic law is derived from the interpretation of the Quran and the teachings of the Prophet Mohammed. The word "Islam" translates into English as 'submission' or 'surrender'. Muslims submit to the will of God, who decrees what is proper and what is improper. God's commandments, as revealed to Mohammed, provide a path, or **shari'a**, for true believers to follow. The **shari'a** is not a coded law. It provides ethical and moral precepts as well as the rules of

public order.<sup>(8)</sup> Countries from Philippines to the former Soviet Union have substantial Muslims who follow Islamic cultural and legal traditions, and Islamic traditions dominate the legal and social environment of most Arab nations.

The idea of law in Islamic societies is quite different from that in most Western cultures. Where most Western nations perceive law as an expression of the will of the people acting through their legislatures, Islamic law is the product of divine revelation. It cannot be changed as the believers believe in the will of the God. The immutability of the law requires Islamic nations to look to other sources of law to resolve disputes and govern.

Among the unique aspects of Islamic law is the prohibition of paying or receiving interest. The Islamic law of contracts states that any given transaction should be devoid of **riba**, which is understood as unlawful gain by way of interest or usury. Prohibiting receipt and payment of interest is the nucleus of the Islamic system. Prohibition against interest affects banking and business practices severely. However, risk sharing, property rights, individual rights and duties and sanctity of contracts are advocated. Investments in alcohol, gambling and casinos are prohibited.

Receiving and paying interest is a taboo in Islamic law. Similarly, investments in alcohol, gambling and casinos are prohibited.

The business manager should have knowledge about the religion's tenets and understand the way the law may be interpreted in each region. Regional courts can interpret Islamic law from the viewpoint of fundamentalists or they may use a more liberal translation. The business manager should also know that the Islamic legal system places emphasis on the ethical, moral, social and religious dimensions to enhance equality and fairness for the good of society.

Islamic legal system places emphasis on the ethical, moral, social and religious values to enhance quality and fairness.

**Socialist Law:** This law comes from the Marxist socialist system and continues to influence regulations in former communist countries, particularly those from the former Soviet Union, as well as present day China, Vietnam, North Korea and Cuba.

Extensive codes are the primary sources of socialist law. From this perspective socialist law can be classified as civil law and the ideology thrust on the codes makes socialist law different from others. The legislature is the primary branch of government, and judiciary is next to the legislature. This structure owes its origin to the founding fathers of the socialist legal system who were trained as civil lawyers, and pre-revolutionary Russia was essentially a civil law country.

Extensive codes are the main feature of socialist law. But ideology plays prominent role. Communist idealism permeates socialist law.

Ideology plays crucial role in Socialist law. Unlike a civil law code, which can be used by governments of widely differing political viewpoints, socialist legal codes are designed to achieve personal and societal transformation. The legal system is not just a set of institutions, but means to achieve a communist society, where each gives according to his or her abilities and takes according to his or her needs.

Communist ideology permeates socialist law. The legal environment provides for state ownership of the means of production and distribution, including most businesses. It also calls for state ownership of land, and in most cases collective use of land. There is little tolerance of private property rights. The codes support the centralised planning,

allowing the Central Government to set national, and uniform standards for business practices.

At the centre of the socialist legal tradition is the Communist party. The party is the keeper of the ideology of the state, and through its powers to nominate officers, staff the bureaucracy, and monitor work places, it determines the norms that become law.

Russia and China are the two countries which come to one's mind while discussing socialist law. Each country has taken a different direction in its political economic growth. Russia is moving towards a democratic system, whereas China is attempting to activate private sector within a multicomponent or mixed economy in a socialist legal framework. Both the countries are busy with passing laws to suit charged political environments. China has implemented over 150 laws but most laws are vague. Russia's experience has been identical. Vaguely worded laws have been passed without mechanisms for implementation. These countries are struggling with universal issues such as states' rights, freedom, rights of property owners, taxation, and price control.

India follows common law. Common law is based on the cumulative wisdom of judges' decisions on individual cases. Tradition plays a major role in common law countries.

**Common Law:** Common law comes from English law and it is the foundation of the legal system in the US, Canada, England, Australia, New Zealand, India and other countries. Common law is based on the cumulative wisdom of judges' decisions on individual cases. In common law countries, vast areas of law, such as contracts, torts, and agency, are controlled by collections of principles deduced from specific disputes resolved in an adversary process.

A key concept in the common law is that similar disputes should achieve similar legal results. Thus, parties to a dispute will look for similar, earlier cases with favourable decisions. These earlier cases have precedential value to a current dispute. If an earlier case is from a higher court in the same jurisdiction, a subsequent judge is expected to follow the earlier decision.

The practice of relying on past precedences provides stability required for business people to plan their future actions. But there is also the flip side. Laws affecting business practices vary somewhat in countries which follow common law, creating potential problems for the not so well informed international business manager. For example, manufacturers of defective products are more vulnerable to law suits in the US than in New Zealand as a result of evolutionary differences in the law of negligence in the two countries.

Legislation and its accompanying regulations are another major source of law in common law countries. Cases provide rules for individual, specific circumstances, whereas legislations offer blanket rules.

Finally, tradition is a major source of law in common law countries. The customary practices of an industry or of government institutions influence the way a judge will look at a particular case.

**Civil Law:** The civil law system, also called a codified legal system, is based on a detailed set of laws that make up a code. Rules for conducting business are a part of the code. Over 70 countries, including Germany, France and Japan follow civil law.

The civil law system originated with the Romans in the ancient times, who spread it throughout the Western world.

The rules of judges and lawyers make civil law different from common law. In a common law system, the judge serves as a neutral referee, defining points of law and ruling on various motions put up by the opposing party's lawyers. These lawyers are responsible for developing their client's cases and choosing which evidence to submit on their client's behalf. In a civil law system, the judge takes on many of the tasks of the lawyers, as for example, determining the scope of evidence to be collected and presented to the court.

Civil law system is based on a detailed set of laws that make up a code. Civil law is also called codified legal system.

The distinction between common law and code-law system becomes more pronounced in protecting intellectual property. Under common law, ownership is established by use; under code-law, ownership is determined by registration. In some countries where civil law prevails, certain agreements may not be enforceable unless properly notarised or registered; in a common law country, the same agreement may be binding so long as proof of the agreement can be established.

### **Judicial Powers**

The judiciary in a country is influenced by its political system. The government of a country defines the legal framework within which firms do business-and often the laws that regulate business reflect the rulers' political ideology. Totalitarian states, for example, tend to enact laws that severely restrict private enterprise, while democratically elected governments pass laws that are pro-private enterprises and pro-consumer.

The legal system in a country does not change overnight. Laws change over a long period of time and may lag behind important cultural changes which are taking place in a country. In many cases, it is not culture change which invites changes in the law, but ambiguities in the law themselves which are challenged in the courts.

The powers of the judiciary are of the dual type:

- (i) The authority of the courts to settle legal disputes; and
- (ii) Judicial review-the authority of the courts to rule on the constitutionality of legislation.

As far as the second is concerned, the Judiciary gets activated when the legislature passes laws which are repugnant to the Constitution and when the executive implements the enactment approved by the legislature in a manner opposed to the requirements of the legislation. In other words, the courts of justice protect the citizens from unlawful acts passed by the legislature and arbitrary acts done by the Executive.

It is the power of the judiciary to settle legal disputes that affects business considerably. Disputes between employer and employer; employer and employees, employee and employee, employer and public and employer and the government are often referred to courts for settlement and their verdicts are sought.

The power of the judiciary to settle legal disputes affects business considerably.



The judicial pronouncements will have far-reaching consequences on business. The consequences will become more intense and severe because (i) judicial errors do occur, though infrequent; (ii) possibility of wrong assessment of penalty. Judges notoriously vary in the severity of punishment inflicted,<sup>9</sup> (see Box 7.3), (iii) judges are known for pronouncing conflicting verdicts on the same or similar disputes and (iv) there is a lot of confusion in labour laws themselves (Read Box 7.4).

### Box 7.3

#### All Pay and No Work at Mysore Tobacco

All pay and no work, for the last six years, seems to be the immense good fortune of the retrenched employees of the Mysore Tobacco Company Limited, a Karnataka state government public sector undertaking with an accumulated loss of Rs.6.32 crore at the end of March 1992. Mysore Tobacco Company Limited was established, nearly six decades ago, in 1937 with the objective of purchasing raw tobacco from farmers, processing, grading, redrying and packing it.

According to highly-placed sources, Mysore Tobacco Company Limited had been ordered into liquidation in 1983. The company had about 157 employees at that time. After a decision to liquidate the company was taken due to mounting losses, about 62 employees were absorbed in the various departments of the Karnataka government.

Subsequently, about 42 employees took voluntary retirement in 1986. However, what threw the spanner in the works was the fact that some of the employees went to the Labour Court in 1983. The Labour Court ordered the reinstatement of the employees with back wages. Subsequently, the state government appealed against this order to the Karnataka High Court in 1987.

In its order, according to the sources, the Court allowed the petition and ordered the Mysore Tobacco Company to pay these employees the last-drawn wages till the disposal of the case. The employees are being paid every month by cheque after the 20th of the next month. About 53 employees were retrenched in 1983 and of them about 36 continue to draw their salaries today. These employees are in the field staff category. In 1991-92, the company incurred an expenditure of Rs.4.61 lakh as salaries to the retrenched employees as per the High Court Order. In 1990-91, the figure was slightly higher at Rs.4.97 lakh. The figure for 1992-93 is expected to be the same as for 1991-92.

The current piquant situation at the company has been attributed by the sources to the fact that the case has been held up at the High Court for the last few years. "The state government is helpless and only the Court has to resolve it", the sources said. The decline in the fortunes of the company has been attributed to the problems on the export front and the setting up of the Tobacco Board, which became the sole agency for procurement of tobacco.

(Source: *Economic Times*, April 24, 1993)

The role of judiciary in industrial relations has been regressive. Judiciary has gone to the extent of declaring an illegal strike as valid.

Particularly in the area of industrial relations, the role of judiciary has been more pronounced and unfortunately regressive. During the last decade and a half, in the name of 'Directive Principles', 'Social Justice', and 'activist law making', the Supreme Court, instead of having a balanced and reserved consideration of opposing interests, has entirely vitiated the industrial relations fabric by making wholesale dogmatic assertions in undermining discipline. To borrow a simile

## Box 7.4

## The Confusion in Labour Laws

"..... the sheer diversity of rules in the states. Consider the following. The states are allowed to set up labour courts. Some states have raised the upper age limit for labour court members from 65 to 67, and decreased the length of the prior judicial experience required for such appointments from five years to three or two years. Or

consider the notice period that employers are required to provide state governments if they want to alter working conditions. The Industrial Disputes Act requires 21 days advance notice, but Andhra Pradesh and West Bengal have doubled the length of the notice period that employees are required to provide to 42 days.

*Varying Wages\**

<i>State</i>	<i>Minimum</i>	<i>Maximum</i>
<i>Andhra</i>	<i>11.00</i>	<i>41.35</i>
<i>Assam</i>	<i>32.80</i>	<i>38.20</i>
<i>Bihar</i>	<i>23.00</i>	<i>39.70</i>
<i>Gujarat</i>	<i>15.00</i>	<i>48.00</i>
<i>Haryana</i>	<i>51.57</i>	<i>52.00</i>
<i>Maharashtra</i>	<i>8.00</i>	<i>70.46</i>

Lending a further dimension to this picture of confusion is the industrial relations position in the states. In West Bengal, trade unions affiliated to political parties are widespread. Maharashtra has several independent enterprise-level unions. In Bangalore, several firms that operate in the new high-technology industries have no unions at all. And Gujarat has seen the rise of the so-called footpath unionism: briefless lawyers mobilise seven employees in an organisation, register a union, pursue their individual grievances in court, and pocket a

sizeable share of any compensation that workers obtain.

What is more, minimum wages vary widely across different states. The Minimum Wages Act of 1948 was enacted by the Centre, but the states are responsible for setting up tripartite minimum wage advisory bodies and they unilaterally declare minimum wage increases in the pursuit of populism. The outcome is predictable. In Maharashtra alone, minimum wages for unskilled workers vary from Rs.8 to Rs.70 (See table)."

(Source: *Business World*, April 1-15, 1997)

from G.K.Chesterton, while dealing with discipline cases, the Court lost not only the path but also the map and the compass. It has gone to the extent to say that even an 'illegal strike is justified.' By those whose horizons are limited, trifles are easily confused with technicalities. The result is that indiscipline in industry has spread like wildfire and sapped the national production and productivity. The classic case is the textile industry which has been wrecked by indiscipline. The conflagration is continuing to engulf various industries one by one.<sup>10</sup>

The problem is more compounded because the judiciary itself has landed in an unenviable pass. "Today, litigative justice has come to a grinding halt", wrote

Justice V.R.Krishna Iyer, the judiciary has caricatured itself into a dinosaur and both the Bench and the Bar, alas, have become a law unto themselves, Indian humanity having come to discard the judiciary as barred by limitation of time except as a pantomime. If it is not to be regarded as a case of survival after death, a new clan is needed now. The cult of the robed process has short mileage! If all the judges and lawyers of India pull down the shutters of their law shops nationwide, injustice may not any more escalate. If at all, litigative waste of human and material resources may be obviated. What an obituary!

“Many superficial diagnosis, charlatan recipes and myopic prognosis have been offered which are as potent therapeutically as painkillers for terminal cancer. Esoteric jurists have interpreted the decadent judicial disorder in various ways. Our statesmanly task is to transform this imbroglio into an opportunity for overhaul which by performance, restores order and confidence not only in the lowly, the lost and the last. Business management must come to court! I am convinced that democracy will die soon if an independent, alert and quick-to-act judiciary-not a functioning anarchy-does not come alive as a sentinel on the *qui vive*!”<sup>11</sup>

### Judicial Activism

Judicial activism is very much in the news in our country these days. This is so because the gentlemen wearing grey robes started moving out of their ivory towers and began interfering in areas which, it was thought, were not theirs.

#### Consider the following:

Judiciary is no more passive. In the sense, the court is not waiting for some one to petition. Judiciary is acting *au moto*.

Judiciary punishes officials and demoralises bureaucracy; pulls up and injects the Election Commission; monitors the quantum of rainfall and irrigation waters; checks and regulates admissions to professional colleges by issuing memoranda on capital deregulation; orders the closure of fume-emitting factories and measures up pollution levels; calls up data on deforestation; decrees CBI enquiry into scandals, crimes and custodial deaths; enquires into temple administrators; grants promotions as well as increments to officials; restrains and censures human rights violations and so forth. Common man understands this activist role as *judicial activism*.

In its real sense, judicial activism refers to the review power vested with the courts and its scope varies with the width of power conferred on courts. The scope is wider where the power of judicial review extends not only over executive action, as in the UK; but also other legislative action, as in the US and even over constitutional amendments as in India<sup>12</sup>.

The term judicial activism was first used in the USA. It was in 1954 that the US Supreme Court, in the historic *Brown Vs Board of Education* case, declared that separate, segregated schools for blacks and whites were unconstitutional. The Court did something which Congress and the President feared to do because of the dangerous political fall-outs it would produce.

In our country, judicial activism is just 18 years old. It represents a sustained effort on the part of the highest judiciary to provide access to justice for the deprived sections of Indian humanity. With a legal architecture designed for a colonial administration and a jurisprudence structured around a free market economy, the Indian judiciary could not accomplish much in fulfilling the constitutional aspirations

of the vast masses of underprivileged people during the first three decades of freedom. During the last 18 years, however, judicial activism has opened up a dimension of the judiciary process, and this new dimension is a direct emulation from the basic objectives and values underlying the Indian Constitution<sup>13</sup>.

There are arguments for and against judicial activism. The proponents of judicial activism argue that it is an essential part of judicial process in a democracy like ours. Judicial activism is felt necessary to ensure distributive justice, to restore faith in the people towards social and political institutions and to check declining values in our society.

Judicial activism is opposed on several counts. It is said that judicial activism gives rise to much anxiety in the executive and the legislature, especially about the continuing prospect of our over-reaching judicial entry into the traditional areas of executive power. It is also said that judicial activism leads to a government by judiciary which is not supported by any popular mandate. Further, most of the judicial review cases cause enormous financial strain on the Exchequer.

The former Chief Justice of India, Dr. A. S. Anand, in his Millennium Law Lectures (October 1999) at the Kerala High Court Advocate's Association, while defending judicial activism emphasised the need for caution to ensure that activism does not become "judicial adventurism." Otherwise, he warned, it might "lead to chaos and people would not know which organ of the state to look for to stop abuse or misuse of power." He reiterated the principle that "...the role of the judge is that of a referee. I can blow my judicial whistle when the ball goes out of play; but when the game restarts I must neither take part in it nor tell the players how to play." Dr. Anand added that the "judicial whistle needs to be blown for a purpose and with caution. It needs to be remembered that Court cannot run the Government. The Courts have the duty of implementing the constitutional safeguards that protect individual rights but they cannot push back the limits of the Constitution to accommodate the challenged violation."

Judicial activism  
should not result in  
judicial adventurism.

In spite of the criticisms, it may be stated that the Indian judicial review today is an area of great promise. The world of law acclaims that some of the recent steps of the apex court certainly enhanced its status.

## QUESTIONS

1. "Between democracy and totalitarianism, democracy is preferable for business growth." Discuss.
2. Discuss the impact of (a) Legislature, (b) Executive, and (c) Judiciary on business.
3. Describe the legal systems prevailing in the world.
4. What is Government? What are its responsibilities to business?
5. What is judicial activism? Is it necessary in our society.

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# CHAPTER 8

## *The Constitution of India*

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### CHAPTER OUTLINE

**The Preamble**

**The Fundamental Rights**

**Directive Principles of State Policy**

**Time for Change**

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### LEARNING OBJECTIVES

**After reading this Chapter, you should be able to:**

1. *Understand the contents of Preamble and their impact on business.*
  2. *List the Fundamental Rights and outline their economic implications.*
  3. *Point out the Directive Principles of State Policy that have economic significance.*
  4. *Analyse the reasons for and directions of changes desired in the Constitution.*
-

The Constitution of India is the most significant document which is fundamental to the governance of the State. It has economic significance of far-reaching implications. This chapter is devoted to a brief discussion of the economic provisions of the Constitution.

The Constitution of the Indian Republic is the product not of political revolution but of the research and deliberations of a body of eminent representatives of the people who sought to improve upon the then existing system.

In order to understand and appreciate the philosophy underlying the Indian Constitution, one must look back into the resolution which was passed at the Karachi session of the Indian National Congress in 1931. The Resolution stated that *“in order to end the exploitation of the masses, political freedom must include the real economic freedom of the starving millions.”* The State was to safeguard *“the interest of industrial workers,”* ensuring that *“suitable legislation”* should secure them a living wage, healthy conditions, limited hours of labour, and protection from *“the economic consequences of old age, sickness and unemployment.”* The State was to *“own or control key industries and services, mineral resources, railways, waterways, shipping and other means of public transport.”*

The historic Objectives Resolution which was moved by Pandit Jawaharlal Nehru on 9 December 1946 and which was subsequently adopted by the Constituent Assembly on 22 January 1947, inspired the shaping of the Constitution through all its subsequent stages.

The Constitution has three parts, *viz.*, the Preamble, the Fundamental Rights, and the Directive Principles of State Policy.

## THE PREAMBLE

Preamble contains the philosophy for which the Constitution stands. Terms like sovereignty, secular, socialist and democracy have wider implications.

The Preamble is an introduction to the Constitution and contains its basic philosophy. The Preamble to the Indian Constitution states that

**“We the people of India having solemnly resolved to constitute ourselves into a Sovereign, Socialist, Secular, Democratic Republic and to secure to all citizens:**

**“Justice, social, economic and political;**

**Liberty of thought, expression, belief, faith and worship;**

**Equality of status and opportunity; and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the Nation.**

**In our Constituent Assembly this 26th day of November 1949 Do Hereby Adopt, Enact and give to Ourselves this Constitution.”**

The words- *“We, the people of India...adopt, enact and give to ourselves this Constitution”*,-declare the ultimate sovereignty of the people of India and that the Constitution rests on their authority.

Thus, the goal envisaged by the Constitution is that of a *“Welfare State”* and the establishment of a socialistic pattern of society.

The Preamble recognises the truth of the proposition that political freedom is not an end by itself; it is a means to secure to all citizens social, economic and political justice. In other words, the Preamble commits India to the ideal of converting political democracy established by the Constitution into a social and economic democracy and that too in a democratic way, under the rule of law.

Certain key words in the Preamble need elaboration.

### **Sovereign**

With the passing of the Indian Independence Act, 1947, India ceased to be a dependency of the British Empire. From 15th August, 1947, to 26th January, 1950, her political status was that of a Dominion in the British Commonwealth of Nations. But with the writing of the Constitution, India became a 'Sovereign Republic' like the United States of America or the Swiss Republic. However, India still remains a member of the Commonwealth of Nations. This peculiar position is the result of an agreement reached at the Commonwealth Prime Ministers' Conference held in London in April 1949.<sup>1</sup>

### **Socialist**

The Word 'socialist' was added to the Preamble by the 42nd Amendment of the Constitution in 1976. Socialism implies State ownership and management of tools of production with the benefits to inure to the public. It also advocates agrarian reforms, a strong public sector, control over private investment and wealth and national self-reliance.

Socialism does not involve the equal division of existing wealth among the people but advocates an egalitarian principle. It believes in providing employment to all employable people and emphasizes suitable rewards to the efforts put in by every worker.

The Government of India has adopted socialism as the goal of its economic and social policy which the country shall pursue. This concept is used by the ruling party in different ways at different times. In the beginning, 'the socialist pattern of society' was emphasised. More recently, 'social justice with economic growth' is referred to.

There are several political parties in the country which also proclaim socialism as their goal, though the meaning attached to the phrase by these parties is not clear. The word 'socialism', therefore, connotes different things to different parties and different individuals, and this is often reflected in the pronouncements of individual politicians as well as in the manifestoes of different political parties.<sup>2</sup>

The concept of 'socialism' is vague, as no one has defined it in concrete terms. Nationalisation of industries and other economic activities are adopted as the method to usher in socialism in our country. The result is that the urge to greater production has disappeared and the availability of goods is not enough to remove poverty. It has not been realised that the effort to make the few rich poor, will not make the many poor, rich. The question is whether nationalisation or 'takeover' of existing units is not adopted in order to obtain more power and patronage to the politicians.<sup>3</sup>

The word 'socialist' in the preamble committed India to go by socialist ideology.

## Secular

Secularism means confining religion to private life and manage the affairs of the state free from any religious orientation.

The word 'secular' like the word 'socialism' was inserted in the Preamble by the 42nd Amendment to the Constitution in 1976. The real spirit of secularism is to make religion purely a private affair and to manage the affairs of the State free from any religious influence. In practice, secularism is understood to mean according equal encouragement to all religions. It is here that the national leaders seem to have erred on the wrong side, and it is because of this that the minorities in our country feel unsafe and insecure.

## Democratic

The term 'democratic' is comprehensive. In a narrow political sense, it refers only to the form of government, a representative and responsible system under which those who administer the affairs of the State are chosen by the electorate and accountable to them. But, in its broadest sense, it embraces, in addition to political democracy, also social and economic democracy. The term 'democratic' is used in this sense in the Preamble.<sup>4</sup>

## Republic

The term 'republic' implies an elected Head of State. A democratic state may have an elected or hereditary head. Britain is the best example of the latter type, where the monarch, the hereditary head, is not an hindrance to the democratic government as the real power of the State is in the hands of the elected representatives. Under the republican form of government, on the other hand, the head of State is always elected for a fixed term. Ours is a republican form of government and for every five-year period, we elect our President who is the head of State.

The Preamble proceeds further to define the objectives of the Indian Republic. These objectives are four in number: justice, liberty, equality, and fraternity. Justice implies a harmonious reconciliation of individual conduct with the general welfare of society. The essence of justice is the attainment of the common good. It embraces, as the Preamble proclaims, the entire social, economic and political spheres of human activity.<sup>5</sup>

## Liberty

The term 'liberty' signifies the absence of any arbitrary restraint on the freedom of individual action and the creation of conditions conducive to the fullest development of the personality of the individual. Since the society is composed of individuals, social progress depends on the development of the individual. Hence, it is in the interest of society to ensure the maximum liberty of thought and action of the individual, commensurate with the social conditions and circumstances.

Liberty and equality are complementary. Equality does not mean that all human beings are equal, mentally and physically. It signifies equality of status, the status of free individuals and equality of opportunity. Equality of opportunity implies the availability of opportunity to everyone to develop his or her potential capacities.

## Fraternity

The term 'fraternity' implies the spirit of brotherhood. In a country like India with many disruptive social forces, communal and caste, sectional and denominational, local and regional, linguistic and cultural, the unity of the nation can be preserved only through a spirit of brotherhood that pervades the entire country, among all its citizens, irrespective of their differences. Through the establishment of a new nation based upon justice, liberty and equality, all must feel that they are the children of the same soil, of the same motherland and members of the same fraternity.<sup>6</sup>

Fraternity demands the spirit of brotherhood. This spirit is essential in our society known for its diversity.

The key words and the objectives mentioned in the Preamble have great economic significance. They indicate the need and scope of State intervention in economic activities.

The Preamble does not have any legal value, yet in cases of doubt, the Supreme Court often refers to the Preamble to elucidate some of the vague provisions of the Constitution. The real value of the Preamble lies in its psychological appeal to the citizens through words surcharged with emotion—justice, liberty, equality and fraternity. As Justice Hidayatulla has rightly said, "*The Preamble is more than a mere declaration. It is the soul of our Constitution and lays down the pattern of our political society. It contains a solemn resolve which nothing but a revolution can alter.*"

Preamble does not have legal validity. But in times of doubt court may refer to the preamble for elucidation of the vague provisions of the Constitution.

## THE FUNDAMENTAL RIGHTS

The Constitution has eight Fundamental Rights as mentioned below:

1. Right to equality;
2. Right to six freedoms, viz.,
  - (a) freedom of speech and expression;
  - (b) freedom to assemble peacefully and without arms;
  - (c) freedom to form associations or unions;
  - (d) freedom to move freely throughout the territory of India;
  - (e) freedom to reside and settle in any part of the territory of India; and
  - (f) freedom to practise any profession or to carry on any occupation, trade or business.
3. Right to life and personal property;
4. Right to freedom of religion;
5. Right to cultural and educational freedom;
6. Right against exploitation;
7. Right to Constitutional remedies.

Some of the Fundamental Rights have economic significance. The right to equality, for example, prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth. Implied in the right to equality is the concept of protective discrimination which assures protection to Scheduled Castes who have suffered discrimination for centuries. Special efforts are to be made for the development of the socially and economically backward sections of society.

Fundamental Rights such as right to equality, right against exploitation, right to practice any profession and the like carry economic implications.

Right to freedom is an important and the most valuable fundamental right guaranteed by the Constitution. As Nani Palkhivala has said, *“The Constitution is a part of the great heritage of every Indian. Its founding fathers wanted to ensure that even while India remained poor in per capita income, it should be rich in individual freedom.”*<sup>7</sup>

Particularly, the right to practise any profession or to carry on any occupation, trade or business has great economic significance. The Constitution guarantees to citizens the fundamental right of freedom to take up any job or carry on any trade or business. The freedom of profession is however, exceptional in three cases, viz., (a) public interest, (b) requiring technical or professional qualifications, and (c) when a State itself decides to engage in any trade or occupation, the individual freedom is restricted.

The right to life has implications. The right to life includes-

- (a) right not to be subjected to bonded labour
- (b) right to decent environment
- (c) right to privacy
- (d) right to pure drinking water
- (e) right to good roads.

The fundamental right against exploitation prohibits the exploitation of the weaker sections of society by individuals as well as by the State. Article 23 prohibits traffic in human beings and forced labour. Article 23 reads thus: *“Traffic in human beings and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law.”* Article 24 provides special protection to children. It reads thus: *“No child below the age of fourteen years shall be employed to work in any factory, mine or engaged in any other hazardous employment.”*

Thus, the fundamental rights enshrined in the Constitution guarantee several economic rights to the citizens. At the same time, the State is empowered to impose reasonable restrictions on such economic rights in public interest. It is this power that has enabled the government to impose a series of statutory controls over business.

## DIRECTIVE PRINCIPLES OF STATE POLICY

The Directive Principles of State Policy are a unique feature of our Constitution. Speaking on the Directive Principles, Dr. Ambedkar observed: *“The Directive Principles are like the instruments of instructions which were issued to the Governor-General and the Governors of colonies, and to those of India by the British Government under the 1935 Government of India Act. What is called ‘Directive Principles’ is merely another name for the instruments of instructions. The only difference is that they are instructions to the legislature and the executive. Whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these Instruments of Instructions which are called Directive Principles. He cannot ignore them.”*



The Directive Principles are the directives to the various governments and government agencies and are fundamental in the governance of the country. As Pylee observed, "The Directive Principles enshrine the fundamentals for the realisation of which the State in India stands. They guide the path which will lead the people of India to achieve the noble ideals which the Preamble of the Constitution proclaims: Justice-social, economic and political, liberty, equality and fraternity."

The Directive principles are the directives to various states and agencies for governance.

There are 17 Directive Principles and they may be classified, for convenience, under four heads as shown below:

1. Provisions dealing with Welfare (Art. 38, 42, 45, 47).
2. Provisions dealing with Social Justice (Art. 39, 41, 43, 46).
3. Provisions promoting Democracy (Art. 40, 44, 45).
4. Miscellaneous Provisions (Art. 48, 49, 50, 51).

The first two categories of provisions have economic significance.

Article 38(1) lays down that the State shall promote the welfare of the people by securing a social order in which justice - social, economic and political - shall inform all the institutions of national life. Justice and welfare are the twin objectives of our Constitution.

Article 38(2) lays down that the State shall strive to minimise the inequalities in income, and eliminate inequalities in status, facilities and opportunities, not only among individuals but also among groups of people.

Article 39 emphasises that the State shall direct its policy towards securing: (a) adequate means of livelihood to all citizens; (b) a proper distribution of the material resources of the community to the common good; (c) the prevention of concentration of wealth to the common detriment; (d) equal pay for equal work for both men and women; (e) the protection of the strength and health of workers and avoiding circumstances which force citizens to enter avocations unsuited to their age or strength; and (f) the protection of childhood and youth against exploitation or moral and material abandonment.

Article 41 lays down that the State shall, within the limits of its economic capacity and development, make provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.

Article 42 states that the State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 43 emphasises the necessity of an adequate or living wage in all sectors of economic activity. The Article enjoins that healthy conditions of work should be provided and a decent standard of living should be guaranteed. It also stresses the right to leisure for all working people. The cottage industries in rural areas should be promoted either through individual or cooperative efforts.

Article 43(A) states that the State shall take steps to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.



The State shall promote, with special care, the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes, Scheduled Tribes and shall protect them from social injustice and all forms of exploitation (Article 46).

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country [Article 48(A)].

Thus, the Directive Principles of State Policy enjoin upon the State varied responsibilities and provide vast scope for State intervention in the economy.

### **Distinction between Fundamental Rights and Directive Principles**

Fundamental Rights are justifiable but Directive Principles are not. Directive Principles are subsidiary to Fundamental Rights.

There is a difference between the Fundamental Rights and the Directive Principles and it is useful to know the distinction. The Fundamental Rights are justiciable. If a fundamental right is violated, a legal remedy is provided for that. But the Directive Principles are non justiciable and if they are violated, there is no provision for legal remedy. Article 38 says that the 'State shall strive.' It does not mean that the State must fulfil these principles. If, for example, the

State does not make provisions for compulsory free education for children under the age of 14 or if the judiciary is not separated from the executive, nobody can challenge it in a court of law. However, one thing should be kept in mind that the Directive Principles have been declared as fundamental in the governance of the country. This means that these principles are not to be lightly taken and the legislature and the government must make sincere efforts to fulfil these principles. In the words of Dr. Ambedkar, "the word 'strive' was purposely used because their intention was that, however adverse the circumstances that stand in the way for a government in giving effect to these principles and however unpropitious the time may be, they should always strive for the fulfilment of the principles. Otherwise, it would be open to the government to say that the circumstances were not good and the finances were so bad that they could not implement them."

The Directive Principles are subsidiary to the Fundamental Rights and in case of conflict with Fundamental Rights, the former shall be declared unconstitutional. In the case of *State of Madras Vs. Champakan Dorairajan*, the Supreme Court observed, "The Directive Principles of State Policy which are expressly made unenforceable by a Court cannot override the provisions in Part III which...are made enforceable by appropriate writs, orders or directions under Article 32." Thus, the Directive Principles must have to conform to and run subsidiary to the chapter on Fundamental Rights. The State can act in accordance with the Directive Principles if that does not amount to the infringement of the Fundamental Rights conferred by the Constitution. The legal superiority of the Fundamental Rights over the Directive Principles has been established by the decisions of the Supreme Court of India.

Another difference between the Fundamental Rights and the Directive Principles is that the former are negative in character whereas the latter are positive. The Fundamental Rights are in the nature of injunctions requiring the State not to do certain acts and are prohibitive in character. The Directive Principles, on the other hand, are positive directions to the State to perform certain

things for the good of the citizens. They urge that it is the duty of the State to implement the social and economic policy as embodied in the directives for the attainment of economic democracy and social justice. In the words of Gledhill: "Fundamental Rights are injections to prohibit the government from doing certain things; the Directive Principles are affirmative instructions to the government to do certain things."

Fundamental Rights are negative-specifying "don'ts". Directive Principles are positive. They contain "dos".

### TIME FOR CHANGE

For more than four decades, the Constitution has been guiding the destiny of our country. It is said that the Constitution has put several roadblocks which checked the pace of the country's economic development, roadblocks manifesting through sporadic communal clashes, moral disintegration, growing regional and parochial tendencies, corrupt bureaucracy, umpteen regulatory legislations and their implementing agencies, and topping all, the helplessness of the government in attacking the roots of the menacing problems.

Partly, the problem lies with the background against which the Constitution was drafted and adopted. "It is of importance", wrote B.K.Nehru, "that we should remember how the Constituent Assembly was composed. The electorate was confined to a fraction of the total adult population, the qualifications for the vote being property, education and the payment of tax. The mass of the people, the great have-nots, were totally unrepresented on the body that framed the system which still governs us. Virtually, all the members of the Constituent Assembly were men of reasonable affluence and education. They were primarily concerned not with economic problems or hunger of the people but with the absence of civil liberties, particularly those liberties such as freedom of speech or of association, which had been lacking in British India and whose absence they had keenly felt. This is the explanation for the great stress in the Constitution on the Fundamental Rights of the individuals as practised in Western democratic society and the elaborate safeguards for their preservation.

"Furthermore, the Constituent Assembly was dominated by lawyers, trained solely in the British tradition and in the British system of law, who constituted a substantial proportion of membership of the Assembly. Their knowledge of constitutional law was largely confined within the horizon of the British constitution. That, like all British institutions and all British customs, no matter how unsuitable for our country, had been held up to us as a perfect model to be emulated by subject societies.

*"...We should recognise that the Indian Constitution...is not helping the country to attain the goals it was meant to achieve. It is no use saying that the Constitution is perfect but it is the men who have failed."*<sup>8</sup>

Further, the founding fathers failed to visualise the society and polity that would emerge in the decades to follow. The freedom movement was fought in a different milieu. The objective before the masses was clear and divisive factors like caste and religion were not a constraint. People from all walks of life forgot their differences and fought shoulder-to-shoulder with one aim in mind-freedom at any cost.

Constitution was adopted at a time when attaining political freedom was a dominant force. With the changed environment that exists today, the document needs relook.

But their behaviour, particularly of the leaders, once freedom was acquired could not be predicted. The presumption that people will continue to be motivated by the same fire proved wrong. The dream of a prosperous and free society did not come true. The consequence: the country in 1996 is entirely different from what it was in 1947. Naturally, the Constitution of the early years cannot be relevant for 1990s.

The founding fathers gave greater role to State with an objective of ushering socialism in the country. But socialism has not been realised. On the other hand, it is capitalism which has been promoted.

The various reform measures which the State took in the following years strengthened capitalism, and not socialism. The impact of planned economic development of the country resulted in the emergence of capitalism in agriculture in selected areas, while it has also accelerated the growth of the manufacturing sector in the industry and the national market in India. Besides, a few more facts may be mentioned to understand the role of the State in building capitalism in India.

- (a) The State is the chief mobilizer of resources and saving in the country for investment. Public-controlled institutions like the development banks and the nationalised commercial banks, have centralised resources in the hands of the State to be invested in the State capitalist sector and the private corporate sector.
- (b) The State has actively supported science and technology and Research and Development efforts for building capitalism.
- (c) The State has the responsibility to develop infrastructure like power, transport and irrigation for the development of capitalism.
- (d) During the last forty years, the State has consciously developed and is trying to strengthen private property by encouraging small-scale and medium industries, and at the apex, it has harmonised the interests of big business, political leaders and public bureaucracy, who have common stakes in capitalism as investors and profit-seekers.

Socialism which the Constitution seeks to promote itself has become irrelevant.

Thus, despite socialistic preventions, the State and the political parties, never accepted the philosophy of 'welfarism' either in economy or in polity.

India has come a long way since 1950 when the centralised planning system was adopted for economic development. For a full forty years, the entire life, economic and political, was conditioned by a system in which everything was controlled by the government, which in reality meant, the politician. With the passage of time, the government became personified in an individual. The functioning of the government became such that development became sluggish and the country was out of alignment with global trends. Even when the Soviet system and the Eastern European block was crumbling and was changing to the new world order, the Indian system remained rigid. Whatever little changes were made were either not implemented or implemented half-heartedly.

From 1991 onwards, there has been a restructuring of the economy from the command to a market oriented one. Now the changes in the economic system have

to be incorporated in the political system also, if a new order is to be established in the country. This necessitates a change in the Indian Constitution.

Eversince liberalization has been introduced, there has been considerable restructuring of the economy pushing it towards market orientation. These changes need to be integrated into Indian polity. Hence the document needs amendments.

With increasing globalization, the concept of nation-state is losing its relevance. Countries are gradually losing their identities. They are getting integrated into a global village. Against this background, the Constitution which seeks to protect country's identity, appears to be out of context.

### **Required Changes**

A relevant question here is: What should the Constitution look like? Infact, a Constitution should give clear directions to the polity and the economy. The US Constitution directs the State to form a society based on freedom, liberty and general welfare. The social, political and economic development during the last two centuries has brought a system based on free market economy.

The British Constitution which, over the last few centuries, developed along with British thinking, is based on the rule of law. The entire edifice of the British polity and economy is based on this concept. The Indian Constitution has no direction in the beginning. But the rulers wanted to establish a socialist society. Since we have decided to say goodbye to it, the Constitution should be modified keeping in view the requirements of the changed economy.

The first need is to change the Preamble. The Preamble, as was pointed out earlier, determines the general purpose behind a Constitution and is never regarded as a source of power. Since the Preamble is meant to explain certain facts which are necessary to be explained before the enactments contained in the Act can be understood, it should not have too many such concepts. The original Preamble did not have too many confusing concepts. The original Preamble did not contain the words 'socialist, secular'. Moreover, the condition of the economy and the relationship between various religious communities have deteriorated since these two words were inserted by the Constitution (42nd) Amendment Act of 1976 by a Parliament whose credibility was doubtful. Juxtaposing it with the recent metamorphosis in the government policy, it is time to restore the original position of 1950 and declare India as only 'Sovereign Democratic Republic'.

The second change needed is to remove the Directive Principles. Directive Principles are not legally enforceable in the courts and the State cannot be held responsible for not formulating public policies in conformity with the Directive Principles.

Almost all the Directive Principles, like equal right to an adequate means of living, distribution to subserve the common good, checking concentration of economic power, equal pay for equal work and stopping entry to hazardous vocations are vague and confused. However, most of the developed countries have adopted these principles in their system by enacting legislations and strictly enforcing them.

The third need is to restore the right to property which was guaranteed by Article 31 of the Constitution. The 44th Amendment Act of 1978, again by a superannuated Parliament, omitted Article 31. Now, the legislature is free to take away a person's property without payment of any compensation. The person has no remedy before a court of law and the courts cannot challenge the validity of such a law. The need of the changing times is to restore Article 31.<sup>9</sup>

Whether or not these and other related issues will be taken up by the recently constituted panel to review Constitution, is to be seen.

### QUESTIONS

1. State and elaborate the terms in Preamble to the Constitution which have economic significance.
2. What are Fundamental Rights? Which of them have economic significance and how.
3. State the Directive Principles of State Policy which have impact on business functioning.
4. "Constitution has put several road blocks which have checked the pace of the country's economic development." Elucidate.

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4. M.V.Pylee, *op.cit.*, p.52.
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# CHAPTER 9

## *Rationale and Extent of State Intervention*

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### CHAPTER OUTLINE

**Reasons for State Intervention**

**Types of Intervention**

**Extent of Intervention**

**Consequences of Controls**

**Features of a Good Control System**

**Government-Business Interface Historical Evolution**

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### LEARNING OBJECTIVES

**After reading this Chapter, you should be able to:**

- 1. Understand reasons why government should intervene in business*
  - 2. Describe the various types of state intervention*
  - 3. Describe the extent and consequences of state controls*
  - 4. Bring out the qualities of a good control system*
  - 5. Trace the history of interface between government and business*
-



One of the features of modern business is the increasing involvement of the government in business activities. As of today, there is no country in the world where the government of the land does not interfere, in one form or the other, in its economic activities (also read Box 9.1 and Table 9.1). Involvement is all the more pervasive in our economy which till recently was a planned and regulated one.

**Box 9.1****Government Intervention in the U.S**

If you own or manage a business in the US, government is your not-so-silent partner. When you hire workers, the hours they can work and the wages you can pay will be affected by law. Other laws will compel you to insure them against injury and unemployment and may require you to bargain with them collectively. If you raise capital by selling stock, a government agency will control the offering. Your pricing and marketing practices will be affected by federal and state antitrust statutes. Depending on what you sell, you may be required to modify the design of your product or have it tested for safety and efficiency before you can bring it to the market. The truthfulness

of your advertising claims will be scrutinised. Even your product's label will be affected by government regulations. You may be required to invest in equipment that the government deems the 'best available' for controlling pollution or safety hazards, or you may have to otherwise modify your production process to conform to environmental or safety guidelines. You will be required to obtain numerous licences, and government mandated paperwork will seem to never end. And even if you cheerfully comply with all these requirements, you may be sued if anyone comes to harm by either purchasing or consuming your product.

(Source: Stephen J.K. Walters, *Enterprise, Government and the Public*, New York, Mc Graw-Hill International, 1993, P.3)

**Table 9.1**

*Government Intervention in Asian Region*

	<i>(In Percentage)</i>			
	<i>Too Much</i>	<i>Just Enough</i>	<i>Too Little</i>	<i>None</i>
South Korea	94.9	5.1	-	-
Japan	75.5	15.6	8.9	-
Indonesia	75.0	17.5	7.5	-
Taiwan	61.9	26.2	11.9	-
Malaysia	60.8	39.2	-	-
Phillippines	57.2	48.8	-	-
Singapore	50.0	46.2	-	3.8
Thailand	46.3	36.6	-	-
Australia	38.5	61.5	-	-
Hong Kong	10.0	80.0	5.0	5.0

Note: Views expressed by business leaders across Asian countries.  
(Source: *Economic Times*, 27th May, 1997)



## REASONS FOR STATE INTERVENTION

Why the government should interfere in business activities is a relevant question. The following constitute the answer.

1. Economic historians have noted that the later a country moves towards economic development, the greater has to be the role of the State. Delayed growth has to be sponsored growth, and the government has to be the sponsor.<sup>1</sup>

2. It is argued that the modern economy must be a planned economy. The need for planning becomes clear if we examine the dangers of non-planning. In the absence of planning, there is no proper direction to the economy, wrong priorities are chosen, scarce resources are wasted, and booms and depressions occur regularly. In order to check these and some other evils, and to ensure speedy and balanced development of the economy with the least wastage of resources, planning becomes necessary. Who else except the State should assume responsibility for planning and implementing the plans?

Modern economy should be a planned economy. Government is the only agency which can plan and execute.

3. Ours being a socialist society, the government is compelled to enter directly into industrial and commercial activities. Our Constitution binds the government to take an active part in economic activities. The State's role is clearly underlined in the Preamble, the Fundamental Rights and the Directive Principles of State policy. Articles 38 to 48 of the Directive Principles; the Right to Equality, the Right to Freedom and the Right Against Exploitation of the Fundamental Rights and Justice, Liberty and Equality for all in the Preamble make it mandatory for the State to participate in economic activities.

4. The considerations which apply in deciding what undertaking is to be established, how it should be run, where it should be established, how its products will be priced and distributed, all these and other considerations are influenced by the policy to which the government is committed. For instance, the government must consider not so much what the likely demand is going to be according to market projections, but may in fact have to decide what the demand should be, and take steps to influence the demand, either to build it up or to pare it down or to vary it. If the country is to achieve a certain pace of development, if certain standards of living are to be attained, certain demands must be created. Otherwise the whole pace of development will slow down, and not be adequate to attain the targets which the nation has set before itself.

What the people and the country need can only be understood and provided by government and not by private sector.

This is a feature which private enterprises cannot cope with. For example, the standard of living of a people can be statistically related to the power and to the steel per capita consumed in the country. There are several such indicators. A government politically committed to certain social objectives may then well decide that in order to achieve these per capita ratios, it may be necessary to setup, to evolve and to operate a pattern of prices, subsidies, incentives or disincentives of different kinds in order to influence the consumption pattern.<sup>2</sup>

5. The functions of the government which were originally limited to the maintenance of law and order have considerably expanded. In our country, the government has assumed the responsibility of social and economic well-being of

the people. In this changed context, taxation can no longer be solely depended upon, and infact has proved inadequate, for the task of raising the total revenues, the State now needs for its multifarious activities. By active participation in business, the State has sought to tap the gold mines of industry and commerce for the funds needed to discharge the new and heavier burdens it now shoulders.<sup>3</sup>

Markets generally fail. Where markets fail, state should intervene.

6. State participation is necessary to lay a strong base for the future development of industry and commerce. The Government must assume responsibility for the development of core industries and facilities such as power, fuel, iron and steel, transport, atomic energy, machine building, machine tools, transportation and communication.

7. Finally, the failure of markets invites government intervention in an economy. As is too well known, markets may be monopolistic or competitive. Monopoly leads to the wastage of resources and exploitation of consumers. Clearly, avoidance of these evils is the main reason for State intervention. Infact, protection of consumers against trade practices harmful to public interest is the main objective of the Competition Act, 2002.

If monopolies fail, it does not imply that competitive markets succeed. Infact, competitive markets often fail because of atleast three reasons: (i) externalities, (ii) public goods, and (iii) information problems.

**Externalities:** Externalities are costs or benefits that the market transactor imposes or confers on third parties (those external to a transaction) without their consent. Externalities are also referred to as neighbourhood or spillover effects.

The most frequently used example of a negative externality is pollution, resulting from either the manufacturer or use of some product, which imposes costs on individuals who neither produce nor consume the product in question. In general, when production involves such negative externalities, competitive markets fail.

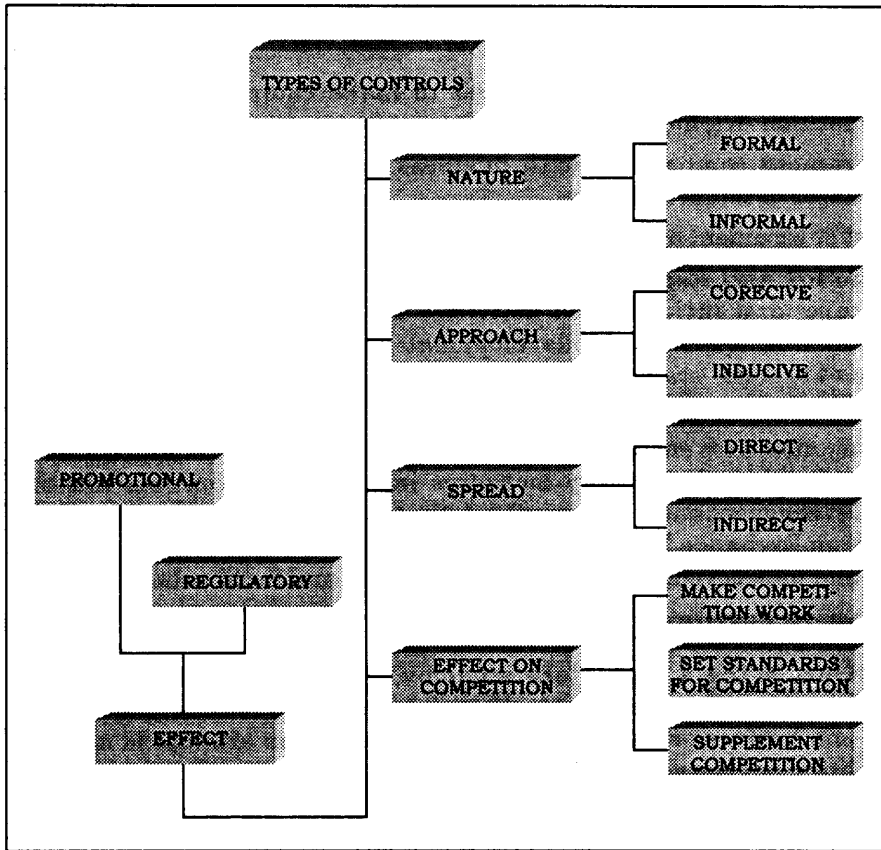
**Public goods:** Public goods are those having atleast two properties: (i) consumption of the goods by one person leaves no less of the goods available for anyone, and (ii) the costs of excluding those who do not pay for the public good are extremely high (i.e., the good is non-excludable). Obviously, many goods that we commonly describe as public are not truly public goods. However, markets fail to deal with a product which is purely or partly public in nature. Government financing or even production is required.

**Information problems:** Embedded in most discussions of competitive markets is an assumption that consumers are well informed about various sellers and the prices and attributes of their products. Obviously, the real world never conforms to this idealised assumption.

Even competitive markets, therefore, left to themselves impose serious welfare losses on the society. Hence, the relevance and need for State intervention.<sup>4</sup>

## TYPES OF INTERVENTION

Also called as controls or regulations, government intervention assumes several forms. Thus, we may distinguish between formal and informal controls, between inducive and coercive controls, between direct and indirect controls, controls in relations to competition and promotional and regulatory controls (See Fig.9.1).



**Figure 9.1**  
Classification of Controls

**Formal and Informal Controls:** Formal controls are usually those emanating from legislation, as for, example, the FEMA, the Companies Act, 1956 and the Competition Act 2002. Formal controls are very powerful and when we think of government control over business, we generally mean *formal* controls. Informal controls refer to the controls which various groups impose upon themselves out of need and custom. Business firms in various lines of activity develop conventions, informal agreements and accepted ways of doing things that have important regulative implications.

**Coercive and Inducive Controls:** Coercive regulations require performance of certain actions or refraining from others in order to avoid penalties. For instance, taxes must be paid or fine or imprisonment may result. In contrast, inducive controls hold out a promise of reward for compliance with the desired line of action. For example, subsidies may be granted to stimulate certain activities.

**Direct and Indirect Controls:** When the government fixes prices of certain products or services, it is an example of direct control. The administered price policy of the Government of India is a direct control measure. The variation of corporate income tax to influence economic activity is an indirect control measure. Businessmen prefer indirect controls to direct regulations.

Businessmen prefer indirect controls as they are less cumbersome and covers.

**Effect on Competition:** Depending on the relationship to competition, regulations may be:

- (a) government regulations designed to make competition work, the Competition Act, for example;
- (b) government competition with business firms as a means of setting standards of competition, or
- (c) direct government ownership and operation to supplement competition.

**Promotional and Regulatory Controls:** Promotional measures are of a positive nature, and include such activities as expansion of public sector establishment and operation of development banks, revival of sick units, encouragement to small-scale units, removal of regional imbalances, provision of incentives and subsidies and export promotion.

Regulatory measures ensure orderly development of industries with the least wastage of resources. Regulatory measures include direct controls like the Industries (Development and Regulation) Act, the Competition Act, the Companies Act, the Foreign Exchange Management Act and price and distribution controls, labour laws and indirect controls like monetary policy and fiscal policy.

## EXTENT OF INTERVENTION

For a long time, state intervention was all pervasive in our economy.

Ours being a regulatory economy, government intervention is enormous and all pervasive. State intervention is noticed in all aspects of a business establishment. In Figure 9.2, an attempt is made to bring out the various regulations.

The figure contains only important measures which apply to a large-size manufacturing unit. Regulatory measures that apply to small units are different and are equally powerful and numerous.

After years of liberalisation, State intervention in business has come down considerably as shown in Figures 9.3 and 9.4. It may be stated that both the figures show State regulation as it applies to foreign collaboration. Figure 9.3 obviously shows the procedure for foreign collaboration before liberalisation. Figure 9.4 shows changed procedure as it exists today.

## CONSEQUENCES OF CONTROLS

Controls have negative consequences. Certain weaknesses and defects as have developed over the years in the framing or administration of policies of controls

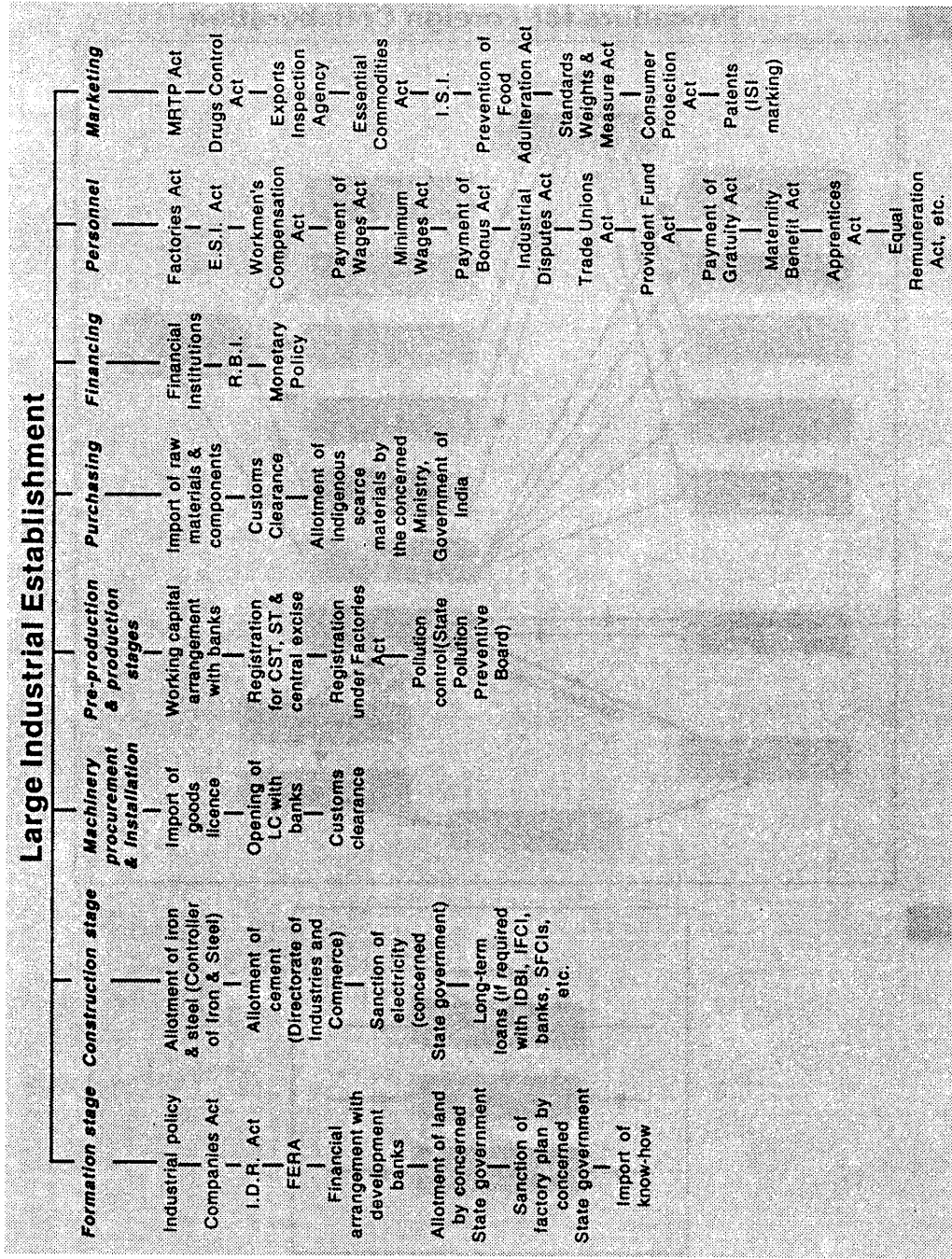
Controls have resulted in wastage of national resources.

have become quite obvious. There has been, to start with, a considerable waste of national resources in an essentially negative manner. It has been pointed out that, although the ratio of tax revenue to national income has gone up from less than 6% in 1951 to about 15% now, there has been no corresponding increase in the government's

current outlay on development. Almost the whole of the potential savings of increased taxation has been eaten up by the current expenditures of the Central and State Governments. This has been largely because the administration of various economic controls has involved an ever-increasing expansion of the bureaucracy at all levels throughout the country. As a result, the capacity of the

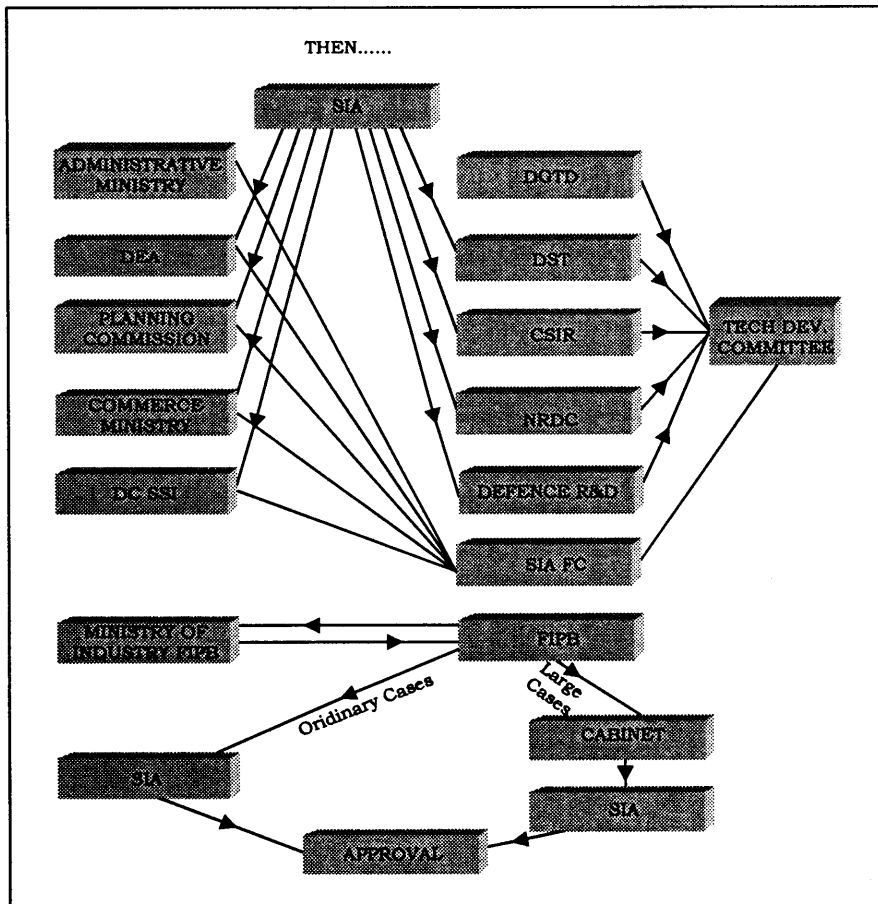
Figure 9.2

Various Controls

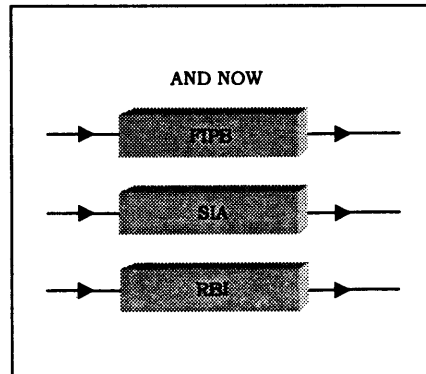


**Figure 9.3**

**Procedure for Foreign Collaboration**



**Figure 9.4**



fiscal machinery of the government to mobilise public savings and plough them back into development has been sadly weakened.

Apart from capital formation in the community being thus adversely affected, an equally precious development resource of the community, namely time, seems

to have been similarly squandered on the largely negative purpose of controls and regulations. Although a number of committees of the government have gone into the question of streamlining the control procedures particularly in the area of industrial licensing, improvement actually effected has been far from impressive. From time to time, it has been declared that a firm policy decision has been taken not to delay the consideration of applications for industrial licences beyond a period of six months except in exceptional cases. This, however, has not prevented the accumulation of pending business in Ministries and Departments much beyond six months. In the case of applications for industrial licences involving the larger business houses or foreign firms or investors, the decision-making processes have tended to move even more slowly, partly because a spate of political considerations has regularly overwhelmed the functioning of the government by elaborate procedures of inter-ministerial consultations or discussions at or near the Cabinet levels. The stranglehold of policies and procedures on the administration of economic controls has thus become an oppressive factor in the practice of regulation of the economy by the State.

Wastage of time is another consequence of controls

Perhaps even more demoralizing is the emergence of corruption in the administration of politics as a corollary to the proliferation of controls. Given the fact that the administration is becoming increasingly a matter of file creation or file-pushing in the government departments, scope for bribery and corruption at various levels of the bureaucracy has been steadily expanding and has now become a major national industry. (Also read box 9.2).

Controls have bred corruption at various levels

Inevitably, corruption has extended beyond the level of mere administration. Partly because of the high cost of electioneering, there has been a growing temptation for politicians in power to collect funds for the party coffers by exploiting the machinery of economic controls and the policy-making powers of the government, in this respect to grant or deny what has come to be regarded as favours to individual businessmen or even whole industries. This drastic situation is fully reflected in the fact that, on the relatively rare occasions when a prompt decision has been made, for instance, on an application for an industrial licence, the popular feeling is that money must have changed hands. In other words, whenever the government or the administration happens to act with alacrity, the immediate inference in the public mind is that someone has been able to buy favours from the officials or the ministers concerned. While it has never been very easy to organise sufficient legal proof to bring home the guilt of dishonest official or unscrupulous politicians, the growth of intensive activity of black money in the national economy has naturally been taken as a measure of the corruption which controls have bred.

In purely empirical terms, controls, as they have been framed or administered over the past forty years or so, do not seem to have contributed in a conspicuous manner to the development of the economy on sound lines or in a substantially dynamic manner. After nearly seven Five Year Plans, with considerable dislocation of planning thrown in between, the country is now in a plight, where it is hampered by the population problem all along the line. The irony is that very few of the



**Box 9.2****Some Problems of Government Intervention in Developing Countries**

1. Individuals may know more about their own preferences and circumstances than the government.
2. Government planning may increase risk by pointing everyone in the same direction — governments may make bigger mistakes than markets.
3. Government planning may be more rigid and inflexible than private decision making because complex decision-making machinery may be involved in government.
4. Governments may be incapable of administering detailed plans.
5. Government controls may block private-sector individual initiative if there are many bureaucratic obstacles.
6. Organisations and individuals require incentives to work, innovate, control costs, and allocate efficiently, and the discipline and rewards of the market cannot easily be replicated within public enterprises and organisations. Public enterprises are often inefficient and wasteful.
7. Different levels and parts of government may be poorly coordinated in the absence of the equilibrating signals provided by the market, particularly where groups or regions with different interests are involved.
8. Markets place constraints on what can be achieved by government; for example, resale of commodities on block markets and activities in the informal sector can disrupt rationing or other nonlinear pricing or taxation schemes. This is the general problem of "incentive compatibility."
9. Controls create resource-using activities to influence those controls through lobbying and corruption—often called rent seeking or directly unproductive activities.
10. Planning may be manipulated by privileged and powerful groups that act in their own interests, and planning creates groups with a vested interest in planning, for example, bureaucrats or industrialists who obtain protected positions.
11. Governments may be dominated by narrow interest groups interested in their own welfare and sometimes actively hostile to large sections of the population. Planning may intensify their power.

(Source: Michael P. Todaro and Stephen, C. Smit, *Economic Development*, P.698)

professed economic or largely social objectives of economic controls have been achieved to a substantial extent in practice. Precisely for these reasons, the economic reforms were initiated in 1991 and are continuing even today. The results of these reforms are quite encouraging as will be explained in subsequent chapters in this book.

### **A GOOD CONTROL SYSTEM**

A good system of control, if it were to avoid negative consequences, should have the following qualities:

- (i) It must be democratic. This means that it must be exercised in the interest of the governed as they see their interests.
- (ii) It should know what it wants.
- (iii) It must be powerful - powerful enough to make an unwilling minority obey the will of the majority.

- (iv) It must be efficient, and at the same time, it must not destroy the efficiency of the thing it is regulating.
- (v) It must 'economise coercion'.
- (vi) It must utilise all the strongest and most persistent motives of human nature, both generous and selfish hopes of reward, fear of punishment and those loyalties, persuasions and suggestions which rest upon the deeper fact that the individual is essentially a part of the community.
- (vii) The duties imposed must be simple enough to be understood; and this means, among other things, that social control must follow precedent a great deal of the time.
- (viii) Control must be guided by experience or by wise experiment.
- (ix) It must be adaptable.
- (x) It must have a wider vision and canvas to develop. It must look beyond the immediate effect of doing a given thing to the further results of leading people to expect it in the future.
- (xi) And lastly, social control must be capable of progressively raising the level of mankind. In a democracy, where the mass of mankind does the ultimate controlling, this amounts to saying that social control must continue somehow, to rise higher than its source.<sup>5</sup>

## GOVERNMENT INVOLVEMENT IN BUSINESS - HISTORICAL PERSPECTIVE

State intervention in business seems to be as old as business itself. Even in the days of *laissez faire*, which apparently shunned State intervention, the government's role in the economy was almost inescapable. "There is a grave doubt", wrote Eugene V. Schneider, "as to whether this doctrine (*laissez faire*) gave an accurate picture of the relationship between the industry and the government even in the early days of industrialism. The *laissez faire* doctrine ignored the fact that industrialisation had always operated in an economy whose orderliness was guaranteed by the government. An aura of sanctity may have surrounded the contract, but in the last analysis, it was only the State which could enforce the contract. Similarly, the entrepreneur may have considered his property as belonging to him by virtue of divine right, or as a reward for his virtue, or as the outcome of a natural economic law, but it was only the government which could guarantee him continued possession and use of his property. Furthermore, even in the early days of industrialisation, the entrepreneur looked to the government for, and received from the government, many special favours. Tariffs protected him from foreign competition. His labour supply was ensured by the destruction, through governmental acts, of feudal ties between man and land, between the peasant and the nobleman. Later, the judicial machinery of the government would protect him against the 'conspiratorial' efforts of his working men to form unions. Franchises, grants of land, outright subsidies - all these special privileges and many others besides attested to the existence of a strong relationship between industry and the government".<sup>6</sup>

The *laissez-faire* policy ignored the fact that industrialization had always operated in an economy whose orderliness was guaranteed by the government.

As years went by, State intervention became a historical necessity, particularly after the Industrial Revolution of the late 18th and early 19th centuries. The Industrial Revolution albeit revolutionised the methods of production, brought in its trail, social evils of a very bitter type. The era of Industrial Revolution witnessed the inhumanity of man to man and brutalisation of human nature in those very countries and in those very societies where the greatest advances were being made in the fields of science, technology and organisations.<sup>7</sup> Affluence and poverty, distress and luxury, and exploitation and helplessness become so juxtaposed that the need for State intervention began to be felt much more than ever before.

The factory laws of the 19th century marked the first normal and active State involvement. The establishment of trade unions compelled the State to intervene.

Then came the First World War, which confirmed the inevitability of State intervention in economic activities. War required that all economic activities be geared towards meeting its requirements and it was the State alone which ensured this. The Second World War only confirmed the trend.

India's participation in the first war triggered state intervention.

Nearer at home, State intervention became forceful since 1939 when India became a participant in the War. India did not become a military base in the true sense of the word until the entry of Japan into the War in December 1941, more than two years after the War began. But even before that event, India was major supplier of goods and materials were needed to sustain the War effort of the Allies. Her economy was placed on a war footing and geared to cater to the needs of the War. It was when this happened that its inadequacies and shortcomings became forcefully apparent to those whose safety depended upon it. A period of controls and regulations began and lasted, in the case of India, till long after most similar controls had been lifted elsewhere. Plans began to be formulated and for the first time the concept of planning at government level was heard.<sup>8</sup>

In 1944, when the War was still in progress, the Department of Planning and Development was setup. A new Industrial Policy was announced by the government and the then Viceroy, Lord Wavell, declared in 1945 : "Government has decided to take positive steps to encourage and promote industrialisation of the country to the fullest extent possible".<sup>9</sup>

Positive steps were taken and industries such as iron and steel, heavy engineering, machine tools, heavy chemicals and the like, which would lay the foundation for future economic development, were setup.

Even after the War, distortions in the economy continued, some of them in new dimensions, and many of the war-time regulations could not be removed or even relaxed.

The coming of Independence in 1947 did not bring any change in the role of State. On the other hand, the government's role in removing the poverty of millions of people and improving their living standards was realised by all concerned. Resources being limited and priorities being several, economic planning became a dire necessity which would usher in faster economic prosperity in a phased manner. Thus, the First Five Year Plan was launched, heralding a greater role for the State in the

India's political independence reiterated the need for state intervention.

economic development of the country. As we went through Seven Five Year Plans, the role became deeply entrenched.

Then come 1990s when heralded lauding of privatisation and liberalisation policies with these policies in place, state's role in business is gradually reading should the government withdraw completely is argued in the next chapter.

State intervention in our economy is not peculiar to the present century. It was there during the Mauryan times and later. "Thus, in Mauryan times", observed A.L.Basham, "every aspect of life of the individual was watched over, and as far as possible controlled, by the government. Though no later, the State developed the same degree of control as did the Mauryas, the ideas of the Arthashastra did not wholly disapprove. The government not only regulated the economic life of the country, but also took an important part in it. All mines, which term for the ancient India included pearl fisheries and salt pans, were owned by the State, and were either worked directly with the labour of criminals or serfs, or let out to entrepreneurs, from whom the King claimed a percentage of their output as royalty. The produce of the forests, from elephants to firewood, was the property of the State. There were large State farms, cultivated either by direct labour or on a share-cropping basis the products of which went to the State granaries. The State owned factories for spinning and weaving, which were staffed by indigent women, rather like the houses of industry under the Elizabethan Poor-Law. Munitions of war were made in State arsenals, and ships were built in State shipyards, to be let out to fishermen and merchants. In fact, there was no question of *laissez faire* in ancient India".<sup>10</sup>

## QUESTIONS

1. "As on today there is no country in the world where government of the land does not interfere in its economic activities". Do you agree? Discuss.
2. Write a note on Fig 9.1.
3. Do you think that Fig 9.2 is complete in its content? If not, strengthen it.
4. What are the consequences of state control?
5. How to make controls effective?

## REFERENCES

1. C.N.Vakil, *Industrial Development of India - Policy and Problems*, p.16.
2. *Ibid.*, p.248.
3. *Ibid.*, Pp.245-247.
4. Stephen J.K.Walters, *Enterprise, Government and the Public*, Pp.55-78.
5. J.M.Clark, *Social Control of Business*, p.10.
6. Eugene V.Schneider, *Industrial Sociology*, p.515.
7. S.S.Khera, *Government in Business*, p.7.
8. *Ibid.*
9. *Ibid.*
10. A.L.Basham, *The Wonder That Was India*, p.103.

# CHAPTER 10

## *End of Government in Business?*

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### CHAPTER OUTLINE

**Why should the Government Continue its Interventionist Policy?**

**What Should be the Form of State Intervention?**

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### LEARNING OBJECTIVES

**After reading this Chapter, you should be able to:**

1. *Appreciate the reasons why the government should continue its interventionist policy.*
  2. *Describe the form of state intervention.*
  3. *Come to the conclusion that government intervention will continue but in a modified form.*
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