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# **Energy Governance**

**13<sup>th</sup> December 2010**

**National Seminar on Energy Security in India**

**University of Trivandrum, Kerala**

# Why the Focus on Energy Governance For Energy Security

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- Energy use & resource extraction have externalities & therefore impact on people
- Need for responsible & inclusive development of resources
- Impact of international framework & institutions
- Increased role for private sector participation

**Need for strengthening institutions**

# Governance Defined

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- Governance is the **process of decision-making** and the process by which **decisions are implemented**. An analysis of governance focuses on the **formal and informal actors** involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision. (UNESCAP)
- "GOVERNANCE is the exercise of political, economic and administrative authority to manage a nation's affairs. It is the **complex mechanisms, processes and institutions** through which **citizens and groups articulate their interests**, exercise their legal rights and obligations, and **mediate their differences**." (UNDP)

# Institutions, Processes & Stakeholders

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- ❑ Legislature (Acts, amendments to acts, policy making)
- ❑ Executive – Central, state governments and local governments (Implementation of Acts, policies)
- ❑ Judiciary and quasi judiciary bodies -Supreme Court, high court, appellate tribunal, consumer grievance forum, ombudsman (intervene through reviews, orders, judgment)
- ❑ Independent regulators (intervene through regulation)
- ❑ Utilities, PSUs (intervene through petitions to regulator, appellate tribunal, public hearings, informally through state government)
- ❑ Consumers (including the underprivileged) and Consumer Groups (intervene through representation before commission, through Consumer Grievance Redressal Forums, PILs, Public hearings)
- ❑ Media (articulating concerns of other stakeholders to a larger audience)

# Energy Governance

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Objectives of Good Governance in Energy Sector:

- Adequate availability of energy
- Access to energy for all
- Affordability
- Ensuring responsible & sustainable development of resources (for community & environment)
- Ensure that adequate compensation is made to affected community (stakeholders in development)
- Promotion of sustainable technologies, renewable resources

# Oversight over Private Participation

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Concerns of lack of transparency & accountability in private sector participation

## □ **Bidding in New Exploration & Licensing Policy (NELP)**

Concerns raised with respect to the '*cost quoted by players for development of blocks, lack of transparency in contracts, procedural lapses in environmental clearances*' \*

## □ **Competitive bidding in electricity generation (case 1, case 2 & UMPPs)**

Concerns that '*competitive bidding process has favored particular actors, developers are not adhering to contracts, lack of information in the public domain about the bidding process*'\*\*

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\*Sreenivas & Sant, EPW, 2009 (Shortcomings in Governance of the Natural Gas Sector)

\*\* Capacity Addition Through Competitive Bidding: Prayas Round Table, September 2010

# Regulatory oversight over competition

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## □ Introduction of parallel licensee in Mumbai

Supreme Court ruling in 2009 recognizes Tata Power as a deemed licensee in Mumbai

A bulk supplier earlier to Reliance, Tata Power refuses supply to Reliance (No PPA between the companies)

Reliance required to purchase from the open market in summers 2010

Power purchase cost of Reliance goes up, loses industrial consumers to Tata Power- low end consumers of Reliance to suffer

## State Government Intervention

State government directive in May 2010 under Section 11 of EA, 2003 to TPC to continue supplying power to Reliance at regulated price of Rs 4.4 per unit.

SLDC refuses to allow Tata Power to sell to its Distribution Company

## Governance Issues:

- 1. Need for Adequate Regulatory Safeguard Prior to Introduction of Competition- Should there be uniform tariffs?**
- 2) Was the government right in intervening in public interest?**
- 3) Do the SLDC's require freedom from government influence?**
- 4) Can state government direct generator to sell to a particular consumer and at a particular price?**

# Oversight over Private Participation

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## □ Denial of short term open access in Karnataka

State government directive in January 2009 to GMR Energy under Section 11 to supply energy to the grid at Rs 5.5 per unit from Tannir Bavi plant (citing severe electricity shortage in the state)

High Court of Karnataka upholds decision of state government – sets precedence for other states

### **Governance Issues**

1. Can state governments direct private companies to sell to a particular consumer
2. Can state governments direct private company to sell at a particular price (Role of regulator)
3. What could be the fallout of this on investment (ultra mega power projects)
4. Issue between centre (promotion of inter-state open access & state (curtailing open access to meet power shortage in the state))



# Delhi Government Vs DERC

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- Delhi Government Directive To DERC:
  - Under Section 86(2)(iv) – regulator to give statutory advice to government on representation made by the private discoms
  - Under Section 108 **regulator not to issue tariff** order till advice is examined and go ahead on passing order is given
- Differences between Member & Chairman on providing advice
- **Is this regulatory capture? Or is regulator ceding space?**
- Should the state government have intervened? Should the discoms not have approached the appellate tribunal as per laid procedures?
- The tariff order could have brought down tariffs and could have been in consumer interest.
- However a lack of capacity of regulator in understanding financials could have adverse impact on the private companies and therefore on investment into the sector

Need to strengthen regulatory capacity  
and regulatory institutions

# Issues around Resource Development

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## Uranium Mining in Meghalaya\*

- Indigenous community in the state protesting against uranium mining planned by UCIL
- District tribal council, community groups and students unions protesting

## Uranium Mining in Andhra Pradesh\*

- UCIL's plan for uranium mining in Andhra Pradesh (Lambapur & Pedagattu areas) near forest reserves
- Representations made against the proposed uranium project in the public hearings.
- UCIL is in the process of acquiring all clearances

Public hearings around uranium mining seem perfunctory

***Need for Strengthening Local Institutions and Processes for Public Participation in governance***

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Thank You