



**INTERNATIONAL ACADEMY**  
Initiative in Education & Lifelong Learning

## **Appreciation Programme**

# **Participatory Urban Planning: Making Cities Inclusive of Urban Poor**

## **Module - II**

### **Module 2: Decentralized Urban Governance and Urban Planning**

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## INTRODUCTION

Governance is a very complex issue. It refers to the administrative arrangements of economic and social resources for development. One of the main objectives of governance is to undertake holistic developmental planning for an area with the maximum utilization of the economic and human resources available therein.

Governance is a generic term, which becomes more specific when we use the prefixes urban, rural, good etc. with it. Governance can be defined as good, when all issues that make it ineffective are removed or taken care of. It is against this backdrop that this Module has been written, which has been divided into three units:

**Unit One** has defined the term governance and described good governance, as well as urban governance in detail, as essentials to understanding the fundamentals of governance.

**Unit Two** describes the need for effective devolution in the context of responsibilities by higher tiers of governments, to the lower ones; it also discusses needs of local capacity building programmes with special reference to 74th Constitutional Amendment Act.

**Unit Three** illustrates in detail, the underlying problems, issues and challenges related to urban governance, through a narration of Jawaharlal Nehru National Urban Renewal Mission (JnNURM).

Through these three units, this Module provides a comprehensive picture of governance in an urban area.

## OBJECTIVES

It is envisaged that at end of this module, the learners would be able to understand the following objectives:

- Intricacies related to governance
- Challenges in the process of urban governance
- Impact of good governance in development

## UNIT 1: WHAT IS GOVERNANCE?

Governance may be understood as, *“the manner in which power is exercised in the management of the country’s economic and social resources for development. It is the joint responsibility of the state, market and citizens to mobilise public resources and promote decision making towards common public good.”*

Governance takes place at all scales of organization ranging from global governance involving transnational coordination, planning and management of international policies, to internal governing of a small institution. Governance structures can include one, more or all of the following: (Agere, 2000)

- between governments and markets
- between governments and citizens
- between governments and the private or voluntary sector
- between elected officials and appointed officials
- between local institutions and urban and rural dwellers
- between legislature and executive branches and
- between nation, states and institutions

### 1.1 What Is Urban Governance?

Urban Governance involves administration, planning, coordination and management of an urban area/ city/town. It also refers to the relationship between local government institutions and urban dwellers or citizens. It also includes partnerships or coordination between local city governments and private enterprises/ civil society/voluntary sector to help improve the administration of a city.

In the current context, as cities in developing countries are under stress on account of demographic transition and economic liberalization, a multitude of issues related to effective governance of these urban areas have emerged.

Unfortunately, most urban governments are not well equipped to tackle some of these problems due to reasons such as lack of resources or improper decentralization of power. This has led to inadequate and ineffective provision of public goods and services to the citizens. In such a scenario, partnerships of local governments with civil society and private sector become important to steer and create responsive governance structures. Local governments are the first and the most direct level of interface between citizens and governments, and therefore, the most vital platform for the exercise of democracy.

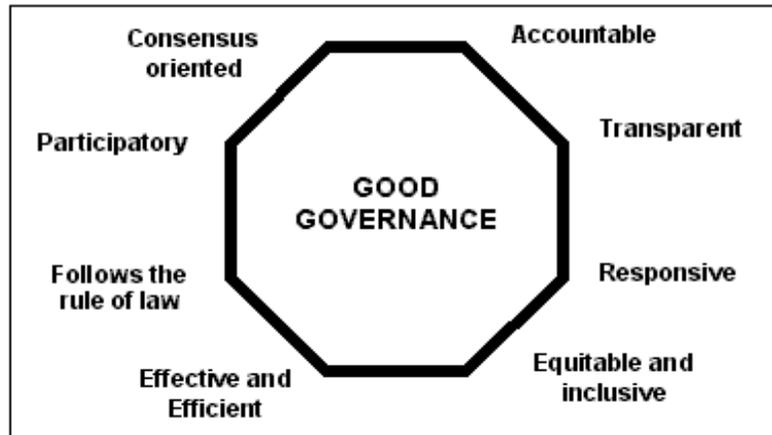
It is important to realize that for effective governance and planning of urban areas, local city governments must be empowered to carry out all functions related to the running of the city administration. They must also have adequate funds and professionals with requisite skills to carry out all these functions effectively. In most developing countries, this kind of devolution of power and funds has not taken place and thus the local governments fail to function or deliver effectively. In India, there is constitutional support to such decentralization but its actual implementation has been extremely slow.

In the next section, we shall cover some salient features of decentralization of power to local (city) governments in India.

## **1.2 Defining 'Good Governance'**

When we define good governance, we are speaking about its quality. We therefore analyse the positive transformations that are alternatives to the current format, which can improve its functioning.

Governance can be defined as good when all the issues that make it ineffective are addressed, removed or taken care of.



**Characteristics/ Indicators of Good Governance**

Good governance has eight major characteristics. It is

- Participatory
- Consensus oriented
- Accountable
- Transparent
- Responsive
- Effective and efficient,
- Equitable and inclusive and
- Follows the rule of law

Further, it ensures that political, social and economic priorities are based on broad consensus in society. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. (OECD, 2001)

**Participation** by both men and women is a key cornerstone of good governance. Participation could be direct, through legitimate, intermediate institutions, or through government representatives.

Representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be automatically taken into consideration during decision-making processes. Participation needs to be informed and organized, which implies freedom of association and expression, as well as an organized civil society.

**Consensus oriented:** There are several actors and as many viewpoints in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus on what is in the best interest of the whole community and how this can be achieved. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can be achieved by understanding the historical, cultural and social contexts of a given community.

**Accountability** is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organisations (CSOs) must be accountable to the public and to institutional stakeholders. Who is accountable to who varies depending on whether decisions or actions taken are internal or external to an organization. Generally speaking, an organization/institution is accountable to those who will be affected by its decisions or actions. However, it is important to bear in mind that accountability cannot be enforced without transparency and the rule of law.

**Transparency** means that decisions taken and their enforcement are conducted in a manner that follows rules and regulations. It also implies that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It must be ensured that adequate information is provided in easily understandable forms and different media.

**Responsiveness:** Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe.

**Effectiveness and efficiency:** Good governance means that processes and institutions produce results that meet the needs of society, while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment.

**Equity and inclusiveness:** A society's wellbeing depends on ensuring that all its members feel that they have a stake in its progress and growth and do not feel excluded from the mainstream activities of society. This requires that all individuals and groups have opportunities to improve or maintain their wellbeing. However, the maximum attention has to be paid to the most vulnerable in society.

**Rule of Law:** Good governance requires fair and just legal frameworks that are enforced impartially. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force. It also requires full protection of human rights, particularly those of minorities.

## UNIT 2: DECENTRALIZATION OF POWER TO URBAN LOCAL BODIES IN INDIA - THE 74TH CONSTITUTIONAL AMENDMENT ACT

The roots of good governance at the local level lie in the effective devolution of responsibilities by higher tiers of governments to the lower ones. This can be achieved by building up local capacities, in order to help them discharge these responsibilities to the citizens' satisfaction. Effective governance, therefore, implies that local bodies have a well-defined functional domain and are able to generate adequate resources to carry out their responsibilities in an inclusive and accountable manner.

With the enactment of the 74<sup>th</sup> CAA in 1992, municipalities have acquired constitutional status for the first time in India. The important provisions specified in the Act include constitution of three types of municipalities, devolution of greater functional responsibilities and financial powers to municipalities. It further specifies adequate representation of weaker sections and women in municipalities; regular and fair conduct of municipal elections; and constitution of Wards Committees, District Planning Committees, Metropolitan Planning Committees and State Finance Commissions.

In the context of urban India, the 74th Constitutional Amendment Act (74th CAA) was a milestone, as it provided constitutional validity to Urban Local Bodies (ULBs), set out the procedure for their constitution and defined their structures, functions and resource generation capabilities.

### 2.1. Objective of the 74th CAA

The Act aimed at greater clarity between the centre, states and urban local governments in terms of devolution of adequate powers, authorities and resources, to enable the latter to function as vibrant institutions of local self-governance. Its purpose is the devolution of **Funds, Functions and Functionaries**, to the urban local bodies in all cities in India.

## 2.2. Main Provisions of the 74th CAA:

It provides constitutional recognition to the setting up, powers and functions of urban local bodies. The Act introduces the Twelfth Schedule in the Constitution, which lists 18 subjects or functions falling under the jurisdiction of municipalities. One of these subjects is urban planning.

The Act comprises of a number of Articles – 243 P to 243 Z (243 Z- 243 ZD) that delineates provisioning, composition and functions of municipalities, metropolitan areas, wards committees, finance commission, election commission, district planning committee etc.

- Article 243 P provides definitions of the terms used in the Act.
- Article 243 Q provides for the constitution of various types of urban local bodies
- Article 243 R provides for the constitution of municipalities
- Article 243 S provides for the constitution and composition of ward committees in municipalities, having a population of three lakh or more and provision for constitution of committees in addition to ward committees by the State Legislature
- Article 243 T provides for the reservation of seats for scheduled castes and scheduled tribes, in proportion to their population in the municipal area. It also provides for the reservation of one- third seats for women candidates
- Article 243 U defines that the term of office of a municipality shall be no longer five years from the date of its first meeting
- Article 243V provides for the disqualifications for being a member of municipality
- Article 243 W provides for the powers, authority and responsibility of Municipalities
- Article 243 X provides for the power to impose and collect taxes, duties, tolls and fees and funds of the municipalities

- Article 243Y provides that the Finance Commission constituted under Article 243 I shall also review financial provision of Municipalities and make recommendations to the Governor with respect to the proceeds of the taxes
- Article 243 Z provides that the Legislature of the State may conduct audit of accounts of the municipalities
- Article 243 ZA proclaims that the State Election Commission shall be empowered for the supervision, direction, control of preparation of the electoral rolls and conduct of all elections to municipalities
- Article 243 ZB provides provisions regarding applications to Union Territories only
- Article 243 ZC provides provisions of the Act not applicable to certain areas like Scheduled Areas, etc.
- Article 243 ZD provides for the establishment of a District Planning Committee (DPC) in each district to consolidate the plans prepared by the *panchayats* and municipalities in the district and to prepare a draft development plan for the entire district
- As per Article 243 ZE, a metropolitan planning committee (MPC) shall be constituted in every metropolitan area to prepare a draft development plan for every metropolitan area as a whole

While preparing the development plan for a district/ metropolitan area, the DPCs and MPCs shall take into consideration these factors:

- matters of common interest between panchayats and municipalities
- plans prepared by municipalities and panchayats in the metropolitan area
- spatial planning, sharing of water and other natural and physical resources between panchayats and municipalities and the integrated development of infrastructure and environmental conservation
- the extent and type of available financial and other resources
- overall objectives and priorities set by the Government of India and the state government for that region/ district
- consult such persons while making plans, as the Governor may specify

- Article 243 ZF provides for the continuance of existing laws related to municipalities in states before the commencement of 74<sup>th</sup> CAA, 1992, until amended or repealed by competent authority
- Article 243 ZG bars interference by courts in electoral matters

### **2.3. Functions of the Municipalities: the Twelfth Schedule**

As per Article 243 W of the 74th CAA, the following are the 18 functions to be carried out by the Urban Local Bodies:

1. Urban planning including town planning
2. Regulation of land use and construction of buildings
3. Planning for economic and social development
4. Roads and bridges
5. Water supply for domestic, industrial and commercial purposes
6. Public health, sanitation, conservancy and solid waste management
7. Fire services
8. Urban forestry, protection of the environment and promotion of ecological aspects
9. Safeguarding the interests of weaker sections of society, including the differently abled
10. Slum improvement and upgradation
11. Urban poverty alleviation
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds etc
13. Promotion of cultural, educational and aesthetic aspects
14. Burials and burial grounds, cremation, cremation grounds and electric crematoriums
15. Vital statistics including registration of births and deaths

16. Cattle pounds; prevention of cruelty to animals
17. Public amenities including street lighting, parking lots, bus stops and public conveniences
18. Regulation of slaughter houses and tanneries

Almost every function mentioned above can be clubbed into different categories in the planning process. While the first function is specifically urban planning, all functions related to provision of physical and social infrastructure; construction of roads, bridges and buildings, regulation of land use etc. fall within the purview of planning. However, except for functions like solid waste management and birth and death registrations, the municipality does not have the capacity to carry out all the functions mentioned in the list above. Besides, other agencies are already carrying out these functions and the Act does not specify how to coordinate, transfer and merge powers/ functions and resources in an efficient manner. Thus, this ambiguity regarding the responsibilities of various institutions has led to an overlap of duties. Many agencies of the government are performing the same functions simultaneously, thus making the system less efficient.

In December 2005, the Government of India launched the Jawaharlal Nehru National Urban Renewal Mission (JnNURM), a seven year multi-million scheme for select cities. One of its primary objectives is the implementation of the 74th CAA in all states of India in letter and spirit. This was to be achieved by ensuring proper decentralization, to improve urban local government institutions and urban infrastructure and management. From 2005, urban India has been under the influence of this mission and extremely fast paced planning and development has occurred in some places.

However, in many urban centres development is lagging behind. In the next section, let us understand this Mission, its objectives and its progress towards the purpose of enhancing public participation and improving governance.

## 2.4. Current Levels of Devolution of Urban Planning Functions to Municipalities in India

Most state governments have only partially followed the 74th CAA, by amending their respective municipal laws. Democratically elected local governments and one-third reservation for women have now become the norm. However, on other aspects of the CAA, many state governments have remained reluctant to follow the prescriptions. They have still not transferred all the functions listed in the Twelfth Schedule of the 74th CAA to ULBs. Even with regards to the functions that have been transferred, there have been contradictions between the functional devolution and the fiscal powers of the ULBs. Some of the functions of the urban bodies overlap with the work of state agencies. The functions of the municipality, including those listed in the Twelfth Schedule are left to the discretion of the state government. Local bodies must be bestowed with adequate powers, authority and responsibility to perform the functions entrusted to them by the Act. However, the Act has not provided them with any powers directly and has instead left it to the discretion of state governments.

### THINK TANK

- Find out which functions your Municipality/ Municipal Corporation is performing?
- Also list down challenges in doing so.

## UNIT 3: JAWAHARLAL NEHRU NATIONAL URBAN RENEWAL MISSION (JnNURM)

The JnNURM, envisages a total investment/funding of Rs. 50,000 crores (Rs 500 billion). Adding the contribution of states and municipalities, this amount goes up to Rs1,25,000 crores (Rs1250 billion) over the envisaged seven year period (2005-2012).

The scheme has two sub-missions:

- Supervision of urban infrastructure and governance administered by the Ministry of Urban Development, with a focus on planning, water supply and sanitation, solid waste management, road networks, urban transport and redevelopment of old city areas
- Provision of basic services to the urban poor administered by the Ministry of Housing and Urban Poverty Alleviation, with a focus on integrated development of slums

### 3.1. What is a City Development Plan?

A City Development Plan (CDP) is both a perspective, as well as a vision for the future development of a city. It presents the current stage of the city's development and sets out the directions of change. It identifies the priority areas and suggests alternative routes, strategies, and interventions for bringing about the required change. It provides a framework and vision within which projects need to be identified and implemented. It establishes a logical and consistent framework for evaluation of investment decisions.

A CDP is based on JnNURM's goal of creating economically productive, efficient, equitable and responsive cities. Although multi stakeholder consultations and people's participation form the basis of JnNURM, many of the CDPs have failed to go beyond token participation. In fact, consultants, who were appointed by the municipalities, prepared most CDPs.

These consultants in many cases did not belong to the city for which the CDP was being prepared and hence were quite removed from the local issues/problems and people. The time period given for preparation of CDPs (3 months) was not adequate to garner adequate public participation and hence in most places, a few meetings with ward councilors were considered as 'citizens' participation' in the CDP. Most CDPs were prepared within the cost of Rs 10-15 lakh, which is inadequate to conduct full-fledged surveys, obtain updated data and infrastructure requirements. Thus, most CDPs have rehashed data from 2001 census and old master plans of cities.

### 3.2 Community Participation Law and Model Nagar Raj Bill

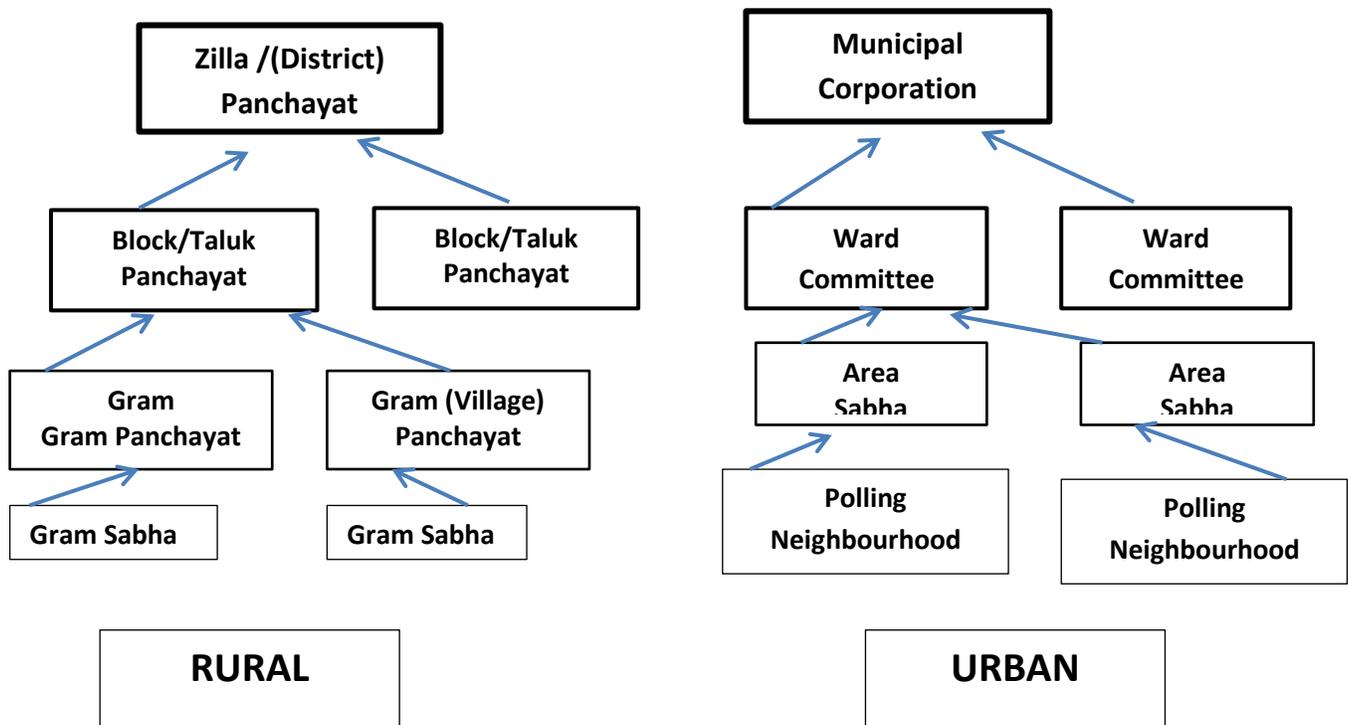
The community participation law (CPL) is a mandatory state level reform proposed within the JnNURM. It goes a step beyond the 74th Amendment in specifying that is necessary to create institutionalized spaces for citizen participation.

Historically, Indian villages have had the three tier structure of *Gram Sabha*, *Gram Panchayat* and *Zila Panchayat*. The structure was such that it was supposed to reach out to and include every person in the village. This was ensured by making every adult villager registered in the electoral roll as member of the *Gram Sabha*. This three-tier structure was further reinforced with the passage of the 73rd CAA. Presence and active involvement of civil society and the voluntary sector in rural areas, has also supported this structure.

Urban areas however unfolded a different story. Unlike the *panchayats* of rural India, there was no historical structure, where citizens could collectively voice their opinions and discuss issues of development or other matters of concern. The 74th Amendment made constitutional provision for Ward Committees (WCs) under the Municipal Corporation. Each WC comprises of an elected councillor of the ward, along with residents of the ward as members. In practice however, these committees have proven to be ineffective, as they comprise groups, which are much larger than *gram sabhas*. Besides issues related to coordination, these committees have no powers or funds.

In order to address this challenge, the Community Participation Law (or Model Nagar Raj Bill) proposed the third tier - the *Area sabhas*, to bring the local government closer to the people. Areas that come under the same polling booth or a set of polling booths form an *area sabha*. All adults having the right to vote would be members of their respective *area sabha*. *Area sabha* meet frequently and discuss development issues related to the immediate neighbourhood; *area sabha* representatives then present these in ward committees that are directly linked to the municipality, thus providing every citizen access to the local government.

Figure 2: Diagrammatic Representation of Three tier structures of local governance in Rural and Urban India



### 3.3 Public Disclosure Law (PDL) Model Municipality Disclosure Bill

A Public Disclosure Law will make it statutory for the municipalities to periodically publish information *suo moto* (on its own). The objective being that the citizens will not have to file requests under the Right to Information (RTI) Act, to obtain basic information. This may include financial statements, project details and other such information, which may be of common interest to the citizens.

As per the JnNURM, the core objectives of the PDL are:

- To provide appropriate financial and operational information on various municipal services to citizens and other stakeholders
- To promote efficiency and consistency in the delivery of public goods and services by the municipality
- To enable comparison between various time periods of the same ULB and also between various ULBs, by disseminating information in a structured, regular and standardized manner

It is envisaged that ULBs will become more accountable and transparent besides building an effective communication and information channel between the local, state and union governments.

### 3.4 Repeal of Urban Land Ceiling Act and Reform of Laws Related to Rent Control

The objective of the Urban Land (Ceiling & Regulation Act), 1976, ( ULCRA) was to facilitate the availability and affordability of urban land by increasing its supply in the market and by establishing an efficient land market. The ULCRA provided for:

- Imposition of a ceiling on both ownership and possession of vacant land

- Acquisition of excess vacant land by the state government with powers to dispose of the land for the common good
- Payment of compensation for the acquisition of excess land
- Granting exceptions in respect of certain specific categories of vacant land

The implementation of the ULCRA in the states and UTs was found to be unsatisfactory. Since the ULCRA has not met its intended objectives, the Government of India decided to repeal the Act with the passing of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Various states subsequently repealed the Act.

Repeal of the ULCRA has been included as one of the mandatory reforms in JnNURM, and states have to commit to repealing it within a committed period. It is envisaged that the repeal of the Act would go a long way in reviving the stagnant housing industry and facilitate construction of dwelling units in both the public and private sector. However, so far, there is no estimate about how much land has now become available and how it has been used.

Amendment of rent control laws is one of the mandatory reforms in JnNURM. States are expected to implement the reform within the Mission period. It is widely recognized that the existing rent control laws are biased towards tenants. The objective of the reform of Rent Control Act is to amend existing provisions and provide a balance between the interests of property owners and tenants. Reform in the rent control laws will go a long way in improving housing situations in urban areas, reduce distortions in the market, and have a beneficial impact on urban finances. As of June 2011, 15 states had yet to take action on this reform.

### 3.5 Revision of Building By Laws to Streamline Approval Process for Construction and Site Development and also to Include Water Conservation Measures

JnNURM requires certain optional reforms to be undertaken by states/ cities towards streamlining of the building approval process, with the broad objective of establishing a simple, transparent and efficient timeline that encourages development. The need for the reform arises due to the fact that the procedure for acquiring sanction for building plans/ obtaining building permit is a long drawn process in most cities. This reform has been carried out by all states and a number of cities have already computerized the building sanction procedure.

In the context of water conservation, rainwater harvesting has been made

mandatory in all buildings, to recharge groundwater and augment overall water availability. This measure will ensure that each building taps rainwater and directs it to recharge groundwater aquifers, or stored for direct consumption/ use by occupants of buildings. With increasing population in urban areas, the municipal bodies and other public agencies are finding it increasingly difficult to supply water in adequate quantities to citizens. Often citizens use private tube wells to supplement the municipal supply for their daily needs. The mandatory reform agenda of JnNURM requires that states should revise their building byelaws to ensure that rainwater harvesting is introduced for all new buildings.

#### THINK TANK

- Do you know the role of the Mayor of your city?
- Has the Mayor ever presented the city plan to the citizens like Mayors of London/ New York?
- Have you ever met the ward councilor of your ward?

## SUMMARY

This Module discussed and described the issues related to issues of governance from different angles. It helped us in understanding the concept of governance and the imperatives of good governance. The example of Jawaharlal Nehru National Urban Renewal Mission (JnNURM) helped illustrate the issues discussed in this Module and insights on how cities can be made responsive, equitable and inclusive of all its citizens. The Community Participation Law and the Public Disclosure Law have been discussed in the context of decentralizing governance and towards making it more efficient and transparent. The repeal of the ULCRA and Rent Control Laws have helped in balancing out the current situation where there is a bias towards tenants, with property owners receiving unfavourable and unfair treatment.

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