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JUDICIAL ACTIVISM (IV)
LEGITIMACY

S.P. Sathe

In the previous parts of this paper, the author traced the evolution of the Supreme Court of India from a positivist court into an activist court. The Court has now become a political institution laying down rules of governance and its decisions have to be obeyed by the other organs of the government. There has been a phenomenal change in the nature of the judicial process. It has become more accessible, participatory and even legislative. By traditional standards, the Court has clearly gone beyond its constitutional mandate. There can be serious objections to the expanded role of the Court from the standpoint of the doctrine of separation of powers and the theory of judicial process. Yet, we find that neither the other organs of the government nor the people have raised such objections or have entertained them seriously. Judicial activism is welcomed by the political players as well as the lay people. Sometimes we find that the government itself invites such intervention with a view to either obtaining legitimisation of its own decisions (Mandal Commission recommendations) or in order to avoid taking unpopular decisions (Reference of temple-mosque controversy to the Court). Judicial activism is considered to be justified and decisions of the Court are considered to be binding by those who are required to implement them. This is what the author calls the legitimacy of judicial activism.

Why and how has judicial activism acquired legitimacy? A Court has to continuously sustain its own legitimacy by not only being independent but appearing to be independent, objective and principled. Since the Court is taking decisions which have political implications, it must tolerate greater criticism of its decisions from the people. The power to punish for contempt also requires constant legitimation. It must be exercised so as to allow maximum freedom of speech and expression. The paper shows how the Court has to use tact and vision for sustaining its image as a democratic and independent authority.

We have seen in the previous parts of this paper how the Supreme Court of India became the most powerful apex court in the world. Unlike the Supreme Court of the United States or the House of Lords in England or the highest courts in Canada or Australia, the Supreme Court of India can review even a constitutional amendment and strike it down, if it undermines the basic structure of the Constitution [*Kesavanand Bharati* v. *Kerala,* AIR* , 1973, SC, p. 1,460]. The Supreme Court can decide the legality of the action of the President of India under Article 356 of the Constitution, whereby a state government is dismissed [*S.R. Bommai* v. *India,* AIR, 1994, SC, p. 1,918]. We have said in the earlier parts that such actions cannot be judged, except by political parameters [Sathe, 1998(d), Pp. 603, 632-639]. Through public interest litigation, the Court has granted access to persons inspired by public interest, to invite judicial intervention against abuse of power or misuse of power or inaction of the government. What is more, not only was the requirement of *locus standi* liberalised to facilitate access but the concept of justiciability was also widened to include within judicial purview actions or inactions which, according to the traditional notions of justiciability, were not considered to be capable of resolution through judicial process [Sathe, 1999, Pp. 1-37].

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* Long forms of all abbreviations are given at the end.

The Realist School of jurisprudence exploded the myth that the judges merely declared the pre-existing law or interpreted it and asserted that the judges made the law. The Realist school of jurisprudence stated that law was what the courts said it was. This is known as legal skepticism and was really a reaction to Austin's definition of law as a command of the political sovereign. According to the Analytical jurisprudence, a court merely found the law or merely interpreted the law. The American Realist School of jurisprudence asserted that the judges made law, though interstitially. Jerome Frank, Justice Holmes, Cardozo, Llewellyn were the chief exponents of this School [Freeman, 1994, p. 644]. The Indian Supreme Court not only makes law, as understood in the sense of the Realist jurisprudence, but actually has started legislating exactly in the way in which a legislature does. Judicial law making in the Realist sense is what the Court does when it expands the meanings of the words 'personal liberty' or 'due process of law' or 'freedom of speech and expression'. When the Court held that a commercial speech (advertisement) was entitled to the protection of freedom of speech and expression [*Tata Press Ltd.* v. *Mahanagar Telephone Nigam,* AIR, 1995, SC, p. 2,438], it was judicial law making in the Realist sense. Similarly the basic structure doctrine [*Kesavanand Bharati* v. *Kerala,* AIR, 1973, SC, p. 1,460] or the parameters for reviewing the President's action under Article 356 [*S.R. Bommai* v. *India,* AIR, 1994, SC, p. 1,918] or the wider meanings of the words 'life', 'liberty' and 'procedure established by law' in Article 21 of the Constitution [*Maneka Gandhi* v. *India,* AIR, 1978, SC, p. 597] are instances of judicial law-making in the Realist sense by the Supreme Court. When the Court, however, lays down guidelines for inter-country adoption [*Laxmi Kant Pandey* v. *India,* AIR, 1987, SC, p. 232] or against sexual harassment of working women at the workplace [*Vishaka* v. *Rajasthan,* SCC, 1997, Vol. 6, p. 221], or for abolition of child labour [*M.C. Mehta* v. *Tamil Nadu,* SCC, 1996, Vol. 6, p. 756], it is not judicial law-making in the Realist sense but amounts to legislating like a legislature. In a strict sense, these are instances of judicial excessivism which fly in the face of the doctrine of separation of powers. The doctrine of separation of powers envisages that the legislature should make law, the executive should execute it and the judiciary should settle disputes in accordance with the pre-determined law. In reality, such water-tight separation exists nowhere and is impracticable. Broadly, it means that one organ of the state should not perform a function that essentially belongs to another organ. While law-making through interpretation and expansion of the meanings of the open textured expressions like the 'due process of law' or 'equal protection of law' or 'freedom of speech and expression' is a legitimate judicial function, the making of an entirely new law which the Supreme Court has been doing through directions in the above mentioned cases is not a legitimate judicial function.

Our survey of the decisional law of the Indian Supreme Court has brought us to this conclusion that the Court has clearly transcended the limits of the judicial function and has undertaken functions which really belonged to either the legislature or the executive. Its decisions clearly violated the limits which the doctrine of separation of powers had imposed on it. A court is not equipped with the skills and the competence to discharge functions which essentially belong to the other co-ordinate organs of government. Its institutional equipment is not adequate for undertaking legislation or administrative functions. It cannot create positive rights such as the right to work, or the right to education or the right to shelter. It does not have the equipment for monitoring various steps that are required for the abolition of child labour. It cannot entirely stop degradation of environment or government lawlessness. Its actions in these areas are bound to be symbolic. Admitting all these aspects, it is to be seen that judicial activism is welcomed not only by individuals and social activists who take recourse to it but also by the governments and other political players like the political parties, civil servants, etc. None among the political players have protested against judicial intrusion into matters which essentially belonged to the executive. Some feeble whispers are often heard but they are from those whose vested interests are adversely affected. On the other hand, we find that

the political establishment is showing unusual deference to the decisions of the Court. Whether it is the limitations of the basic structure doctrine on Parliament's constituent power under Article 368 of the Constitution or the limitations upon the President's powers under Article 356, the political establishment has been considering itself bound to function within the limits drawn by the Supreme Court and the people in general regard that the government and other authorities are bound to abide by the decisions of the courts. The political players as well as the people in general think that in matters involving conflict between various competing interests, the courts are better arbiters than the politicians. By political players, I mean, the central and state governments, political parties, various constitutional authorities such as the President and the Election Commission, and the statutory authorities like the National Human Rights Commission, the tribunals, commissions or regulatory bodies.

LEGITIMACY - CONCEPTUALISATION

John Austin defined law as a command of the sovereign backed by sanction. According to him, it is the coercive power behind it that distinguishes law from other species such as fashion, habits or even custom. Austin did not make any distinction between good law and bad law. Even a bad law was law if it fulfilled the three characteristics of law, namely, (i) it was a command, (ii) issued by the sovereign authority, and (iii) was backed by a sanction, i.e., an evil consequence, if disobeyed. H. L. A. Hart, a critique of Analytical jurisprudence, asks whether an order of a gunman asking a bank man to hand over his cash was law [Hart, 1970, p. 9]. The order of a gunman was also backed by sanction, i.e., fear of death. Was a gunman a sovereign? Austin defines sovereign as a person or authority which is subordinate to none and is obeyed by everyone. At the particular point of time when the gunman orders a bank man to hand over the cash, he is obeyed by everyone who is under his threat and he is not required to obey anyone. The difference between a gunman and a political sovereign is that a gunman is not considered to be a lawful authority and his command is obeyed because of fear of death alone. According to Hart, the bank man obeyed the gunman because he was 'obliged' to do so. He was not under an obligation to obey. What is the difference between 'being obliged to obey' and 'having an obligation to obey'? The bank man is obliged to obey but does not have an obligation to obey. Hart further says [Hart, 1970, p. 80]:

> It is, however, equally certain that we should misdescribe the situation, if we said on these facts that bank man had an obligation or a duty to hand over the money. So, from the start, it is clear that we need something else for an understanding of the idea of obligation. There is a difference, yet to be explained, between the assertion that someone was obliged to do something and the assertion that he had an obligation to do it.

A sovereign is considered to be a legitimate authority. A legitimate authority is one who is obeyed not only because one 'is obliged to do so' but also because one feels that he is 'under an obligation to do so'. Professor Hart was a linguistic philosopher and by drawing a distinction between 'being obliged to act' and 'having an obligation to act', he points out the difference between compliance with an order because of fear and compliance with an order because such order is considered to be binding.

A gunman is obeyed only because there is fear of death. A sovereign may also be obeyed because there is fear of punishment but that punishment is considered to be prescribed by a legitimate authority. It is the 'having an obligation to act' which arises from the legitimacy of an order. A sovereign appointed or elected by law is considered to be legitimate. Legal validity is a precondition of legitimacy. When we say that a law is valid, we mean that it is made by an authority competent to make it and it is made in accordance

with the procedure prescribed therefor. The difference between power and authority is significant. The gunman has power but no authority. The sovereign is supposed to have power and authority. Sometimes it may lack power but may possess only authority. For example, we all know that under the Constitution, the President of India has to act on the aid and advice of the Council of Ministers (Article 74). The President has power to return the advice once but, if the cabinet persists in giving that advice, he has to accept it and act in accordance with it [Proviso to Article 74]. So the President may not have the power but he has the authority. The ultimate order has to be in the name of the President. It is not legitimate otherwise.

According to Max Weber, the most common form of legitimacy is 'the belief in legality. i.e. the acquiescence in enactments which are formally correct and which have been made in the accustomed manner' [Rheinstein, 1925, p. 9]. While validity is essentially a legal concept, legitimacy is a sociological concept. Validity is determined in terms of legality and it is also a requisite of legitimacy. But it may happen that a law is valid and yet it may lack legitimacy. When M.K. Gandhi said to the judge, who was trying him for an offence, that he considered the law under which he was charged guilty was an unjust law, and that he would not obey it, but that he would suffer any punishment that the judge would give him, he actually de-legitimated the colonial law and sought to legitimise conscientious objection to an unjust law. Although the law was valid since it had been enacted by a competent authority, it was divested of its legitimacy in the eyes of a large number of Indians because of its unjust character. When Tilak was sentenced to six years of imprisonment for the offence of sedition, he said that although that court had held him guilty, in a higher court (divine court) he would be held as innocent. Unlike Gandhi, Tilak did not plead guilty to the charge of sedition but asserted that what he wrote or said did not amount to sedition. Gandhi's approach was based on morality (natural law) whereas Tilak appealed to the concept of rule of law which was the basis of English law [Sathe, 1983(b), p. 119]. Both however, protested against the positive law which was unjust. The justness of the law was determined by applying moral parameters. In legal theory, the concept of natural law has always acted as a moral scale for the evaluation of a positive law. Where a positive law manifestly runs counter to the natural law, it loses its legitimacy. When German generals pleaded that they took part in the extermination of the Jews under orders of the superiors given under valid German laws, the Nuremburg tribunal, set up by the Allies to try war criminals after the end of the Second World War, rejected that plea on the ground that their crimes against humanity could not be justified under any law. The tribunal, therefore, held that even a valid law could not give authority for such heinous crimes. The decision of the Nuremburg tribunal, though erroneous from the standpoint of legal positivism, was right according to a widely shared consensus which had emerged after the War. That consensus lent legitimacy to the decision of the Nuremburg tribunal. In India, although the declaration of emergency in 1975 and the subsequent curbs on liberty imposed through various orders of the President were legally valid since the letter of the Constitution had been strictly followed, they obviously lacked legitimacy in the eyes of those who felt that they were excessive. This was obvious from the fact that even Indira Gandhi herself was not sure of the legitimacy of the emergency regime and, therefore, wanted to secure legitimacy for her rule through elections which she announced in 1977.

Legitimacy therefore means (a) legal validity; (b) a widely shared feeling among the people that they have a duty to obey the law; and (c) actual obedience of the law by a large number of people. M.K. Gandhi's passive resistance was based on challenging the (b) and (c) of the above requirements. It was aimed at de-legitimisation of the

colonial law, which was unjust or unfair. At the same time, Gandhi avoided the growth of anarchy by volunteering to suffer punishment for his disobedience of the law. Submission to the punishment prescribed by the law tended to legitimate the rule of law but to de-legitimate the colonial law. It also legitimated the right to peaceful protest against a law which was considered to be a bad law.

JUDICIAL ACTIVISM AND LEGITIMACY - THE PERIOD OF NEHRUVIAN VISION

We saw in the first part of this article how the makers of the constitution had envisioned a technocratic court under the Constitution. They had purposely avoided leaving discretion with the Court by making the text of the constitution as detailed and specific as possible. The Court in Nehru's words 'could point out to us if we go wrong here and there' but in matters of policy, the Parliament was supreme [CAD, Vol. 9, p. 1,159]. When the Supreme Court gave decisions to frustrate the land reforms envisaged by the Parliament, the Constitution was amended to exclude judicial review from such controversial areas [Sathe, 1989]. If the Court had power to interpret the Constitution, the Parliament had the power to change the Constitution. That was an understanding between the Parliament and the Court. The people also had accepted such narrow and technocratic role of the Court. The initiative for change lay with the executive. The executive was led by a person who held the highest stature among the existing politicians. There were others also who had participated in the national movement and, therefore, enjoyed the halo of sacrifice. That generation of politicians, however, vanished within two decades. Nehru's death in 1964 marked the end of the leadership drawn from the national movement. During that period, the Court played a secondary role in Indian politics. The judges of the Supreme Court were drawn from among the judges of the Federal Court of India and various High Courts and had been appointed by the colonial government. Between the politicians and the judges, the politicians enjoyed much greater prestige. The property rights decisions of the Supreme Court and the High Courts had unfortunately projected the courts as a conservative, *status quoist* branch of the government. The Supreme Court had adopted a very narrow construction of the constitutional provisions regarding personal liberty guaranteed by Article 21 of the Constitution in *A.K. Gopalan* v. *Madras* [AIR, 1950, SC, p. 27] and had, thereby, alienated itself from the political dissenters.

Judicial activism appeared in a few cases even during that period but those cases were appreciated because judicial activism often complemented the effort of the political leadership. Since the appointment of justice S.R. Das as Chief Justice, the Court showed greater commitment to the collectivist policies of the Indian state. Under Chief Justice Gajendragadkar, the Court articulated legally the thrusts of Nehruvian democratic socialism [Sathe, 1973, p. 33]. This was the period of great harmony between the Court and the Parliament. The only note of discord was in relation to the decisions on right to property. But it was agreed that if at all the judges held another view on a subject, they could say so but ultimately the view of the Parliament would prevail.

Nehru himself and his government treated the judiciary with great respect. The Constitution provides for the advisory jurisdiction of the Supreme Court. The President may seek the opinion of the Supreme Court on any question of fact or law of public importance. And the Court '*may* give such opinion after such hearing as it thinks fit' (Article 143(1)). The President may also refer to the Court for opinion on any matter concerning inter-state dispute and the Court *shall* give an opinion thereupon (Article 143(2)). Where the word 'may' is used, the court has discretion to give or refuse to give an opinion. Where the word 'shall' is used, the Court has to give opinion. The Federal Court under the Government of India Act also had such jurisdiction (Section 213, Government of India Act, 1935).

The advisory jurisdiction also presupposed the technocratic role of the Court. It had to advise the Indian state as to how it should act in accordance with the law. The Court was asked to give opinion on whether delegation of legislative power was valid under the Constitution [*In re Delhi Laws Act*, AIR, 1951, SC, p. 332]. When the prime ministers of India and Pakistan agreed to exchange some territories, the Court was asked to give opinion as to whether such exchange of territories required a constitutional amendment or whether it could be done by passing an Act by Parliament [*In re Berubari Union*, AIR, 1960, SC, p. 845]. Although the Court was not bound to give advisory opinion on a reference made by the President under clause (1) of Article 143, it almost never refused to give such advice until in 1994 when for the first time the Court refused to give opinion on whether a temple ever stood on the site on which the Babri mosque stood until December 6, 1992 [*Ismail Faruqui* v. *India*, SCC, 1994, Vol. 6, p. 361].

The judicial process was legitimate as a legal censor of the acts of Parliament as well as the executive. The Court was however, not expected to go beyond the text of the Constitution to find new limitations on the power of the executive or the legislature. The Court itself had defined its role in *A.K. Gopalan* v. *Madras* [AIR, 1950, SC, p. 27] and there was agreement about that conception of judicial role among the legislature, the executive and the judiciary. The Court did take some liberties as in *Sakal Papers, Private Ltd.* v. *India* [AIR, 1962, SC, p. 305; Sathe, 1998(c), Pp. 399, 414], which the government was willing to accept though grudgingly.

AFTER NEHRU

It is significant that the challenge to Parliament's constituent power under Article 368 of the Constitution, which till then seemed invincible, became vocal only after Nehru's death. In 1965, in *Sajjan Singh* v. *Rajasthan* [AIR, 1965, SC, p. 845], two judges, namely Hidayatullah and Mudholkar, raised doubts about the competence of Parliament to amend the Constitution so as to take away or abridge the fundamental rights. The majority led by Chief Justice Gajendragadkar, however, reiterated the earlier position held in *Shankari Prasad* v. *India* [AIR, 1951, SC, p. 458] that Parliament's power to amend the Constitution was unlimited.

Since this was the accepted model of judicial review and of a constitutional court, any departure from this was severely criticised. Therefore, when in *Golaknath* v. *Punjab* [AIR, 1967, SC, p. 1,643], Chief Justice Subba Rao overruled the previous decisions of the Court and held that Parliament had no power to amend the Constitution so as to take away or abridge the fundamental rights, the entire community of lawyers and judges was shocked. How could a court say that the constitution could not be amended? Will such a ban on amendment not stultify the constitution? What was the intention of the Constituent Assembly? Did not the Constituent Assembly itself pass the first constitutional amendment, which imposed restrictions on fundamental rights? Why should a court bother about what happens if unlimited power is given to Parliament? The function of the Court was to say what the Constitution provides, not to say what it should provide. Even I had taken such positivistic position in 1968 [Sathe, 1968]. Most of the eminent legal scholars, such as Seervai [1967, Pp. 1,090-1,119], Tripathi, [1978, p. 1] and Jain [1978, Pp. 707-10], took that position. The legal community was further alarmed when Chief Justice Subba Rao resigned his post within few days from the decision in *Golaknath* and became a candidate for election to the office of the President of India and was supported by all opposition parties. Subba Rao's open jump into politics was disapproved by the legal community and also by the political players, barring the opposition parties which supported him. The Court appeared to many as a defender of the *status quo* and partisan to the political opposition. Subba Rao was a liberal but was

misunderstood as being a pro-property judge [Sathe, 1970, p. 99]. He was also associated in the minds of the people with the Swatantra party, which stood at the extreme right of the political spectrum. The Court's decisions disapproving nationalisation of banks [*R.C. Cooper* v. *India*, AIR, 1970, SC, p. 564] and de-recognition of princes [*Madhavrao Scindia* v. *India*, AIR, 1971, SC, p. 530] were also understood as expressions of its pro-rich and pro-opposition preference. Being pro-rich was not a good image for the Court. Judicial activism on the right to property was, therefore, unpopular and it gave an excuse to the executive for its failure to bring about land reforms. When Indira Gandhi assured in her manifesto for the 1971 election that she intended to make basic changes in the Constitution, it was really a vote against the Court that she sought. She secured two-thirds of the seats in the Lok Sabha which was a number required for getting the Constitution amended. The people, therefore, voted against the expanded role of the Court. They wanted the Court to remain within the limits of a technocratic court and not go into questions of policy.

The political scenario changed fast after the death of Nehru in 1964. After a brief tenure of Lal Bahadur Shastri, Indira Gandhi became the prime minister. In 1971, she fought against the old bosses of her own party, popularly called the syndicate. The Court was seen as being against Indira Gandhi and with the syndicate. The syndicate seemed to be joining hands with the extreme right represented by the Swatantra and the Jan Sangh parties and naturally the Court also came to be identified as a rightist force on the political spectrum. Subba Rao contested election to the office of the President on the plea that the President should not be a mere figurehead, a position which the opposition, and particularly the rightist parties mentioned above had often advocated. So the judiciary and the right opposition was seen to be sharing the anti establishment (anti Congress) stance. The decision of the Supreme Court by a majority of seven judges against six in *Kesavanand Bharati* v. *Kerala* [AIR, 1973, SC, p. 1,460] holding that Parliament could not use its constituent power under Article 368 of the Constitution so as to destroy or tamper with the basic structure of the Constitution was, therefore, bound to be seen as a judicial manoeuvre to wrest the finality to its decisions against those of the Parliament. The decision sounded unsustainable at that time in the context of the Supreme Court-Parliament conflict that had been going on since *Golaknath* for six years.

THE EMERGENCY - WATERSHED IN INDIAN POLITICS

The setting aside by the Allahabad High Court of the election of Indira Gandhi was an event of great significance. It also established that no one was above the law. Although she had been at the height of popularity in 1971 after she won the war against Pakistan which resulted in the liberation of Bangladesh, the public disillusionment caused by the disparity between the promise and the performance of her government had set in. Although she had humbled the old establishment known as the Syndicate, the de-ideologisation of her party and the consequent increase in corruption had stirred a public movement under the leadership of Jay Prakash Narain, a leader universally respected as a man of sacrifice and commitment. The decision of the Allahabad High Court gave further impetus to that agitation. There were demands that she should resign from prime ministership. She had obtained a stay order from the Supreme Court, while getting her appeal against the decision of the Allahabad high court admitted [*Indira Gandhi* v. *Raj Narain*, AIR, 1975, SC, p. 1,590]. Gandhi might have won the appeal because the Allahabad decision was based on technical rather than substantive illegality. Nani Palkhivala, who had argued successfully against her government in *Kesavanand Bharati*, *Bank Nationalisation* and *Privy Purses* cases represented her in the Supreme Court where Justice Krishna Iyer granted her stay. Gandhi, however, did not choose to face the uncertainty of how the Supreme Court would finally decide her appeal. She had the Constitution amended to make her election valid, despite any judicial

decision. The Constitution (Thirty-Ninth Amendment) Act, 1976 made a provision by which validity was conferred on her election, notwithstanding any decision of any court to the contrary. The Supreme Court struck down that clause of the Thirty-Ninth Amendment as being violative of the basic structure of the Constitution [*Indira Gandhi* v. *Raj Narain,* AIR, 1975, SC, p. 2,299]. We have discussed that case in detail in the previous part of this article [Sathe, 1998(c), Pp. 399, 425].

On June 25, 1975, the Gandhi government advised the President to declare emergency under Article 352 of the Constitution. Actually, the earlier proclamation of emergency made under that article in 1971 during war with Pakistan had yet not been withdrawn. The second emergency was superimposed over the earlier emergency, the latter being for combating internal disorder, whereas the former was for meeting the threat of external aggression. During the second emergency, sweeping restrictions on individual liberty were imposed, which had not been imposed under the previous two emergencies. All the leaders of the opposition were arrested and put in prisons,. judicial review was severely restricted under various orders of the President issued under Article 359 of the Constitution and strict censorship was imposed on the press.

The Supreme Court struggled to keep itself alive and sustain people's faith in it. In *Indira Gandhi* v. *Raj Narain* [AIR, 1975, SC, p. 2,299], it was faced with three options. It could (a) strike down the constitutional amendment and also affirm the Allahabad high Court's judgment setting aside Gandhi's election; or (b) uphold the constitutional amendment and also the election of Gandhi; or (c) strike down the amendment but uphold the election of Gandhi. The Court must have weighed the pros and cons of all the above options. If it had opted for the first option, it would have invited a severe confrontation with the political establishment. The judges could not rule out the possibility of the Parliament cutting down the Court's power considerably. If it had chosen the second option, it would have suffered in terms of public esteem. For an ordinary person, it would have appeared that the Court had completely surrendered itself before the hegemonic executive. It chose the third option because it helped it save its power of judicial review of constitutional amendments while avoiding immediate confrontation with the executive. The time of this decision was, therefore, described by Seervai as the finest hour in the life of the Supreme Court [Seervai, 1978, p. 4]. But what it managed to save in *Indira Gandhi* v. *Raj Narain,* it lost in *A.D.M. Jabalpore* v. *Shiv Kant Shukla* [AIR, 1976, SC, p. 1,207].

The end of the emergency with total defeat of the Gandhi government and coming to office of the Janata government started the process of the restoration of the Constitution to the pre-emergency position. The movement against emergency emphasised the sanctity of the Constitution and the rule of law. The anti-emergency discourse included the pro-Constitution, pro-judicial review discourse also. While blaming the Supreme Court for its decision in *A.D.M. Jabalpore* v. *Shiv Kant Shukla,* the anti-emergency discourse emphasised that if in the future such total surrender of the judiciary was not to happen again, the power of declaring the emergency and the power of suspending judicial review during the emergency must be circumscribed by adequate safeguards and the independence of the judges must be made more impregnable. The anti-emergency discourse legitimised the Constitution and condemned the constitutional amendments enacted during the emergency [Sathe, 1998(e), Pp. 22-36]. It was during the emergency that a consensus in favour of the judicial review, in general, and the basic structure doctrine of the Supreme Court laid down in *Kesavanand Bharati* v. *Kerala* [AIR, 1973, SC, p. 1,460], in particular, was forged. The Gandhi government had passed several amendments to

the Constitution during emergency. Some of these amendments changed the face of the Constitution. The Janata government promised to restore the Constitution to its original position. Almost all the opposition parties, even those which had been critical of the Constitution because of its being unIndian or having been made by a constituent assembly not elected on adult suffrage, rallied round the Constitution and vowed to protect it. The emergency's net gain was the legitimisation of the Constitution. Although the Court had let down the cause of individual liberty in *Shukla*'s case, generally the people tended to believe that judicial review by an independent court was desirable for democracy. The *Shukla* decision was attributed to the fear psychosis created by emergency and, therefore, then there was greater consensus on judicial review by an independent judiciary. The basic structure doctrine which had few takers in 1973 acquired greater legitimacy because the emergency had revealed how the Constitution could be a prey to the whim of a partisan majority. After the Supreme Court asserted the power to review a constitutional amendment in *Minerva Mills* v. *India* [AIR, 1980, SC, p. 1,789] in 1980, where it struck down a clause of the Forty-Second Amendment making a constitutional amendment immune from judicial review, even the Gandhi government, which came to rule after the collapse of the Janata government did not make any renewed effort to restore unlimited constituent power to Parliament.

RETURN OF INDIRA GANDHI RULE AND THE BEGINNING OF JUDICIAL ACTIVISM

The Supreme Court started its activism in 1978 and, by the time the Gandhi government came back to power, the Court had struck roots among the people. The Court had started taking cudgels on behalf of the disadvantaged sections, such as the under-trial prisoners [*Hussainara Khatoon* v. *Bihar*, AIR, 1979, SC, p. 1,360], the prison inmates [*Sunil Batra* v. *Delhi Administration*, AIR, 1978, SC, p. 1,675] and the accused criminals (right to bail, right to legal aid) [*M.H. Hoskot* v. *Maharashtra*, AIR, 1978, SC, p. 1,548]. During the Gandhi government's tenure, the Court expanded its reach to unorganised labour [*PUDR* v. *India*, AIR, 1982, SC, p. 1,473] and in 1982 challenged the Gandhi government's attempt to transfer judges or appoint judges on ulterior considerations. The *Judges' case* [*S.P. Gupta* v. *India*, AIR, 1982, SC, p. 149] was a clear declaration by the Court that it would take up issues of governance like independence of the judiciary and reinterpret the existing laws so as to impose curbs on the power of the government. The *Judges' case* was significant not only for liberalising the rule of *locus standi* but also for circumscribing the government's privilege to withhold disclosure of documents. The Indian Evidence Act gave to the government the power to withhold disclosure of documents whose disclosure, in its opinion, was against public interest. In previous decisions, the Supreme Court had held that when the government claimed such a privilege, the only thing that a court could inquire was whether the matter contained in the document was in relation to affairs of the state. The question whether such a claim to withhold disclosure of documents was in public interest was not for the courts to decide but it was entirely for the government to decide [Sathe, 1998(a), Pp. 509-10]. In the *Judges' case*, the Court held that when a claim for such privilege was made, the Court could have such a document brought before it and would examine it in camera and decide whether its disclosure would harm public interest. The Court also declared that the people had the right to information. Although the Court had linked up the right to information with the right to freedom of speech and expression guaranteed by Article 19(1)(a), this writer has submitted elsewhere that while the right to give information is contained in freedom of speech and expression, the right to be informed of how the government exercised its powers must be located in Article 21 of the Constitution, which now includes the right to an honest and efficient governance [Sathe, 1991, p. 47; Sathe 1993, Pp. 201, 221].

In *Bandhua Mukti Morcha* v. *Bihar* [AIR, 1984, SC, p. 810], the Court claimed the right to oversee the implementation of a beneficial legislation which sought to abolish bonded labour, a practice totally forbidden by the Constitution (Article 23) which had survived because of inaction on the part of Parliament and the government. It is interesting that during emergency, the Court had started its activism on matters, like legal aid or abolition of bonded labour, which were part of the twenty point programme of the emergency regime. The emergency regime seems to have suffered from a guilt complex for having imposed authoritarian order on people and, to partly overcome that feeling, it had enacted various progressive laws such as the Civil Rights Act, 1955, which came in place of the Untouchability Offences Act, the Bonded Labour (Abolition) Act, 1976 and the Urban Land Ceiling and Regulation Act, 1976. The Court very tactfully became activist, first of all, on issues which the emergency regime had included on its agenda. When the Court took up these issues, it could no longer be said that the Court was the protector of property owners or that the Court came in the way of social change. Now the equation was reversed. The Court started insisting on the actual implementation of the pro-poor reforms which the executive had initiated through the above legislation. The government seemed to be on the defensive but it could not blame the Court because the Court merely asked it to do what it promised to do through its legislation. It was after such activism had stabilised that the Court turned its attention to issues of governance, such as transfer and appointment of judges.

During the post-emergency tenure, the Indira Gandhi government remained pre-occupied with terrorism in Punjab and had no time to join issue with the Court on matters, such as appointment and transfer of judges. Moreover, the Court had given to the government free hand in making appointment of the judges. The only limitation was that it had to consult the Chief Justice of India. The Court spent a lot of ink on what it meant by meaningful consultation. But the net effect was that after performing the formality of consultation, the government had the final say in the matter. The *Judges case* [*S.P. Gupta* v. *India*, AIR, 1982, SC, p. 149], was in a way an accommodation sought by the Court with the government. While it made new law on various matters such as *locus standi*, or government's privilege to withhold disclosure of documents, on the main subject of appointment of the judges, it gave the final say to the government. Perhaps, the Court knew how far to go and where to stop. In saying that the opinion of the Chief Justice was only one of the other opinions to be sought by the government, the majority had clearly trivialised the office of the Chief Justice. While giving final say to the government in the appointment of the judges, the Court made the power of judicial appointment subject to judicial review on the limited ground of whether the procedures required by Article 124 or Article 217 had been followed. The Court could examine whether the government had consulted meaningfully the Chief Justice of India and other judges but the final decision after such consultation was indeed of the government. Even such little dent which the Court made in the power of judicial appointments must not have been liked by the political establishment. The Gandhi government, however, was not in a mood to join issue with the Court. Although it had majority of seats in the Lok Sabha, it was preoccupied with terrorism in Punjab which ultimately resulted in the tragedy of Indira Gandhi's brutal assassination.

RAJIV GANDHI SUCCEEDS AS PRIME MINISTER

Indira Gandhi's sudden death caused a great vacuum in Indian politics. The Congress party was not in a position to throw up any leader in her place. Her son, Rajiv Gandhi, was chosen unanimously because the Congress party, devoid of its ideology, wanted a charismatic leader from the same family. In 1985, Rajiv Gandhi was elected with maximum number of seats in the Lok Sabha.

The Congress party led by Rajiv Gandhi reaped maximum advantage of sympathy created by the martyrdom of Indira Gandhi.

The Rajiv Gandhi government, despite the overwhelming majority it gained in the Lok Sabha, was not very effective. The first act of statesmanship of the new prime minster was to strike a deal with the Akali Dal in Punjab and to let an Akali Dal government come to power in Punjab. This peace enabled it to enact a legislation against floor-crossing by members of legislatures. The Constitution was amended by the Constitution (Fifty-Second Amendment) Act, 1985 to include defection from a party, on whose symbol a member was elected to the legislature, to another party as a disqualification for continuing as a member of the legislature.

(a) Anti-Defection Legislation

Defection had been a practice which resulted in political instability. Members of legislatures changed their parties for consideration. This became manifest in 1967 when the Congress party was defeated in several states and the non-congress governments consisting of various parties came to rule in those states. The opportunistic defections had resulted in the fall of all those governments. Defection became a greater menace when it threatened to destabilise the government at the centre also. Several times attempts had been made to ban defections but none succeeded. The Constitution (Fifty-Second Amendment) Act, 1985 declared that a person shall be disqualified for being a member of either House of Parliament or a member of the legislative assembly of a state, if he is disqualified under the Tenth Schedule of the Constitution (Articles 102 and 194). The Tenth Schedule provided that a member of a House belonging to any political party shall be disqualified for being a member of the House, if he voluntarily gives up the membership of the party or abstains from voting in such House, contrary to any direction issued by the political party to which he belongs (Clause 2, Tenth Schedule).

The Tenth Schedule, however, provided that one-third members of any party could leave a party and form themselves into a separate group and such leaving of the party would not be considered as defection for the purpose of the definition of that word in the Tenth Schedule (Clause 3, Tenth Schedule). Similarly, a member would not be disqualified if he did not join another party into which his party under whose symbol he was elected merges (Clause 4, Tenth Schedule). These provisions provided the loophole for unconscionable defections in the future. Further the Schedule increased the power of the party high command over the individual members. This legislation was supported by almost all the parties and even the Supreme Court observed judicial restraint while considering the challenge to its constitutional validity [*Kihoto Hollohon* v. *Zachilhu*, SCC, 1992, Vol. 1, p. 309; Sathe, 1998(c), Pp. 399, 434]. It seemed that the Court had decided not to come in the way of that legislation on technical grounds. This decision was an example of the appreciation by the Court of the political benefits of such legislation. Judicial self-restraint in not striking down the provision of the Tenth Schedule which had the effect of subordinating the individual member's freedom to vote to the party was, doubtless, born out of the desire not to embarrass the executive which had accomplished the act of passing a long awaited legislation against defection. The Court might have felt that an individual member could fight against the party bosses for his freedom to vote on his own. He did not need judicial protection of his right. Judicial self-restraint is always desirable when the interest to be protected can be protected through self-help or political process. An individual member could resign his membership or could resist the whip from within.

(b) Shah Bano Decision of the Supreme Court

Even with a stable, two-thirds majority in the Lok Sabha, however, the Rajiv Gandhi government remained unstable. Its weakness was manifested in its hurry to change the Muslim personal law to appease fundamentalist Muslim sections which had been angered by the Supreme Court's decision in *Shah Bano's case* [*Mohd Ahmad Khan* v. *Shah Bano Begum,* AIR, 1985, SC, p. 945].

Shah Bano, a Muslim woman, had been divorced by her husband. She filed a suit for maintenance under Section 125 of the Code of Criminal Procedure, 1973. The Code of Criminal Procedure of 1893 did not contain the mention of a divorcee but after the enactment of the Hindu Marriage Act, 1955, which permitted divorce among Hindus, the Code of Criminal procedure Code or 1973 included divorcee within the definition of the word 'wife' in Section 125. It was provided in Section 127 of that Code that in the case of a woman, who had been divorced by her husband and had received, whether before of after the date of the said order (under Section 125), the whole of the sum, which under any customary or personal law applicable to the parties was payable to her on such divorce, the provision for maintenance under Section 125 would not apply. This provision was made in view of the practice enjoined by Muslim personal law of giving an amount known as *meher* to the wife at the time of marriage. The Supreme Court had held in *Bai Tahira's* case [*Bai Tahera* v. *Ali Hussain Fissalli,* AIR, 1979, SC, p. 362] that that where *meher* was not adequate for the sustenance of the divorcee, she could obtain an award of maintenance over and above the amount of *meher*, as was necessary for her sustenance. In *Shah Bano,* the Supreme Court reiterated that view and confirmed the award of maintenance made by the trial court. Chief Justice Chandrachud expressed a hope that the Parliament would take steps for enacting a uniform civil code as enjoined by Article 44 of the Constitution.

The Muslim fundamentalists agitated against that decision. Although Rajiv Gandhi supported that decision initially, he changed on political considerations. Fearing that a sizeable Muslim vote might go against the Congress party in the forthcoming election in a state, the Rajiv Gandhi government decided to reverse the decision of the Supreme Court in *Shah Bano* by passing a law. The Muslim Women (Protection of Rights on Divorce) Act, 1986 was enacted whereby a Muslim woman was taken out of the purview of Section 125 of the Code of Criminal Procedure. She was denied the right to maintenance and the Act provided that she would get maintenance from her relations, other than the husband, who would have inherited her property, failing whom she could approach the *wakf* for support.

The 1986 Act was criticised by leading Muslim law scholars [Latifi, 1985]. This was a very bad legislation because it encouraged the anti-reform lobby among Muslims to be intransigent and let down the progressive Muslims who wanted reform in the direction of gender justice. If the Rajiv Gandhi government had merely abstained from legislating against the *Shah Bano* decision, perhaps, Muslim women would have been better off. The 1986 Act enacted by the Rajiv Gandhi government was challenged in the Supreme Court. The writ petitions were admitted but have not come up for hearing and the Court has not struck it down so far. The courts have, however, interpreted the new legislation liberally in favour of women and have held that a Muslim divorcee is entitled to a lump sum amount as maintenance to be given by the husband during the period of *iddat.* Thus, the courts have not restricted the husband's liability only to maintenance during the period of *iddat* but have held that he is liable to provide for her future life an amount to be paid during the period of *iddat.* Muslims have not protested against those decisions. It appears that activism through liberal interpretation of statutes without challenging the Muslim

personal law is more successful than activism which takes on the Muslim personal law and overtly claims to bring about reform in it.

Since *Shah Bano,* the Supreme Court has been most restrained in making reforms in Muslim personal law through judicial process. A writ petitions challenging polygamy was admitted [*Shah Nawaz Shaikh* v. *State,* Civil Writ Petition No 13,451 of 1983; Sathe, 1983(a), Pp. 139, 157] but later withdrawn by the petitioner. A petition on the absence of a law on adoption for Muslims [*Ms. A.M. Syed* v. *India,* Civil Writ Petition No. 12,273 of 1984; Sathe, 1983(a), Pp. 139, 157] was admitted but has not yet made much progress. In *Ahmedabad Women Action Group (AWAG)* v. *Union of India* [JT 1997, Vol. 3, SC, p. 171] where provisions of the Muslim personal law regarding polygamy and oral divorce by uttering the word *'talaq'* thrice, which is known as triple *talaq*, were challenged on the ground that they violated the fundamental right to equality, the Court held that since the petition raised questions of social policy, they fell outside the scope of its power. Although in an earlier case, the Court had held that personal laws also had to be consistent with the fundamental rights [*C. Masilamani Mudaliar* v. *Idol of Sri Swaminathaswami Thirukoil,* SCC, 1996, Vol. 8, p. 525], the Court has thought it fit not to make such sweeping reforms in personal law through judicial process. This is because the Court treads cautiously where a reform is likely to upset a community's urge for identity. This shows the maturity of the Court as a political institution. The Court could have withstood such a confrontation with a minority which had been insistent about its identity, had there been normal communal relations between the majority community and the Muslim community. But after *Shah Bano,* the *Hindutva* forces used that decision for conducting their campaign for a uniform civil code with focus on homogeneity rather than on gender justice. The plea of uniform civil code was often put forward to emphasise the doubtful loyalty of the Muslims. The Muslims, on the other hand, felt that uniform civil code was a threat to their identity. Justice Kuldip Singh made a passionate appeal for a uniform civil code in *Sarla Mudgal* v. *India* [SCC, 1995, Vol. 3, p. 635]. In that case, the Court actually directed the central government to file an affidavit as to why it had not taken any steps towards a uniform civil code. The learned judge almost spoke the language of a Hindu zealot, when he said that whereas the majority community had made a sacrifice for national integration by giving up its personal law, why should the other communities not do so? The judge clearly projected uniform civil code from the perspective of legal uniformity rather than gender justice. The Court clearly exceeded its limits because the Constitution very explicitly says that the directive principles cannot be enforced by any court (Article 37).

While the High Courts have acted to reform the personal laws of the minorities [*Amini E.J.* v. *India,* AIR, 1995, Ker., p. 252], and the Supreme Court has also acted in respect of the Christian [*Mary Roy* v. *Kerala,* AIR, 1986, SC, p. 1,011; Jacob, 1986, p. 241] and the Hindu women [*Gita Hariharan* v. *Reserve Bank of India,* SCC, 1999, Vol. 2, p. 229], why has it not acted similarly in respect of Muslim women? The answer to that is that while liberation of Hindu or even Christian women did not raise questions of their identities as Hindu or Christian, any effort to liberate a Muslim woman raises the question of her identity as a Muslim. There are various political reasons for this. Therefore, the Court has kept its hands off the Muslim personal law. This is essentially a political judgement. Even reform of the Christian law or Hindu law came through technical pleas or reinterpretation of the statutory provisions. The Court, it seems, did not want to undertake reform of the personal laws through judicial process because such reforms would need greater social engineering which is possible only when the legislative process is invoked. Reform through judicial process is possible only when the law can be reinterpreted as in *Shah Bano.* But even such

a modest judicial attempt met with a severe reaction. Therefore, the Court has thought it prudent to leave major reforms causing social change to be brought through legislative process.

WEAK GOVERNMENT

The Rajiv Gandhi government showed how, in spite of the support of a large majority in the House, a government could remain unstable and ineffective. It had to retrace its steps on several issues. It could not even introduce a bill on the law of defamation because of severe opposition from the media. The constitutional amendments were proposed for making panchayats and municipalities the authorities under the Constitution. It was the legislation which for the first time brought the concept of reservation of seats for women. It could not be passed during the tenure of Rajiv Gandhi and had to wait until 1992 when it was passed during the tenure of P.V. Narsimha Rao (The Constitution (Seventy-Third Amendment) Act, 1992 and the Constitution (Seventy-Fourth Amendment) Act, 1992).

ERA OF MINORITY GOVERNMENTS

Rajiv Gandhi lost in the elections held in 1989. A minority government of the National Front consisting of the Janata Dal as the main party led by V.P. Singh was formed with the outside support of theBharatiya Janata Party (BJP) on the one hand, and the Leftists, on the other. That government did not survive for long. It was caught in the heat of the BJP sponsored movement for a temple at Ayodhya and the controversy over the acceptance of the Mandal Commission report by the Singh government. Chandrashekhar formed government in place of Singh but his government was also short-lived. In the 1991 elections, to the Lok Sabha. Rajiv Gandhi was assassinated and the Congress party won maximum number of seats, though short of majority. P.V. Narsimha Rao became the prime minister in 1991 and survived for the entire term of five years. However, the tenure of that government was marked by various scams and the demolition of the Babri mosque at Ayodhya. The government brought new economic policy, which due to its haphazard implementation, resulted in increased unemployment and criminalisation of politics.

In the elections held in 1996, no formation could secure a majority. The BJP staked a claim, being the largest single party. It was also invited by the then President Shankar Dayal Sharma to form government. It, however, could not secure majority and had to resign after ruling barely for thirteen days. After that, a formation consisting of the Janata Dal, CPI, regional parties like DMK, Telugu Desam, Assam Ganatantra Parishad, etc., and supported from outside by the CPM and the Congress, secured the majority support and formed government. It was led by Deve Gowda but the Congress withdrew support and it fell down. Again the same formation formed government under the leadership of Gujral and it ruled for another six months till the Congress withdrew support. The elections were held in 1998 and that time the BJP again could not get majority, though it was a party with the largest number of seats in the Lok Sabha. Since the Congress and the third front could not come together, the BJP formed government with the help of various regional parties. That government was continuously on the tenterhooks, since every constituent threatened the withdrawal of support. Ultimately, it fell down when one of the constituents, AIADMK, withdrew support.

JUDICIAL ACTIVISM AND THE POLITICAL ESTABLISHMENT

Resolution of social and political conflicts through judicial process was not new in India. In *Hanif Quareshi* v. *Bihar* [AIR, 1958, SC, p. 731], the Court was asked to decide the constitutional validity of the laws enacted by some state legislatures, banning the slaughter of cows. Chief Justice, S. R. Das, said [AIR, 1958, SC, p. 731]:

> The controversy concerning the slaughter of cows has been raging in this country for a number of years and in the past it generated considerable ill-will amongst the two major

communities resulting even in riots and civil commotion in some places. We are, however, happy to note that several contentions of the parties to these proceedings have been urged before us without importing into them the heat of communal passion and in a rational and objective way, as a matter involving Constitutional issues should be.

This politically charged issue came before the Court for constitutional adjudication and the Court succeeded in converting it into a legal issue. In this case, the validity of the laws enacted by certain state legislatures banning the slaughter of cows, calves and buffaloes was challenged by the petitioners who were butchers by profession and Muslim by religion. Their contentions were: (1) the impugned laws violated their right to freedom of religion guaranteed by Article 25 of the Constitution since they were required to offer cow as sacrifice on the day of *Id* by their religion; and (2) the impugned laws imposed unreasonable restriction on their right to carry on any trade or business or profession guaranteed by Article 19(1)(g) of the Constitution. The Constitution permits the State to impose reasonable restrictions in the interest of the general public on the right to carry on any trade or business or profession. The Court, therefore, was required to examine whether the impugned laws were required in public interest and whether they imposed a reasonable restriction. The Court actually went into the question whether prohibition of cow slaughter could be sustained by the economy. A detailed statistics of the cattle population and the fodder available was produced before the Court. Since cow slaughter had been a subject of acrimonious debate and had aroused passions between Hindus and Muslims, the Court had to address the wider dimensions of the problem without losing the legal format. In 1958, the Court had not become activist enough to deal with the wider question whether such prohibition of cow slaughter was consistent with the principle of secularism. In recent years, the Court has examined acts of government with reference to secularism, without referring to any specific provision of the Constitution [*S.R. Bommai* v. *India,* AIR, 1994, SC, p. 1,918; *Ismail Faruqui* v. *India,* SCC, 1994, Vol. 6, p. 361; Sathe, 1994, Pp. 99, 115-16]. What was important, however, was that the Court could successfully arbitrate on an issue as emotionally charged as that of cow slaughter. The Court tried to satisfy the majority's religious sentiment by upholding the ban on cow slaughter while holding that slaughter of cattle other than cows should not be banned if they are neither capable of yielding milk nor useful for insemination. I had criticised that decision on the ground that the Court had conceded the majority's claim to ban cow slaughter and had, thereby, compromised with the concept of secular state [Sathe, 1967, p. 69]. Today, I look at that decision as an act of statesmanship. Judicial decisions cannot be doctrinaire. A court is always negotiating between reality and idealism. It is the same kind of compromise that we saw the Court having made in respect of Muslim women's rights.

A judicial decision either stigmatises or legitimises a decision of the legislature as well as of the executive. Actually, a court contributes to democracy more often by legitimising the decisions of the other organs of government. This simultaneously enhances the legitimacy of the judicial review also. Cardozo said [1966, Pp. 92-94]:

> The restraining power of the judiciary does not manifest its chief worth in the few cases in which the legislature has gone beyond the lines that mark the limits of discretion. Rather shall we find its chief worth in making vocal and audible the ideals that might be otherwise silenced, in giving them continuity of life and expression, in guiding and directing choice within the limits where choice ranges.

A minority government at the centre and lack of consensus among various political parties

regarding basic issues, such as secularism, produced a fractured polity. The opposition parties opposed for the sake of opposition and, therefore, no ruling party could govern. The Congress party did not allow Parliament to function for several days on the ground that the DMK, a party from Tamil Nadu, was indicted indirectly by the Jain Commission which investigated the assassination of Rajiv Gandhi. The BJP, similarly, did not allow the Parliament to function on the ground of the alleged scandal in which one of the ministers of the Rao government, Sukhram, was involved. The Congress forgot about the Jain Commission as soon as the Gujral government fell down and, similarly, the BJP forgot about Sukhram after the election and did not even hesitate to join hands with him in forming the government. This increased the dependence of the political establishment on the judicial process. Governance by judiciary was not imposed by the judiciary, rather it was invited by the political establishment. The political parties used the Court for legitimising their decisions and also for taking decisions on their behalf. The party in power thus took advantage of the respect which the Court enjoyed for legitimising the unpopular decisions which it would not have had the courage to take and also for avoiding taking decisions which would have incurred unpopularity for it.

In 1989, when the V.P. Singh government declared the acceptance of the Mandal Commission report, there was a stiff opposition to that decision. A commission headed by B.P. Mandal had been appointed by the Janata Government in 1978, to consider the conditions of the backward classes and to suggest measures for improving those conditions. Its report had been gathering dust for last several years. A demand for implementing it was being made on behalf of the backward classes. The Commission recommended reservation of 27 per cent of the jobs in government service for the other backward classes, in addition to the reservation of jobs for the Scheduled Castes and the Scheduled Tribes.

The implementation of the Mandal Commission's recommendations was an item in the manifesto of the Janata Dal party. Prime Minister V.P. Singh decided to implement the above recommendation of the Commission and that decision contributed to the fall of his government. Reservations for backward classes had already been implemented in the South. The resistance to it came only from the North where the higher castes still dominated. Young boys and girls immolated themselves in protest against that decision. It seemed, as if India was on the verge of a civil war. Neither the Congress party nor the BJP (the two parties with largest number of seats) wanted to stick its neck and, therefore, none took a clear stand. The dilemma was that if they supported the reservations, they would lose the support of the higher classes and castes in the North, and if they did not support, they feared the loss of support of the backward classes who constituted a substantial electorate. A very aggressive anti-reservation campaign had been undertaken by the opponents of reservation and the press and the media contributed to the feeling that reservation as a strategy for social justice had outlived its purpose.

It was Indra Sawney a journalist who found a way-out for them by filing a writ petition in the Supreme Court challenging the decision of the government to reserve 27 percent of the posts in civil services for the backward classes. Neither the Chandrashekhar government nor the Rao government, which ruled since 1991, took any decision on that question. They decided to wait until the Supreme Court gave its decision. Even the pro-reservation lobby did not urge the government to implement the report without waiting for the decision of the Court. The writ petition by Indra Sawney was a great relief to the political parties because they were saved from taking any position.

INDRA SAWNEY V. INDIA

In *Indra Sawney* v. *India* [AIR, 1993, SC, p. 477], the Supreme Court was asked whether the criteria for classification of backward classes adopted by the Mandal Commission were valid, whether reservation of so many posts was valid, and several other questions relating to the subject of reservation. The issues that came before the Court in *Indra Sawney* seemed to divide the Indian nation vertically. There were a large number of people who thought that reservation on the basis of caste went against the principle of equality before the law. There were people who thought that such discrimination in favour of the disadvantaged sections, who had to be identified by caste, was a small price that the nation paid for bringing equality in an unequal society. This division was reflected among the judges of the Supreme Court also. Two out of the nine judges (Justices Kuldip Singh and Sahai) held that there should not be reservation on the basis of caste at all. The majority (Justice B. Jeevan Reddy, Chief Justice Kania, Justice Venkatchaliah, and Justice Ahmadi), however, upheld the decision of the government to implement the recommendations of the Mandal Commission. Justices Sawant, Pandian and Thommen gave separate concurring judgments. The Court held that caste could be one of the criteria for the determination of backwardness, and that reservations up to 50 percent of the total number of jobs was constitutionally valid. The Court's approval of the government's decision conferred legitimacy on that decision. This task was not easy. The judges referred to the difficult task that lay ahead of them when they dealt with the rival contentions. Justice Pandian in his concurring judgment said [ATC, 1992, Vol. 22, Pp. 385, 530-531; AIR, 1993, SC, Pp. 477, 590]:

> Immediately after the announcement of the acceptance of report of the Mandal Commission, there were unabated pro as well as anti-reservation agitations and violent societal disturbances virtually paralysing the normal life. It was unfortunate and painful to note that some youths who are intransigent to recognise the doctrine of equality in matters of public employment ... actively participated in the agitation ... Their pent up fury led to an orgy of violence resulting in loss of innocent lives and damage to public properties. It is heart-rending that some youths - particularly students - in their prime of life went to the extent of even self-immolating themselves.

The Court held that the decision to extend the reservations to the backward classes was constitutionally valid. What seemed entirely irreconcilable was achieved through the decision of the Court. What is most surprising is that the majority took decisions which could have been unpopular with the advanced sections of society. The decisions of the majority, however, were a bitter pill even to the backward classes insofar as it laid down (i) that reservations should not exceed more than 50 per cent of the posts available, (ii) that there should be no reservations in promotions, and (iii) that creamy layers amongst the backward classes should be gradually made ineligible for reservation. On two of these, the Constitution was amended to override the decision of the Court. More than 50 percent reservation in Tamil Nadu was protected from being challenged in court by including the law of Tamil Nadu providing for such reservation in the Ninth Schedule (The Constitution (Seventy-Sixth Amendment) Act, 1994) and clause 4A was added to Article 16 to permit reservation in promotions for the Scheduled Castes and the Scheduled Tribes (The Constitution (Seventy-Seventh Amendment) Act, 1994).

What was significant was that both the ruling party as well as the opposition parties chose to leave the decision regarding reservations to the Supreme Court. The Rao government had added one more item to the reservation package, namely, ten percent jobs to be reserved for economically backward classes. This was one of the contentions of the opponents of the Mandal Commission

recommendations. They said that there should be no reservation on the basis of caste but it should be on the basis of poverty. The majority justices held this clause to be unconstitutional. The two dissenting justices, Kuldip Singh and Sahai, however, upheld that provision. The Constitution does not envision reservations on the basis of poverty. There are several other secular provisions for combating poverty. Reservations or protective discrimination is confined to 'socially and educationally backward classes of people'. It is a fact that a large number of those who are socially and educationally backward are also economically backward but the vice versa is not always true. All economically backward are not necessarily socially and educationally backward. The majority struck down this populist provision made by the government mainly to appease the advanced sections.

TEMPLE-MOSQUE CONTROVERSY

The temple-mosque controversy was going on since the times of the V.P. Singh government. It was only when Advani, the then president of the BJP who was leading a procession carrying the idol of Lord Rama, was arrested that the BJP withdrew support to the Singh government, as a result of which the Singh government fell. The controversy created by the acceptance of the Mandal Commission report had also contributed to its fall. Chandrashekhar's government ruled for a while but it also fell when the Congress party withdrew support. In the elections to the Lok Sabha held in 1991, the Congress party came with the largest number of seats in the House. It did not, however, secure majority of the seats. It was the first minority government that lasted for the whole term of five years. During this period, the BJP had made significant strides. It rose from 2 members in the House in 1985 to about 86 in 1989. Its strength increased to 119 in 1991 [JPI, 1985, Pp. 200-201; 1991, Pp. 118-119 and 1992, Pp. 144-45]. It became the major opposition party in 1991 and its leader Atal Bihar Vajpai became the leader of the opposition.

During Rao government's tenure, BJP was the main opposition party and the main issue for it was the construction of a temple of Lord Rama on the site on which a mosque called Babri mosque stood. Various *Hindutva* front organisations had been so much agitated that ultimately the mosque was demolished on December 6, 1992. The chief minister of Uttar Pradesh, where this incident took place immediately resigned. The Rao government dismissed the other three BJP governments in Madhya Pradesh, Rajasthan and Himachal Pradesh. Communal riots took place in various places. The government did not know what to do. It decided to refer the question of whether a temple existed on the site, on which the mosque stood, for the advisory opinion of the Supreme Court under Article 143 of the Constitution. This was not a question that any court could really answer because it required expertise in history and archaeology. Clearly, this was a shrewd move on the part of the government to avoid taking an unpopular decision and to buy time. Simultaneously, the government passed a law called the Acquisition of Certain Areas at Ayodhya Act, 1993 to take over the lands adjoining the site of the demolished mosque and forbade Muslims from performing worship on that site while allowing Hindus to do so. The validity of that law was challenged before the Supreme Court in a writ petition. The reference of the President under Article 143 and the writ petition filed against the above Act were taken up by the Supreme Court together in *Ismail Faruqui* v. *India* [SCC, 1994, Vol. 6, p. 361]. For the first time in the history of the Supreme Court, it refused to give opinion in response to the query made by the President under Article 143 of the Constitution. The Court thereby warned the government against taking it for granted. The majority upheld the provisions of the Acquisition of Certain Areas Act, 1993. Justice Ahmadi, as he then was, and Justice Bharucha dissented. In their dissenting judgments, these judges objected to the provision

of the above Act which forbade Muslims from offering prayers on the acquired site while allowing Hindus to do so.

In *S.R. Bommai* v. *India* [AIR, 1994, SC, p. 1,918], the Supreme Court upheld the dismissal of state governments headed by the BJP in Madhya Pradesh, Rajasthan and Himachal Pradesh under Article 356 of the Constitution. In the same case, the Court held dismissal of state governments in Karnataka, Mizoram and Nagaland unconstitutional. This was the first time since the coming into force of the Constitution that the Court struck down actions of the President taken under Article 356. That article had been abused so many times since the commencement of the Constitution but the Court had not intervened. Till 1977, judicial review of the exercise of the Presidential power under Article 356 was thought to be not permissible. In 1977, the Court admitted that such actions would be subject to judicial review but the grounds of judicial review were very narrow and, in fact, in the instant case, the Court upheld the actions dismissing nine state governments taken under Article 356 [*State of Rajasthan* v. *Union of India,* AIR, 1977, SC, p. 1,416]. In *Bommai,* the Court clearly laid down the parameters for the exercise of that power and those parameters have since then been considered to be binding by the governments at the centre as well as the states. When the BJP alliance government at the centre dismissed the government in Bihar headed by Rabdi Devi, care was taken not to dissolve the legislative assembly and the Union Home Minister, L.K. Advani, quoted the observations of the judges in *Bommai case* against such dissolution, as being binding on the government. The parameters laid down by the Supreme Court in *Bommai* were considered to be binding by various parties in that controversy. Ultimately, the government had to revoke the proclamation issued under Article 356 dismissing the state government because it was sure to be defeated in the Rajya Sabha.

Both, judicial review of the exercise of the constituent power (basic structure doctrine) as well as the judicial review of the exercise of power by the President under Article 356 of the Constitution are the vantage points of judicial power. Both were asserted when the constitutional government required them. Both will remain dormant when the political process against abuse of power is activised. The fact that no political party or formation can easily muster two-thirds majority in a House in support of a constitutional amendment acts as a bulwark against hasty and intemperate constitutional amendments. Similarly, the activisation of the office of the President, who has twice returned the advice of the Council of Ministers for the dismissal of a state government, and again the difficulty in getting a proclamation of the President's rule passed by two Houses of Parliament act as deterrents against impatient and politically motivated exercise of power under Article 356 of the Constitution. Under such circumstances, judicial review will be spared the task of policing. However, what is important is that no political party has raised doubts about the validity of the Supreme Court's claim to have such power.

JUDICIAL ACTIVISM AND THE PEOPLE

Legitimacy of judicial review increased when the courts started entertaining public interest petitions against government lawlessness. During the regime of Rao, the Court's activism flourished against corruption and abuse of power. This increased the power of the Court as against the other organs of government. The demoralisation of the executive is seen in its submission to judicial dictates which are palpably against the doctrine of separation of powers. The Court's direction as to how the Vigilance Commission [*Vineet Narain* v. *India,* SCC, 1998, Vol. 1, p. 226] should be organised or how the Vigilance Commissioner should be appointed were, undoubtedly, beyond its powers and yet the executive did not have moral courage to ask how the Court undertook such matters. When the

Court asked the CBI to report to itself the progress of the investigation into *Havala* cases instead of reporting to the minister who was the official head, it certainly exceeded its powers but the people welcomed it and the government had no moral courage to oppose it. People were not interested in entertaining academic objections to the Court's actions on the ground of the doctrine of separation of powers because investigation of cases of corruption by highly placed politicians was of greater concern to them than the inconsistency with the doctrine of separation of powers. Earlier, when the Court had lambasted a minister for having distributed largesse of monopoly of petrol pumps [*Common Cause, A Registered Society* v. *India* SCC, 1996, Vol. 6, p. 530] or for having given out of turn accommodation to near relations of her staff members [*Shiv Sagar Tiwari* v. *India,* SCC, 1996, Vol. 6, p. 558], the people had welcomed judicial intervention. Having become absolutely helpless against growing corruption and misuse of power by the persons holding positions of power, judicial intervention gave them a ray of hope. The Court went up in public esteem because they saw in it an institution which could protect them from such pollution of democracy.

A survey of public interest petitions shows that people have gone to courts because there was no other means of redressal. The governments are no longer responsive to protests expressed by the people. The political leadership has to be sensitive to the urges and aspirations of the people. The leadership during Nehruvian times did reflect such sensitivity. Therefore, states' reorganisation could be achieved through political mobilisation. But the emergency of 1975 showed that the people's protests could be put down by heavy hand of the state. Although people now protest through the ballot box, such protest is often a diffused reaction and is seldom issue-based. Moreover, political action is viable when a substantial majority supports it. Matters which have gone to courts were essentially of concern to numerically small and powerless minorities. Numerically small but powerful minorities are those which can influence the results of an election or paralyse the government. They usually constitute a vote bank. Where a group of people have a substantial voting power, it can get things done through political protests and agitation. Therefore, Muslim fundamentalists could get the law changed so as to undo the libertarian decision given in *Shah Bano* [*Mohd Ahmad Khan* v. *Shah Bano Begum,* AIR, 1985, SC, p. 945]. The bank employees or the government servants are the organised, powerful minorities, who again can get what they want through political action. A mere threat to go on strike compels the government to come to the negotiating table.

A powerless minority, however, cannot get its demands accepted through direct political action alone. Where a group of people is small and is not likely to have any organised strength to make itself felt politically, judicial process is preferred. Judicial activism has always been profitably used by powerless minorities, such as bonded labour, prison inmates, accused criminals, adivasis threatened by schemes of development, such as a dam or a fly over, or those who want to assert the right to dissent, such as those who want the freedom to see a film like 'Fire'.

Judicial activism does not have its legitimacy merely because the other organs of government have failed. That is only one reason which condones judicial activism bordering on excessivism. But, even if the other organs of government function efficiently, there will be need for judicial activism for recognising and protecting the rights of the powerless minorities. De-segregation on racial grounds in the United States would not have come through political process as early as it came through the decision of the United States Supreme Court in *Brown* v. *Board of Education.* Education [U.S., 1964, Vol. 360, p. 201]. We have said earlier that judicial activism in the United States has been counter-majoritarian and has protected

three types of minorities, namely, (a) political dissenters, (b) racial minority, and (c) unpopular minorities such as accused criminals, homosexuals, etc.

In India also, judicial activism has been mainly utilised for minority causes. Judicial activism is used by such powerless minority groups as are crusading for human rights of women and children or seeking redressal against government lawlessness, or relief against developmental policies which benefit the haves at the cost of the have-nots. Although each of these groups is small and, therefore, incapable of making impact on its own, the aggregate of such minority groups constitutes a large fragmented majority of the people. Judicial activism draws its support from them. Further, there are individuals or a minority representing the interest of a large majority which is non-vocal and inarticulate. Wadhwa could not have mobilised political support against re-promulgation of ordinances [*D.C. Wadhwa* v. *Bihar,* AIR, 1987, SC, p. 579], lawyers could not have mobilised political support for independence of the judiciary [*S.P. Gupta* v. *India,* AIR, 1982, SC, p. 149; *Supreme Court Advocates on Record Association* v. *India,* AIR, 1994, SC, p. 268], Common Cause could not have mobilised political support for compelling the state governments to appoint adequate number of consumer courts [*Common Cause* v. *India,* SCC, 1992, Vol. 1, p. 707], or Vineet Narain could not have agitated politically against lackadaisical attitude of the CBI in Jain diary *Havala* matters [*Vineet Narain* v. *India,* SCC, 1996, Vol. 2, p. 199]. Similarly M.C. Mehta could not have galvanised the people against the neglect of the Taj Mahal [*M.C. Mehta* v. *India,* AIR, 1997, SC, p. 734] or pollution of the river Ganges [*M.C. Mehta (Calcutta Tanneries Matter)* v. *India,* SCC, 1997, Vol. 2, p. 411; SCC, 1998, Vol. 1, p. 471]. All such matters are important from the point of view of the public interest but none of them would have been or was actually taken up by any political party. Although large number of people suffered, they were diffused and unorganised and, therefore, political mobilisation was difficult.

Recently, an attempt to mobilise people against arbitrary transfer of Arun Bhatia from the post of Municipal Commissioner of Pune was made. Along with political mobilisation, some writ petitions were filed in the Mumbai High Court challenging the transfer of Arun Bhatia, who had been transferred within seven days of assuming charge of the office of the Municipal Commissioner because of his stern actions against unauthorised encroachments on public space by some vested interests. While the government did not respond to the political agitation, the High Court struck down the order of transfer and mandated the government to restore Bhatia to Pune [*Times of India,* 1999(b)]. The Court obviously acted on the evidence that the transfer was *mala fide.* This might not have happened through political mobilisation alone. The judicial intervention, doubtless, vindicated the political movement. Here the court obviously took cognizance of the movement for restoration of Bhatia but its decision was not influenced by the movement. This is a good example of how judicial process is used for the vindication of political causes.

Social action groups, whether concerned with environment or development often lack political leverage. The construction of the Sardar Sarovar dam is not adversely affecting anybody, except those who are displaced from their homes and are marginalised. The tribals whose cause the Narmada Bachao Andolan (NBA) is crusading are poor and have no political power. Had NBA not taken up their cause, they would have been wiped out as many others since Independence have been wiped out by the so-called developmental projects. There are vested interests of politicians and construction contractors in the construction of big dams. Who cares what happens to the poor and the political non-entities? The groups opposing

these mega projects are feeble politically and, therefore, they have used judicial process in support of their causes. They have gone to court to ask for a hearing to those unfortunate people, the right to information for them, and the right to live with dignity which they are deprived of by taking away their habitat and means of livelihood. The judicial process has helped them buy time and also put across their misfortunes before the people. The judicial process has also helped them obtain publicity for their causes. It was through the medium of a writ petition field in court that the miseries of the victims of those projects could be brought to the knowledge of the legal fraternity and the general public. The judicial process, being open to everybody and involving reasoned arguments for and against, has a great potential for public advocacy as well. Going to court may not be always fruitful. After all, it involves a lot of expenditure and there are uncertainties. The social action groups, however, have received help from lawyers who have many a times worked without charging any fees. Despite its technicality, uncertainty and expensiveness, it seems that the social activists have come to rely on the judicial process as one of the means of social action.

COUNTER-MAJORITARIAN CHARACTER OF JUDICIAL ACTIVISM

Judicial activism in support of a majority (which means a section which is powerful politically or socially or economically and can influence the political process) is often considered to be unnecessary. Therefore, judicial activism which held against the abolition of slavery [*Dred Scott* v. *Sanford* US, 1857, Vol. 60, p. 393; Sathe, 1998(c), Pp. 399, 404] or against state intervention on behalf of child labour [*Lochner* v. *New York* U.S., 1905, Vol. 198 p. 45; Sathe, 1998(c), Pp. 399, 304] or industrial labour in the United States was considered to be reactionary. Since the powerful groups can get their interests protected through political process, the court need not intervene on their behalf. In such cases, judicial restraint is desirable. Decisions of the Indian Supreme Court on right to property were criticised because the property owners comprised a class of dominant people. They could have and actually did get their interests protected through inaction of the politicians and the bureaucrats. Judicial activism which tends to support the *status quo* or the domination of an existing ruling elite is considered to be reactionary.

The Supreme Court recently held in *Malpe Vishwanath Acharya* v. *Maharashtra* [SCC, 1998, Vol. 2, p. 1] that the Bombay Rent Control Act enacted in 1947, which froze the rents payable by tenants to what was payable in that year, as an unreasonable restriction on right to carry on any trade or business guaranteed by Article 19(1)(g) of the Constitution. Can a law which was reasonable when enacted become unreasonable after a lapse of time? Did the Court not undertake the re-evaluation of the policy of protecting the tenants against the landlords? Was it not the privilege of the legislature to do so? The Court asked the Government of Maharashtra to change that law forthwith and, in any case, by the date on which the Rent Control Act was to expire. The Court, thus, asked the government not to give any extension to that law and, further, to enact a law which would give adequate returns to the landlords. It is a well-established policy that a court of law cannot and should not ask the legislature to pass a law or not to pass a law in any particular manner. This policy is based on sound principle of separation of powers. It is the function of the legislature to make law and decide the policy. When a non-elected court undertakes such a function, it is bound to face embarrassing situations. A fierce agitation was launched on behalf of the tenants of the old houses against the government's intention to revise the law in favour of the landlords. The government, therefore, made a token change in the law and gave only five per cent increment in the rent to the landlords. Politically no government could take a position against the tenants who are numerically larger in number than the landlords. Where, however, the

existing rent control legislation affects availability of housing and its revision in favour of the landlords is in the long term interest of the persons in need of housing, the political parties must go to the people and persuade them to their view point. They cannot leave that to be done by the Court. In taking up such a cause on behalf of the landlords, the Court had clearly exceeded its limits. It should never have taken up the cause of an economically powerful group like the landlords. A court while taking up cudgels on behalf of the landlords acted against the philosophy of judicial activism. Landlords could certainly use political process for getting their legitimate interests protected. Moreover, it was a question of policy. The matter really belonged to the sphere of the legislature and the government.

IMAGE OF THE JUDICIARY

We have said above that in independent India, during the Nehru years, the judges were considered as mere technocrats. Unlike politicians, who had participated in the national movement and suffered various discomforts and hardships by being imprisoned, etc., the judges had led a comparatively comfortable and protected life. As the aura of the politicians' sacrifice declined after Nehru's death, the people felt orphaned. It was such a feeling of being orphaned that made them look for support elsewhere and the courts through their post-emergency activism filled in the vacuum. Unlike politicians, who were seen to be giving false promises, acting selfishly and without any scruples, and had loyalties to caste or religion, the judges were seen as more objective, principled and bound by rules. Judicial process inspired confidence because of its manifest objectivity and reasoned nature. Judges had to hear both parties, their decisions were supported by reasons, and those decisions could be appealed against. The judicial proceedings were transparent, unlike the proceedings in the minister's or secretary's chambers The only barrier between the people and the courts was their inaccessibility. That inaccessibility had been considerably reduced by the growth of public interest litigation (PIL). PIL gave to the people an opportunity to ventilate their grievances. The people felt empowered when a court could ask the minister or a secretary to explain why he had or had not taken certain action.

This does not mean that the people expected miracles from the courts. The courts seem to have been accepted with all their inadequacies and limitations. Despite popularity of the courts, no single judge has acquired a charisma. Decisions of courts are institutional. A layman rarely knows the names of the judges who give decisions. Judges are known only to lawyers and persons closely associated with the judicial system. Lawyers know which judge is what. Some judges are considered to be liberal, others are considered to be conservative. Such attitudinal differences exist among judges but they are known only to those few lawyers who anticipate decisions according to the judge's social philosophy or to academics like us who want to assess the contribution of a judge to legal thought. The writ jurisdiction of the Supreme Court and the High Courts, which is the source of public interest litigation, has been the main forum for judicial activism. The people have gone to courts under that jurisdiction because it is comparatively the fastest and most economical.

The media has also contributed to the success of the judicial activism. Before 1975, judicial decisions were rarely reported in newspapers. Today they make not only newspaper headlines but also occupy important slots on electronic media. Judicial discourses have enlightened the people on constitutional propriety, peoples' rights, and limitation on government's power. Various issues, such as gender justice, environmental justice, human rights, and good and efficient governance were highlighted through judicial discourses. The Supreme Court has been the main educator in constitutional values and democratic culture. An unelected, elitist body like

the Supreme Court is today considered to be more representative of a consensus in a pluralistic society consisting of diverse cultures, traditions and conflicting interests than Parliament or the government. Where politics of India had been stripped of ideology, the politicians came to be regarded as opportunists and selfish people and the nation seemed to be divided by casteism, regionalism and communalism, the courts came to be regarded as being comparatively free of such vices. It is through the decisions of the Supreme Court of India that the Constitution became a living law of the nation. From Tamil Nadu in the south to Jammu and Kashmir in the north, which other institution inspired greater trust among the people? Every Indian thought of approaching the Supreme Court for obtaining justice irrespective of the religion or caste or region and he trusted that he would get justice. The Supreme Court of India therefore became the only institution which was not considered parochial or sectarian and which could be approached against injustice.

This description may sound rather romantic because a large number of Indians still have not heard of the Supreme Court. But then it could also be said that a large number of Indians have not heard of the Constitution of India. The Constitution of India essentially reflected the accepted values of a Western educated minority of Indians typified by Nehru and even Julius Stone wondered whether the Constitution reflected the *volksgeist* (inner consciousness) of India [Stone, 1966, p. 113]. According to Savigny, law followed *volksgeist,* but it is difficult to imagine that the 'people of India' in whose name the Constitution speaks had accepted the values like liberty, equality and justice. B.R. Ambedkar, the architect of the Constitution had said [CAD, Vol. 12, p. 979, November 25, 1949]:

> On the 26th of January, 1950 (the day on which the Constitution of India came into force) we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we shall have inequality. In politics we will be recognising the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions?

India had a tradition of social hierarchy normated by the caste system which negated equality and liberty. The makers of the Constitution had hoped that the values such as liberty, justice, equality would percolate down to the grass roots in course of time. If any institution is to be credited with the significant contribution towards the percolation of constitutional values, it is the Supreme Court of India. Despite the institutional limitations dictated by its class character [Gadbois, 1968-69, p. 317], the Supreme Court has contributed to the promotion of constitutional/legal culture through its discourses on various aspects of constitutional law.

Those Indians, who finding that the legislatures and the executives are not responding to their grievances turn to the courts for protection against injustice from a class-structured polity and secure some relief, howsoever paltry, have begun to look to the Court as their own voice. True, the judicial process has inherent weakness and is poised against the poor but considering all the pros and cons, it is a shelter place of the minorities and the powerless people. Judicial process is expensive, dilatory and technical and, if it is preferred despite such inherent defects, it is only because the other avenues of redressal have become ineffective and unreliable.

CRITICISM OF THE COURT

The courts are staffed by judges, who are human beings with all the frailties that a human being can possess. The courts are therefore bound to err. They have at times indulged in populism, excessivism and adventurism. These lapses could be minimised if proper tradition of juristic as well

as popular critiquing of the judicial decisions grows. In the Black Letter law tradition, the judge was not responsible for a decision because he was supposed to have no discretion. He merely decided according to pre-determined law. The myth that a judge does not make law was sustained by the technocratic model of justicing. But an activist judge cannot hide behind such a myth. He has to accept that he makes law and if he does, his law-making must be evaluated by somebody. This is done, first, by the peer group which consists of jurists, lawyers, and other wise persons. With greater democratisation of the judicial process, judicial decisions are bound to be critiqued at the popular level also. Media, which plays a significant role in publicising the decisions and discourses of the courts also must have the right to critique the decisions of the courts from the standpoint of policy and fundamental constitutional values. Such public criticism can play a very important role in making the judges accountable. Such criticism is, however, constrained by the law of contempt of court.

CONTEMPT OF COURT: TYPES

Three types of restraints are imposed by the law of contempt: (i) restriction on writings or speeches affecting matters which are pending in court (*sub judice*); (ii) punishment for defiance of the orders of the court; (iii) punishment for scandalous attacks on the judges or the court.

(1) Sub Judice Matters

Regarding matters pertaining to the questions of law, which are pending in court, the law of contempt should not be invoked. This power is to be used only when comments made on a pending matter are likely to prejudice the court either way. This happens in criminal cases where comments about the credibility of a witness or the character of the accused might influence the court. But comments on matters of law need not prejudice a judge. Why should we pre-suppose that the judges are so fickle-minded as to be swayed by opinions on legal questions pending before the court by media writers or jurists?

(2) Enforcing the Order

The second type of contempt is committed when an order of the court is disobeyed. This power is necessary to maintain the dignity of the court. If people can get away with defiance of the orders of the court, the court will lose respect and will be further disobeyed. Sometimes very critical situations arise when a politically powerful authority disobeys the court and justifies its disobedience. The legitimacy of a court depends upon the feeling of obligation to obey that prevails among the people. Any disobedience which goes unpunished can weaken the authority of the court and, consequently, its legitimacy. A court does not have the power of the purse or the sword. Its only source of power is the feeling among the people that they are bound by it. Such feeling can be undermined if the Court is disobeyed and if it cannot compel obedience. The sanction at the disposal of the Court for getting itself obeyed is the power to punish for contempt. This power in itself is not a great deterrent and, therefore, the Court wants that situations demanding its use be rare. After all, the power to punish for contempt of court has more of a symbolic value than the real value. Its deterrence acts only on those who regard that being punished for contempt lowers their reputation and harms their image. Where a person feels that defiance of the Court itself enhances his reputation, the power to punish loses its deterrent value. If a person successfully defies a court, the court loses its legitimacy. Such a situation was faced by the Supreme Court in *I. Manilal Singh* v. *Dr. H. Borobabu Singh* [SCC, 1994, Supp.(1), p. 718].

Under the Tenth Schedule to the Constitution, it is provided that the Speaker decides whether a member has incurred disqualification on the ground of defection as defined therein. The

Supreme Court held that the function of the Speaker to adjudge whether a member was disqualified was subject to judicial review since the Speaker acted as a statutory authority [*Kihoto Hollohon* v. *Zachilhu*, SCC, 1992, Vol. 1, p. 309]. The Court had held certain orders of the Speaker of Manipur Legislative Assembly, Borobabu Singh, made under the above provision invalid. The Speaker refused to implement the orders of the Court. The petitioner Manilal Singh was then the secretary of the Manipur Legislative Assembly. In his capacity as secretary, he took steps to implement the decision of the Court. Anguished by such action, Borobabu Singh passed an order of compulsory retirement against Manilal. On a petition by Manilal, the Supreme Court stayed the order of compulsory retirement. Borobabu Singh, however, did not permit him to function and did not pay him his salary and other dues. After persistent refusal to obey the orders of the Court, the Court decided to proceed against Borobabu Singh for contempt of court.

Borobabu Singh refused to remain present in the Court in response to the Court's order. He pleaded that he was immune from directions of the Court in view of his constitutional position as Speaker. In subsequent hearings, applications were filed on behalf of Borobabu Singh by his lawyer asking for immunity from personal appearance. Borobabu Singh persisted in his contumacy by repeatedly declaring that he would not obey the orders of the Court directing his personal appearance in court in the proceedings for contempt against him. The Court was obviously caught in an embarrassing situation. It could not allow such defiance from a person holding an important position because it would have undermined the authority of the Court and, also, the principle that no one was above the law. The Court directed the Government of India to produce the contemnor, Borobabu Singh in person on the next day of hearing 'taking such steps as are necessary for the purpose'. The Court further clarified that the Government of India could take such steps as were necessary 'including the use of minimum force which may be required for compliance with the Court's order'. Ultimately, Borobabu Singh agreed to appear in person and after his formal appearance, the Court decided to drop the proceedings [*Manilal Singh* v. *India and Manipur*, SCC, 1994, Supp.(1), p. 728].

This case shows how judicial power is weak in terms of physical force. Here, the Court had to take the help of the Government of India and after Borobabu Singh agreed to appear in court, the proceedings for contempt were dropped. Singh's appearance in court saved the Court from embarrassment. But why did Borobabu Singh ultimately relent? He had to relent because defiance of the Court would have been considered bad and against the Constitution by everybody who is functioning under the Constitution. The peer group which consisted of all members of various legislatures, speakers of assemblies and chairpersons of legislative councils, ministers, chief ministers, political parties and even governors would have felt offended if Borobabu Singh had disobeyed the Court. It was in everybody's interest that the Court's power must remain unchallenged. While the decisions of the Court can be challenged legally or criticised popularly as well as juristically, the power of the Court should not be challenged because such challenge destabilises the Constitution and, ultimately, the whole edifice of constitutional government. That must have ultimately prevailed upon Borobabu Singh to relent.

CRITICISM OF THE COURT AND ITS DECISIONS - CRITICISM OF THE JUDGES

The Constitution provides that there shall be no discussion in legislature 'with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties, except upon a motion for presenting an address to the President praying for the removal of the judge' (Article 121 and Article 211 of the Constitution). In the media, discussion or criticism of the judicial

decisions is not forbidden. The decisions of the Supreme Court in *A.D.M. Jabalpore* v. *Shiv Kant Shukla* [AIR, 1976, SC, p. 1,207] and Bhopal Gas Disaster Settlement [*Union Carbide Corporation* v. *India,* SCC, 1989, Vol. 3, p. 38] have been severely criticised. The decision of the Supreme Court in *Mathura case* was criticised by four professors in an open letter to the Chief Justice of India [Baxi, et al., 1979, p. 17]. We find much harsher criticism against judges in *Shukla's case* [Seervai, 1978]. as well as *Bhopal case* [Baxi and Dhanda, 1990, Introduction]. Justice Chandrachud was severely criticised for some of his remarks in *Shah Bano's* case [*Mohd Ahmed Khan* v. *Shah Bano Begum,* AIR, 1985, SC, p. 945]. Criticism of the judicial decisions serves as feedback to the judges.

The Indian judges brought up in the tradition of Black Letter law were rather too sensitive to criticism of the system. In *Namboodripad's case* [*E.M.S. Namboodripad* v. *T. N. Nambiar,* AIR, 1970, SC, p. 2,015; for criticism see, Sathe, 1970, p. 1,741], he was held guilty of contempt of court for having said that the judicial system was pro rich and class biased. Since then, however, much water has flown down the Ganges. In *Shiv Shankar's case* [*P.N. Duda* v. *P. Shiv Shankar,* SCC, 1988, Vol. 3, p. 167], the Court showed grater tolerance to criticism of the system.

It is one thing to criticise the decisions of the Court and quite another to criticise the judges. It seems the Court is even now rather too sensitive to criticism of the judges. There are a number of contradictions in the law of contempt. First, there is no defence of the truth in a contempt case, which is available in a defamation case. Further, the law of contempt holds even the media liable for reporting the contempt committed by another person. The media is caught on the horns of a dilemma. If it is its duty to give information to people, and such right to give information is a concomitant of the right to freedom of the press, why should it be guilty of contempt merely because it reports the contempt committed by another person? [Vakil, 1997] In fact these questions should be raised before the Court. The law that the truth is no defence in a prosecution for contempt of court is an excessive restriction on freedom of speech and expression. Similarly, the law that the media is also liable for contempt of court when it reports a speech made by another person against which contempt proceedings are started is a restriction on the peoples' right to information and the media's right to give information. These provisions ought to be struck down.

Does judiciary need such protection? On the contrary these provisions rob the judiciary of its legitimacy. Ultimately, a court of law does not sustain its legitimacy through its power to punish for contempt. Legitimacy is sustained by a feeling among people that it is independent, objective, principled and fearless. While scurrilous criticism which will result in mud slinging must be avoided [*D.C. Saxena* v. *Chief Justice of India,* SCC, 1996, Vol. 5, p. 216], or violent behaviour towards the court must be punished [*In re Vinay Chandra Mishra,* SCC, 1995, Vol. 2, p. 584], a free and frank discussion about the judiciary ought to take place. A newspaper was required to apologise for having said in one of its stories that one of the beneficiaries of the illegal allotment of largess was the son of a judge [*In re Harijui Singh; In re. Vijay Kumar,* SCC, 1996, Vol. 6, p. 466]. In fact, in the *Petrol Pump case,* the Court itself had noted that the son of a retired judge, who had been the chairperson of the Oil and Natural Gas Commission had been one of the beneficiaries of the illegal allotment of petrol pumps [*Common Cause, a Registered Society* v. *India,* SCC, 1996, Vol. 6, p. 530]. The Supreme Court said in another case that allegations of corruption against a judge should not be made by a resolution of the Bar Association and that such a resolution, if passed, might amount to contempt of court [*C. Ravichandran* v. *Justice A. B. Bhattacharya,* SCC, 1995, Vol. 5, p. 457]. Why should contempt

action be taken if some body says that there is corruption in the judiciary? If the people have a right to have an independent judiciary, do they not have a right not to have a corrupt judiciary? Is it not a fact that there are black sheep in the judiciary also? Did we not come across a case where a judge of the Supreme Court was found to have indulged in improprieties by a committee appointed under the Judges (Inquiry) Act 1968 [Sathe, 1998(a), Pp. 155-59]. He was saved the disgrace of removal by Parliament in accordance with the provision of Clause 4 of Article 124 of the Constitution only because the then ruling party decided not to vote in support of his removal. That incident also showed how the existing provisions in the Constitution are inadequate for dealing with cases of improper behaviour by the judges. The corruption of the politicians has already polluted our democracy. But corruption of the judiciary is like the salt losing saltiness. Integrity and character of the judges is the backbone of the legitimacy of the judiciary.

INDEPENDENCE OF THE JUDICIARY

Legitimacy of the judicial decisions depends upon a shared perception that it is independent and non-political. By the word 'non-political' we mean that the judges are not committed to any political party or an ideology canvassed by one or more of the political parties. At least, I do not share the view that the judges must be apolitical. Such a view contradicts the views expressed by the judges themselves. Justice Patanjali Sastry said as early as in 1952 that while deciding the reasonableness of restrictions on fundamental rights, the social philosophy of a judge was bound to be reflected in his decisions [*State of Madras* v. *V.G. Row,* AIR, 1952, SC, Pp. 196, 200]. The word 'non-political' must be distinguished from the word 'apolitical'. A judge cannot be 'apolitical' because like any other citizen, he is bound to share political preferences and ideologies. But a judge can be non-political in the sense that his decisions are based not on considerations of power but are based on principles. The word 'being political' is understood in a pejorative sense as being shrewd enough to understand the mechanics of power and adjusting one's decisions to considerations of acquiring power. A judge is not political in this sense. A judge decides whether a persons' fundamental right is violated without any regard to whether recognition of such a fundamental right would have any deleterious consequences for the power structure. The Court has to make a political judgment about the scope of a fundamental right because, ultimately, it is also a decision regarding the scope of the power of the government. Such political judgment of the Court is, however, not governed by the politics of the power structure. For example, when the Allahabad High Court held that Indira Gandhi had used corrupt practices in her election and, therefore, her election be set aside [*Indira Gandhi* v. *Raj Narain,* AIR, 1975, SC, p. 2,299], it was, doubtless, a political decision because it unseated a sitting prime minister. But such political decision was political because it has political consequences. The judges had not taken that decision because they wanted to unseat Gandhi. What she did amounted to corrupt practice as defined in the election law and, therefore, they held that her election was vitiated. Their social philosophy regarding how an election should be conducted might have influenced their decision. In this sense, they were not apolitical. But they were non-political in the sense that they were impartial and objective. It is a political judgment as to when a court should intervene and when it should observe judicial restraint.

A judge need not be apolitical but he must be independent and fearless. He must also be impartial. By independence, we mean being free from any influence, political, social or economic. By fearless, we mean that a judge should not have to be afraid of the consequences of his decisions. He should neither be susceptible to a temptation nor be subjected to any intimidation. To an extent, the person who is a judge has to possess these

qualities as a result of his upbringing and education. He must be a person of character and integrity. There are, however, external factors that might adversely affect the character or integrity of a judge. Therefore, the Constitution provides for some positive provisions in this regard. The Constitution has provided that a judge of the Supreme Court shall be appointed by the President after consultation with the Chief Justice and such other judges as he may deem fit (Article 124(2)). A judge of a High Court shall be appointed by the President after consultation with the Chief Justice of India, the Governor of the state and, in case of a judge other than the Chief Justice, the Chief Justice of the High Court (Article 217(1)). A judge of the Supreme Court shall serve until he attains the age of 65 years and a judge of a High Court shall serve until he attains the age of 62 years.

A judge may resign or he may be removed by an order of the President passed after an address by each House of Parliament, supported by a majority of total membership of that House present and voting, has been presented to the President in the same session for such removal on the ground of misbehaviour or incapacity (Article 124(4) and 217(1)(b)). Whereas the President can be removed by impeachment for 'violation of the Constitution', a judge is removable for 'misbehaviour and incapacity'. 'Violation of the Constitution' is a more general expression and can take in violations which might include causes other than misbehaviour or incapacity. For example, a President who disregards the advice of the Council of Ministers could be impeached for violation of the Constitution. A judge is removable on more specific grounds, such as misbehaviour or incapacity, and such misbehaviour or incapacity has to be assessed by a body which acts quasi-judicially. Therefore, removal of the President can be for 'political' grounds whereas removal of a judge can be only on legal grounds. So a judge could not be removed because his interpretation of the Constitution is considered to be preposterous by members of Parliament. Whether a judge has misbehaved is to be assessed by a committee consisting of a judge of the Supreme Court of India, a Chief Justice of a High Court and a jurist nominated by the Speaker (Section 3 (2), the Judges (Inquiry) Act, 1968). If the committee does not find any substance in the allegation, the matter is dropped. If the committee on the other hand reports against the judge, the matter is put before Parliament and ultimate removal depends upon the majority of votes in each House of Parliament. Assessment of misbehaviour or incapacity of a judge determined by the committee is a quasi judicial process whereas the final act of removal is entirely a political process. The political process, however, does not operate unless and until the charge of misbehaviour is found to be valid by the committee which consists of judicial persons, and follows quasi judicial procedure.

The judges of the Supreme Court and the High Courts are paid such salaries as might be determined by Parliament by law and, until provision in that behalf is made by Parliament, such salaries as are specified in Schedule II of the Constitution (Article 125 (1); Article 221(1)). Every judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under the law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule (Article 125(2); Article 221(2)). It has, however, been provided that neither the privileges nor the allowances of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after this appointment (Proviso to Article 125(2) and Proviso to 221(2)).

It is significant that while the allowances, privileges or rights of a judge cannot be varied to his disadvantage after his appointment, no such provision exists in respect of the salaries of the

judges. Parliament can lay down the salaries by law and, until it does so, they are as provided in Schedule II. So theoretically speaking, Parliament can even make law to reduce the salaries of the judges. Did the judges perceive such threat when they abdicated their authority in *ADM Jabalpore* v. *Shiv Kant Shukla*? We have no evidence to say whether this was so. But such power with Parliament could be dangerous to the independence of the judiciary. Today, when the Court has become politically strong, and Parliament has been diffused due to coalitional politics, such a threat does not exist. Moreover, if the Parliament ever tries to do such a sinister thing, it can be held invalid as being violative of the basic structure of the Constitution.

Till 1982, it was supposed that the government's discretion in appointing the judges was unfettered. The Law Commission had complained in its fourteenth report that appointments of judges took place on partisan considerations [LCI, 1958, Vol. I, p. 34]. However, the matter became critical only after the three judges were superseded in 1973 and when the government claimed the right to transfer the judges at will. We saw in the previous section how this power of the government was challenged before the Supreme Court in *S.P. Gupta* v. *India* [AIR, 1982, SC, p. 149]. In that case, the Court imposed a constraint on the exercise of discretion by the government insofar as it was required to do meaningful consultation with the Chief Justice and other judges. The Court, however, left the final power of appointment with the executive. In a later decision [*Supreme Court Advocates on Record Association* v. *India*, AIR, 1994, SC, p. 268] and, more recently, in an advice rendered on a reference by the President [*In re Art. 143 of the Constitution*, AIR, 1999, SC, p. 1], the Court has said that the final decision will be that of the Chief Justice and a collegium of judges according to whose advice the President is bound to appoint the judges. This situation is not happy because a veto power in the hands of the Chief Justice and his collegium could also be detrimental to the independence of the judiciary. A proposal to have a judicial selection commission for the appointment and transfer as well as removal of the judges has been under consideration since long This will require a constitutional amendment [Sathe, 1998(b), p. 2,155; Dhavan and Jacob, 1978].

In view of the judicial activism, we feel that appointments to the Supreme Court and the High Courts ought to become more transparent. What are the criteria for such appointments? Formerly, the judiciary was supposed to play a mere technocrat's role and, therefore, such appointments were supposed to be made only on professional competence. But, in view of the fact that now the Supreme Court has become the main censor of constitutional propriety and legality, that it is required to decide such questions having political ramifications as the alleged violation of the basic structure of the Constitution or the validity of the exercise of power by the President under Article 356 of the Constitution, and that it has under the public interest litigation expanded the scope of the concept of justiciability thereby bringing within its purview matters which under traditional jurisprudence were considered as non-justiciable, should the same criteria applicable to technocratic judiciary be applicable to the activist judiciary?

The traditional Black Letter law concept of independence of the judiciary was most unrealistic. The recruitment to the apex court was never made exclusively on the basis of merit. One reason for this is that it is difficult to determine merit when there are candidates equally qualified in the race. The composition of the Supreme Court is not entirely a matter of law but it is also a matter of politics. The apex Court of India is an Indian court and it must reflect the regional as well as ethnic variety of India. Care is taken to ensure that as far as possible all regions as well as the minorities are represented in the Supreme Court. This cannot be done, except by purposefully drawing in talent from different regions as well

as different religious groups. Even gender aspect needs to be taken into account. The strength of the Supreme Court was seven judges excluding the Chief Justice in 1950 when the Court was established. The number of judges excluding the Chief Justice rose to 10 in 1956 (The Supreme Court (Number of Judges) Act, 1956), 13 in 1960 (The Supreme Court (Number of Judges) Amendment Act, 1960), 17 in 1977 (The Supreme Court (Number of Judges) Amendment Act, 1977), and 25 in 1986 (The Supreme Court (Number of Judges) Amendment Act, 1986). A cursory glance at the profiles of the judges reveals that out of 136 judges so far appointed to the Court, 13 have been Muslims, 4 Christians, 2 Sikhs and 2 Parsis. Out of 115 judges who were Hindus, 24 have identified themselves as Brahmins.[1] It is interesting that profiles of judges appointed in recent years do not reveal caste identities. Till now only two judges (Vardarajan and K. Ramaswamy) have been appointed from amongst the Scheduled Castes and Scheduled Tribes and only two women (Fatima Beevi and Sujata Manohar) have been appointed to the Court. The President of India K.R. Narayanan recently asked why more nominations of the judges from the Scheduled Castes or Scheduled Tribes could not be made. There was as expected a protest from the legal fraternity and the Chief Justice is reported to have firmly told that appointments to the Court would be made strictly on merit. Merit in an unequal society is a dubious concept. A constitutional court has to be representative of all sections of society. We may not call it reservation, but some representation of the most disadvantaged sections has to be on the court in order to make it a real national court. In the present Supreme Court, there are twenty five judges including the Chief Justice. Out of them, there are two Muslims, one Parsi and one Christian. There is one woman judge but no judge from the Scheduled Caste or Scheduled Tribe. The legitimacy of the Supreme Court depends upon the reflection of Indian pluralism in its composition. Women as well as members of the Scheduled Castes and Scheduled Tribes ought to be appointed on the Court in larger numbers.

We must, therefore, know how the judges are selected? What are the criteria for such selection? Should only professional competence be considered or should lawyers' participation in legal aid or public interest litigation or politics be also considered? Judges, like Krishna Iyer, P.B. Sawant and K.S. Hegde, had been in active politics before they joined the judiciary and their judgements were in no way biased. In fact, all of them stand out as examples of good judges. One of the reasons for the high legitimacy of the Supreme Court is that in peoples' mind, it is a body aloof from politics. The judges are not apolitical but they must be capable of deciding matters before them in a dispassionate manner. Their past political experience could be an asset if they act impartially as judges. Public interest litigation in India, unlike PIL in the United States, has sustained on the active help of the lawyers. Should such lawyers not be preferred for judicial appointments? Another question that arises in this connection is to whom are the judges accountable? How is such accountability to be reinforced? Should there be a scrutiny of the nominations made for judgeship by the President on the advice of the Chief Justice and his colleagues or by a judicial service commission, if and when appointed, by a House of Parliament, preferably the Upper House? Should the age of retirement of the judges be raised? What should be done to remove a judge, if found of doubtful integrity? We have seen that the present provisions are inadequate in view of the fact that political parties do not take a reasoned stand. If a judge is of doubtful integrity, should he continue? Would his continuance not adversely affect the legitimacy of the Court? Although the Constitution bars a judge after retirement from practising as a lawyer (Clause (7) of Article 124; Article 220), we know that they work as arbitrators. How

far is such post-retirement engagement of the judges as arbitrators compatible with their independence? Further, judges are appointed to various bodies like the National Human Rights Commission or the National Commission under the Consumer Protection Act. How are such appointments made? Will a judge not compromise his independence by looking forward to such post-retirement appointment by the government? True, this has not so far happened. Even the complaints about lack of integrity on the part of the judges of the Supreme Court have been rare But when a long term view of the legitimacy of the Court and its decisions is to be taken, this will have to be looked into. A judicial service commission, independent of the government, should be given exclusive power to appoint retired judges to various commissions or tribunals.

QUALIFICATIONS OF JUDGES

A person is qualified to be appointed as a judge of the Supreme Court if he is a citizen of India; and (a) has been for at least five years a judge of a High Court or of two or more High Courts in succession; or (b) has been for at least ten years an advocate of a High Court or two or more High Courts in succession; or (c) is, in the opinion of the President, a jurist (Article 124 (3)). A person is qualified to be appointed as a judge of a High Court if he is citizen of India; and (a) has for at least ten years held a judicial office in the territory of India; or (b) has for at least ten years been an advocate of a High Court or two or more such High Courts in succession (Article 217 (2)).

The Constitution makes jurists eligible for appointment as a judge of the Supreme Court of India. In the United States, Justice Felix Frankfurter and in Canada Justice Bora Laskin were appointed to the Supreme Court of the United States and the Supreme Court of Canada, respectively, straight from the Harvard and Toronto University Law Schools, respectively. Both of them proved to be great judges. In India appointment of a jurist has not so far been made. The Forty-Second Amendment passed during the emergency had provided that jurists shall be eligible for appointment as a judge of the High Court (Section 36 of the Constitution (Forty-Second Amendment) Act, 1976 inserted such a provision in Article 217). This provision was made to facilitate the appointment of jurists to the judiciary. It was thought that an experience at the High Court might prove useful before being appointed to the Supreme Court. The Forty-Second Amendment, despite its other draconian provisions, contained some good provisions and this was one of them. But that provision was dropped by the Janata Government in 1978 by the Constitution (Forty-Fourth Amendment) Act, 1978 (Section 28(c) of the Constitution (Forty-Fourth Amendment) Act, 1978). There is a strong lawyers' lobby which prevents jurists from being appointed as judges. The loss is entirely of the Courts. Many of the judges who were elevated from the subordinate judiciary have turned out to be poor judges. There is paucity of good lawyers willing to accept judicial appointments. Neither Palkhivalas or Seervais or Shanti Bhushans nor Soli Sorabjis or Fali Narimans or Ashok Desais have been available for appointment as judges. Under such circumstances, jurists (law professors or researchers) might be considered for judicial appointment. Eligibility of jurists for appointment as judges of the High Courts will also boost up pursuit of scholarship among law teachers. This will in the end benefit legal education.

FINANCIAL AND ADMINISTRATIVE AUTONOMY

Financial and administrative autonomy is necessary, if the judiciary is to be really independent. The Chief Justice of India, Justice A.S. Anand, in his Singhvi memorial lecture delivered at Delhi has urged that the judiciary must get financial and administrative autonomy. He said that financial dependence on the executive, to an extent, impinges upon the independence of the judiciary when it is required to negotiate every time with the state, which is the largest litigant. Such financial autonomy, in his opinion, was necessary for making the judiciary truly independent, vibrant and effective [*Times of India*, 1999(a), p. 9].

THE MAINSTREAM SYSTEM OF JUSTICE

It is often said in national as well as international forums that India has an independent and efficient judiciary. This is, unfortunately, a wrong impression created only by the performance of the higher courts in exercise of their writ jurisdiction. Ordinary civil and criminal justice systems is in a chaotic condition. Justice is expensive, time-consuming and over-technical. When a multinational company like the Union Carbide inflicted death and torture on the people of Bhopal because of the leakage of a lethal gas from its factory, even the Government of India chose to file a suit for damages against the Union Carbide in an American court because it was not sure how long it would take for such a suit to reach conclusion in an Indian court and whether the Indian courts would award adequate damages. The Government of India itself had to say in its affidavit that the Indian justice system had not been efficient. On the other hand, it was for the Union Carbide to argue before the American Court that since India had an efficient system of justice, there was no need for the Indian Government to file a suit against it in the United States [Baxi and Dhanda, 1990, p. ii]. Ultimately, the American Court held that the suit should be filed in an Indian court. In India there has been a very weak tradition of tort litigation. The trial judge of Bhopal awarded interim damages in favour of the victims of the Bhopal gas tragedy. In appeal, the Madhya Pradesh High Court affirmed the trial court's order, though it reduced the amount of interim damages. In this litigation, the Union of India had taken over the rights of all the victims to fight litigation on their behalf. The law under which the state had acquired competence to sue on behalf of all the victims was upheld by the Supreme Court [*Charan Lal Sahu* v. *India*, AIR, 1990, SC, p. 1,480]. The victims were poor and had no resources to fight litigation on their own. The legal aid system in India is most unsatisfactory.

When appeal was preferred against the decision of the High Court of Madhya Pradesh, the Supreme Court issued a consent decree based on the settlement arrived at between the Government of India and the Union Carbide [*Union Carbide* v. *India*, SCC, 1989, Vol. 3, p. 38]. This settlement, according to some critics bailed out the Union Carbide and secured much less compensation for the victims. Even the paltry compensation which the settlement provided did not reach all the victims. The only justification given for such a settlement was that the normal legal process would have taken much longer to secure compensation. It was better to have a bird in hand rather than a bird in bush. This justification is an admission of the inefficiency of the Indian judicial system. In fact, the Supreme Court itself could have mitigated the inefficiency of the mainstream system by awarding interim compensation to the victims The Court could have asked the government to provide compensation to the victims from its own resources, which could have been set off from the compensation received from the Union Carbide in the end. The Supreme Court not only passed a consent decree based on the settlement arrived at between the Union Carbide and the Government of India but also passed an order quashing all pending civil suits and criminal prosecutions. The settlement was challenged before the Court and, particularly, the Court's competence to quash pending civil and criminal cases was seriously challenged. The Court held that the consent decree based on the settlement was valid but set aside its order quashing the pending criminal prosecutions [*Union Carbide Corp.* v. *India*, AIR, 1992, SC, p. 248].

A question was raised whether the settlement decree issued by the Supreme Court was *ultra vires* its power. It was argued that since the matter had come to the Court as an interlocutory appeal against the award of interim compensation by the High Court, the Court was competent only to determine that matter and not the subject matter

of the suit. The Supreme Court while rejecting that argument invoked its power given by Article 142 of the Constitution and held that under its inherent jurisdiction it could transfer to itself all matters pending in the lower courts and deal with it so as to render complete justice. Article 142 (1) reads as follows:

> The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and until provision in that behalf is so made, in such manner as the President may by order prescribe.

The question that arises is whether the Court can invoke the above provision in derogation of the existing statutory or constitutional provisions. The inherent jurisdiction is to be used only where no law exists for the matter. Can the Court invoke Article 142 in derogation of the existing legal provisions? This judicial activism was in fact an exercise in judicial excessivism. Where power to punish for contempt was vested in the High Court [*Delhi Judicial Service Association* v. *Gujarat,* SCC, 1991, Vol. 4, p. 406]. or in the Bar Council of India [*In re Vinay Chandra Misra,* SCC, 1995, Vol. 2, p. 584], the Court invoked Article 142 to override the powers of those authorities and order punishment of the guilty persons. In a more recent case [*SCBA* v. *India,* SCC, 1998, Vol. 4, p. 409], the Supreme Court, however, made it clear that it would not entertain cases of contempt until they come to it as appeal against the decision of the Bar Council of India under the Advocates Act. In another case [*Ashok Hurra* v. *Rupa Bipin Zaveri,* AIR, 1997, SC, p. 1,266], the Court went to the extent of dissolving a marriage where one of the spouses had withdrawn the consent to such divorce, as required by Section 13 of the Hindu Marriage Act (HMA) and asked the husband to pay compensation of the value of Rs 10 lakh to the wife. The husband had without waiting for the divorce married another woman and had begotten a child from such illegal marriage. This decision was clearly in derogation of the provisions of the HMA. The Court used Article 142 almost in a manner in so as to be law unto itself. A review petition against that decision was made and the Court has referred the question of the court's competence to the constitution bench of the Supreme Court [*Rupa Ashok Hurra* v. *Ashok Hurra,* SCC, 1999, Vol. 2, p. 103]. It is hoped that the Court will set the matter right and point out the limits within which the power under Article 142 is to be exercised.

The image of the Indian judiciary is very much dominated by its activism under the writ jurisdiction. The writ jurisdiction was meant to be a fast track process to be invoked only against violation of the Constitution by the executive and the legislature. This was posited on the premise that such excesses or illegalities by the government would occur rarely. The mainstream system of justice is that which provides remedies for the enforcement of rights and duties. An efficient mainstream system of civil and criminal justice is a condition precedent to the existence of a civil society. In law we say that *ubi jus ibi remedium* which means that every right must have a remedy against its violation. Unfortunately, the mainstream system does not function efficiently. Legal delays and expensiveness of the civil suits deter people against taking recourse to law. To remedy this, Parliament passed the Consumer Protection Act, which has provided for a cheap, expeditious and less formal method of grievance redressal for the consumers. The consumer courts functioning under this Act have great possibilities of providing informal, inexpensive and faster justice at the grassroots level. Their potential, however, is not being utilised because the state governments which are supposed to set up the district forums for the dispensation of consumer justice have not been very serious in the implementation of the

provisions of that Act. The consumer courts have not been given proper infrastructure and vacancies of members of the forum are not filled in expeditiously. A writ petition was field against such lackadaisical attitude of the state governments in the Supreme Court by Common Cause. The Supreme Court gave directions for making the consumer courts more effective [*Common Cause* v. *India,* SCC, 1992, Vol. 1, p. 707]. However, those directions have yet not been implemented in their true spirit [Sathe, 1996, Pp. 148-64]. Various other alternative methods have been tried. The administrative tribunals were set up for deciding disputes regarding dismissal, removal or reduction in rank or discrimination in promotion or appointment of government servants. These tribunals were excluded from the writ jurisdiction of the High Courts under Article 226 (Article 323A(2)(d)). The idea was to establish a tribunal system which would be more expeditious in the disposal of cases and follow less formal procedure and be substantially autonomous from the courts. These tribunals were made subject to the appellate jurisdiction of the Supreme Court (Article 136 of the Constitution). These tribunals were appointed under the Administrative Tribunals Act, 1985, which was enacted under Article 323A of the Constitution. That article was added by the Constitution (Forty-Second Amendment) Act, 1976. What the Act did was to vest in those tribunals the power of judicial review which was vested by the Constitution in the High Courts. The Supreme Court held in *L. Chandra Kumar* v. *India* [SCC, 1997, Vol. 3, p. 261] that the clause in Article 323A authorising Parliament to exclude the jurisdiction of the High Courts under Article 226 was violative of the basic structure of the Constitution. So now a party disappointed with its decision will be able to go to the High Court under Article 226. Somehow, neither the administrative tribunals nor the family courts, which came into being as alternatives to courts and as fast track systems, have relieved the courts of their enormous burden. Reforms in the mainstream justice cannot be avoided any longer.

As it is, our criminal justice system has become most inefficient, which is obvious from the high rate of acquittals. Criminals have lost fear of punishment and anyone can commit a murder without entertaining fear of being caught. Police investigations are inefficient and dishonest. The police take recourse to easy way of killing the suspected criminals in fake encounters. Ours has become a soft state which yields before the strong and powerful and oppresses the weak and the disabled. The result is that the society has lost faith in the rule of law. Insecurity of life and lack of faith in the government to protect life, liberty and property have a demoralising effect on people. The Chief Justice of India, Justice A. S. Anand, has expressed his lament over large scale acquittals while delivering the D. M. Singhvi memorial lectures at Delhi. The Chief Justice is reported to have said that 'large-scale acquittals are eroding people's confidence in the effectiveness of the criminal justice system'. He blamed the 'faulty, non-scientific and disoriented investigation' for a very large number of acquittals. What is most significant is that the Chief Justice has also exhorted the judges to respond to the people's cry for justice. He said that the innocent should not be punished, but asked why should the guilty escape? He urged the judiciary to 'punish the guilty by a proper and judicious approach to assess the evidence' [*Times of India,* 1999(a), p. 9].

Unless major reforms are made in the civil and criminal justice systems, the common man's faith in the law and the courts will not be restored. Unfortunately no attention has been given to the reform of the mainstream system of justice.

WHY PEOPLE GO TO COURT?

People go to court because (a) they have access to no other grievance redressal system. Why should the Supreme Court be bothered with protecting an employee's salary whose one arm had been amputed due to sarcoma (cancer)? [*Narendra Kumar Chandla* v. *Haryana,* AIR, 1995, SC, p. 519]. Such redressal could be given by an ombudsman. The creation of the National Human Rights Commission has, doubtless, to some extent relieved the Court of its duty of protecting the human rights. An office of the Lokpal could be an effective bulwark against mal-administration. (b) People belonging to a powerless minority, which cannot get their grievances redressed through political process prefer the judicial process as a catalyst or a complementary aid. (c) Against violations of their fundamental rights, the courts are the best bet. (d) Individuals or social action groups fighting against government lawlessness find that the courts are more willing to respond. And (e) people generally believe that the courts do justice. People know that the courts can also give wrong decisions, can exceed their powers or may not be fair but their experience tells them that such instances are exceptional. With all the lapses of the judicial system, it is better than the political process. This widely shared belief in the justness and fairness of the courts is what we mean by legitimacy of the judicial activism. The courts have to continuously strive to sustain and maintain such legitimacy. This effort can also be described as being accountable to the people. In the Black Letter law tradition, any talk of accountability of the court to the people is considered as subversive of the independence of the judiciary. Independence of the judiciary does not mean negation of accountability. Since the power of the court is derived from its social legitimacy, a court sustaining its legitimacy is bound to be accountable to the people.

Professor George Gadbois has made an apt comment on the attitude of the people of India towards the courts, in general, and the Supreme Court, in particular. He says [Gadbois, 1978, Pp. 250, 259]:

> If Indians were as sceptical and cynical about their Supreme Court judges as they are of their elected politicians, the court's' political role would suffer.

He further says [Gadbois, 1978, p. 258]:

> The court is not strong and powerful because the Constitution makes provision for a strong court. In many other new States, post independence constitutions have 'created' what their framers intended to be 'powerful' judicial institutions, often endowing such courts with the power of judicial review. More often than not, such judicial institutions have proved to be weak, have long since collapsed, or have been emasculated by executives unwilling to be delayed or deterred by judges. Nor is the court in India powerful simply because it is in fact independent from the executive. . . . More important than the Indian Supreme Court's independence from the executive and formal power and authority, and without which, the court could not be an important political institution, is the legitimacy it enjoys.

True, sometimes the courts have gone beyond the scope of their powers, they have entertained matters which they ought not to have entertained, they have been guilty of populism as well as adventurism in violation of the doctrine of separation of powers. Such excesses ought to be prevented or minimised through judicial self-restraint. But in the present Indian scenario, excessive restraint and doctrinaire regard for separation of powers could also be disastrous. Ultimately, what a court should entertain and what it should not must be governed by proper exercise of judicial discretion. Chief Justice Anand has cautioned against the excessive use of

PIL in his Singhvi memorial lecture delivered at Delhi. The judge said [*Times of India,* 1999(b), p. 9]:

> Care has to be taken to see that PIL remains public interest litigation and does not become either political interest litigation or personal interest litigation or publicity interest litigation or used for persecution.

The judge emphasised that the weapon of PIL should be used for the weaker sections of society and should be used very carefully so that it does not get blunted by wrong or over use.

If people go to the Supreme Court and the High Courts under their writ jurisdiction and raise issues of governance, which seem to be non-justiciable, it is out of their distrust of the other organs of government and relatively better image of the courts. Had the courts not entertained those matters, there would have been greater frustration among the people and perhaps it might have exploded in some way detrimental to democracy. The excessive judicial activism has avoided that situation. However, the courts have to always avoid exceeding their limits. Judicial activism should never verge on judicial adventurism. The danger is that if the courts create expectations and do not fulfil them, disillusionment against judicial activism will set in. There are limits to what the courts can achieve. However, the courts should not withdraw in a hurry. Judicial restraint on matters of governance might do harm to Indian democracy. The judicial observations in *Raunaq International Construction Ltd.* v. *IVR Ltd.* [SCC, 1999, Vol. 2, p. 402; Sathe, 1999, p. 1] to the effect that if a person obtains stay of a project and afterwards it is found that he had no case, he should be made to reimburse the additional costs due to escalation, create apprehensions in our mind that the Court might hurriedly wind up judicial activism causing detriment to the weaker sections of society. Since there is no level playing field between the rich and politically powerful sections of society and the people who are poor and powerless, sudden judicial restraint would create a feeling of helplessness. The courts should certainly watch against PIL being used as private interest litigation or publicity interest litigation, as the Chief Justice has said, but it should not reject genuine PILs on the plea of judicial self-restraint. After all what is judicial adventurism itself needs to be defined in the context of the prevailing social, economic and political factors prevailing in society.

Today, we see a silver lining to the black cloud of Indian democracy. People have become more assertive and they are registering their protest through the ballot box. Since 1989, they have not given majority to any party. Coalition governments are the result of the people's protest against majoritarian rule under a majority government. People might give majority of seats to any one formulation but no formulation can take them for granted. Performance is going to be an important criterion for judging a government. While political processes must be strengthened, judicial activism will even then have an important role to play as protector of the rights of the powerless groups. Its counter majoritarian value will be no less even in a vibrant political democracy. In the last twenty years, Parliament of India has almost stopped legislating. We have not had any important legislation, except a few constitutional amendments, in the last twenty years. Parliament must become active and relieve the Supreme Court of its legislative function. Judicial process cannot perform legislative function in the same way as the legislature can. There is no alternative to infusing greater accountability among the political institutions like the legislature and the executive.

Parliament must act to strengthen the grievance redressal systems at various levels. Reform of the mainstream judicial system is long overdue. Further, the creation of a network of regulatory agencies, independent of government, providing for the ombudsmanning of the governmental

authorities and making governance transparent by giving right to information to people, would go a long way towards making governments more accountable.

CONCLUDING OBSERVATIONS

Judicial activism is not an aberration. It is an essential aspect of the dynamics of a constitutional court. It is a counter-majoritarian check on democracy. Judicial activism, however, does not mean governance by the judiciary. Judicial activism also must function within the limits of the judicial process. Within those limits, it performs the function of stigmatising as well as legitimising the actions of the other organs of government. It more often legitimises than stigmatises. The words remain the same but they acquire new meanings as the experience of a nation unfolds and the constitutional court gives continuity of life and expression to the open textured expressions in the Constitution, to keep it abreast of the times.

Judiciary is the weakest organ of the state. It becomes strong only when people repose faith in it. Such faith of the people constitutes the legitimacy of the Court and judicial activism. Courts have to continuously strive to sustain their legitimacy. Courts do not have to bow to public pressure, rather they have to stand firm against any pressure. What sustains legitimacy of judicial activism is not its submission to populism but its capacity to withstand such pressure without sacrificing impartiality and objectivity. Courts must not only be fair, they must appear to be fair. Such inarticulate and diffused consensus about the impartiality and integrity of the judiciary is the source of the Court's legitimacy.

How is such legitimacy sustained? The myth, created by the Black Letter law tradition that judges do not make law but merely find it or interpret it, sought to immunise the judges from responsibility for their decisions. Mythologisation of the judges also contributed to the sustenance of legitimacy. Those devices for sustaining legitimacy, however, pre-supposed the negative and technocratic role of the judges. Those myths or devices are of no help in sustaining the legitimacy of judicial activism. We have to explode certain myths like judges do not make law. Similarly we have to de-mythologise the judiciary by saying that a constitutional court is a political institution. It is political because it determines the limits of the powers of other organs of government. Being political need not mean being partisan or unprincipled. The Court is political in the same way as the President of India is political in the appointment of a prime minister or in the exercise of his discretion. The courts are political in the sense in which the President of India or the Election Commission is political.

Another de-mythologisation is to admit that judges are human beings, as fallible as other human beings are. If we have good judges, we have bad judges too. Judges are bound to have their predilections and those predilections are bound to influence their judgments.

The advantage of such de-mythologisation is that people accept that judges like other human beings are not infallible. The courts themselves have imposed restraints on their powers, in order to minimise the chances of vagaries arising out of subjective lapses or prejudices of the judges. The courts are bound to follow previous precedents, they are bound to follow the decisions of the higher courts, and they are bound to follow certain rules of interpretation. Further, decisions of courts are reasoned and are often subject to appeal or review These restrictions ensure that the lapses would be minimum. Critiquing of the judgments of the courts would further act as a corrective to objectionable judgments. Through such restrictions the courts sustain their legitimacy.

NOTE

1. These figures have been drawn manually by going through the profiles of the judges. It is to be found that fewer judges have identified themselves as Bramhins since the eighties. Therefore, the number of Bramhin judges could be much higher than I have given here. Further, the reader is warned that the figures given above are approximate and may not be exact. Because in some cases, judges' caste or religion had to be identified from their names or other data given in their profile. There could be errors in this. However, the major inference regarding the caste/religion/gender composition would not be affected.

ABBREVIATIONS

A.C.	*Appeal Cases*
A.P.	Andhra Pradesh High Court
AIADMK	All India Anna Dravid Munnetra Kazagam
AIR	*All India Reporter*
All.	Allahabad High Court
ATC	*Administrative Tribunal Cases*
CBI	Central Bureau of Investigation
CAD	Constituent Assembly Debates
BJP	Bharatiya Janata Party
C.A.	Civil Appeals
CPI	Communist Party of India
CPM	Communist Party (Marxist)
Cal.	Calcutta High Court
Co. Rep.	*Coke's Reports*
Del.	Delhi High Court
DMK	Dravid Munnetra Kazagam
G.L.R.	*Gujarat Law Reporter*
H.C.	High Court
H.P.	Himachal Pradesh High Court
I.L.R.	*Indian Law Reports*
JPI	*Journal of Parliamentry Information*
JT	*Judgments Today*
K.B.	*Law Reports of the House of Lords, King's Bench*
Ker.	Kerala High Court
Knt.	Karnataka High Court
LCI	Law Commission of India
L.Ed.	*United States Supreme Court Reports, Lawyers' Edition*
L.R.	*Law Reports*
M.P.	Madhya Pradesh High Court
Ori	Orissa High Court
P&H	Punjab and Haryana High Court
Patna	Patna High Court
PLD	*All Pakistan Legal Decisions Journal*
SC	Supreme Court
SCC	*Supreme Court Cases*
SCJ	*Supreme Cout Journal*
SCW	*Supreme Court Weekly Notes*
Supp	Supplement
U.S.	*United States Supreme Court Reports*

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ROLE OF THE CENTRE IN FISCAL BALANCE OF STATES - THE CASE OF GUJARAT

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The role played by the Centre through transfer of budgetary resources in determining the States' fiscal performance is discussed with reference to Gujarat State. Over the past two decades, the State's fiscal performance varies according to the effective period of different Finance Commissions. The Centre has first created a fiscal crisis in Gujarat and then helped the State to achieve a turn-around. The State has responded well to the Centre's incentives. But since the Centre has not provided proper incentives, the State has failed to control its unproductive revenue expenditures which constitute a critical element in the fiscal discipline.

Strict fiscal discipline plays a pivotal role in the International Monetary Fund (IMF) - World Bank induced structural adjustment and economic reforms undertaken in several developing countries. In countries having democracy with federal structure, the question of fiscal discipline assumes greater role because the Centre shares with the States (or Provinces) the responsibilities of several developmental and non-developmental functions. According to the sound principles of federalism, the Centre must also share corresponding rights over the revenue raised to enable the two partners to fulfil their obligations. The sharing of the rights and duties among the Centre and States is critical and the way this crucial issue is handled in different federal economies has a definite impact on the achievement of fiscal balance in the economy. In the long period of about five decades since the Independence, India has chosen to address this issue with the help of a clear division of duties through the Constitution and the division of resources or revenues through the Finance Commission (FC) and Planning Commission, once in five years. This arrangement is designed with a view to giving prominent role and sufficient control to the Centre in matters pertaining to the resource allocation among different States. The advantage of this arrangement is that the Centre can, if it desires, effectively address the question of reducing over time the regional disparities in the country through relatively more allocation to poorer states. The disadvantage is that it can adversely affect the fiscal balance in some States by providing serious disincentives. The former is to a considerable extent a political issue. The latter on the other hand is an economic issue having wider implications on the health and growth of the economy.

In the present paper, we have chosen to focus on the role the Centre has played in a State economy's fiscal performance over the last two decades in India. We would like to bring out how the changes in resource allocation from the Centre, based on the recommendations of different FCs, have affected some important parameters of fiscal performance in a State economy in India. For this purpose, we should select a State economy: (1) which has been considered as relatively a better performer on the fiscal front; (2) which is not among the extremes in terms of the development ranks of States in the country; (3) which has a definite potential to grow rapidly in terms of a sound economic base; (4) which has some specific revenue generating resources; and (5) which may not have a very high degree of political influence on the Centre. All these factors are important for isolating the role the Centre can play in the fiscal discipline of a State in the country. Gujarat fulfils most of these criteria. In the next section, some characteristics of the Gujarat economy relevant from the fiscal

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angle are presented. The third section is then devoted to the discussion of the changes introduced by different FCs and Planning Commissions recently in their formulae to devolve resources to state governments. In the fourth section, we consider the estimates of different types of deficits in the annual budgets of the Gujarat government over the period 1978-99. The fifth section examines the role of the Centre in determining the fiscal performance of the Gujarat State in the light of broad revenue and expenditure performance of the State. In the final section, concluding observations are made.

II. FEATURES OF GUJARAT'S ECONOMY

Table 1 presents the comparison of the state economy with the national economy on various dimensions. From the table, it can be seen that Gujarat has a share of 5.96 per cent in the total area and 4.93 per cent in total population of the country. It is, thus, a middle sized State since there are 25 States in the country. The State has registered a slower growth of population than the nation during 1981-91, and it is better placed in terms of several developmental indicators, like literacy rate, per capita income, per capita consumer expenditure, factory workers per lakh of population, power generation and consumption, industrial disputes, education, health, and poverty incidence. It is certainly a better-off State in the country as revealed by the comparison presented in Table 1. However, on some important counts, Gujarat lags behind. For instance, in terms of the gross area irrigated or even the gross cropped area, the State has a much lower share than its share in the geographical area. Similarly, Gujarat is a deficient State in terms of foodgrains production. Even the length of roads per square km in the State is less than the national average. Although the length of the national highways is lower than the all India average, the length of the State highways is significantly higher in Gujarat. Per capita bank advances or credit is also considerably lower in Gujarat though per capita bank deposits are very high in Gujarat, as compared to the nation.

In spite of all these infrastructural handicaps, Gujarat has been attracting a lot of industrial activity. It is reflected in the factory employment which is about 76 per cent higher in Gujarat than the national average per lakh of population. This is largely because the State has ensured a very ideal industrial climate. The workers involved in the industrial disputes in Gujarat are hardly 2.5 per cent, and the mandays lost are hardly 3.5 per cent of the corresponding national figures. This is in spite of the fact that the average annual earnings of employees in manufacturing in Gujarat are only 93.5 per cent of the national average. The encouraging industrial climate in Gujarat can also be gauged through better industrial infrastructural efforts. For instance, relatively lower development of national highways is compensated with significantly higher State highways in Gujarat. Similarly, in terms of registered pupils in educational institutions, the State has relatively a much higher share in the higher secondary education. Even in terms of the power consumption, the State is devoting a much higher percentage (81 per cent) to the productive sectors as compared to the national average (69 per cent).

The production structure of the State economy is also more trade and commerce oriented as seen from Table 1. In agricultural production, the State specialises in commercial crops like oilseeds, cotton and tobacco. In these crops, Gujarat's share in the nation is substantially high. In tobacco, it is almost 29 per cent. Similarly, in the mill sector production of (textile) cloth, Gujarat contributes as high as 35 per cent of the national output. In terms of the mineral resources, also, the State is relatively rich. It contributes about 22 per cent of the crude oil production in the country and 10 per cent of the production of natural gas. All these

Table 1. Comparative Statistics on India and Gujarat

Item	Unit	Year	Gujarat	India	State *vis-à-vis* India
(1)	(2)	(3)	(4)	(5)	(6)=[(4)/(5)]* 100
1. Area	'00 sq.km	1991	1,960	32,873	5.96
2. Population	lakh	1991	413	8,386	4.93
3. Growth in Population	per cent	1981-91	21.2	22.7	93.39
4. Literacy Rate	per cent	1991	61.3	52.2	117.43
5. Main Workers	Lakh	1991	141	2859	4.93
6. (a) Per capita Income at Current Prices	Rs	1993-94	7,600	6,929	109.68
(b) Per capita Income at Constant (1980-81) Prices	Rs	1993-94	2,351	2,282	103.02
7. Per capita Monthly Consumer Expenditure	Rs	1992	305	285	107.02
8. Income Deflator (Price rise)	per cent	1980-93	223.3	203.6	109.68
9. Gross Cropped Area	'000 ha.	1990-91	10,635	185,477	5.73
10. Gross Area Irrigated	'000 ha.	1990-91	2,911	61,776	4.71
11. Agricultural Production					
(a) Total Foodgrains	'000 t.	Av.1991-94	4,194	176,659	2.37
(b) Total Oilseeds	-do-	-do-	2,120	20,067	10.56
(c) Tobacco	-do-	-do-	168	583	28.82
(d) Cotton	'000 Bales	-do-	1,598	10,600	15.08
12. Mineral Production					
(a) Crude Oil	'000 t.	1993-94	5,909	27,027	21.86
(b) Natural Gas	M.cu.mt.	-do-	1,693	16,340	10.36
13. Production of Cotton Textiles (Mill Sector)					
(a) Yarn	lakh kg.	1993	1,870	16,090	11.62
(b) Cloth	lakh m.	1993	4,780	13,520	35.36
14. Factory Workers Per Lakh Pop.	No.	1989 1988	1,764	1,000	176.40
15. Annual Earnings of Employees in Mfg.	Rs	1993-94	10,051	10,752	93.48
16. (a) Power Generation	MW	-do-	25,184	324,163	7.77
(b) Power Consumption	mkwh	-do-	22,506	238,109	9.45
per cent Distribution of Consumption					
i) Industry	per cent	-do-	42.52	39.68	-
ii) Agriculture	per cent	-do-	38.51	29.69	-
iii) Others	per cent	-do-	18.97	30.63	-
17. Banking					
(a) Per capita Deposits	Rs	30-9-94	4,996	3,951	126.45
(b) Per capita Advances	-do-	-do-	2,108	2,171	97.10
18. Road Length					
(i) Total	km.	1990-91	67,065	2,037,000	3.29
(ii) National Highways	-do-	-do-	1,572	33,700	4.66
(iii) State Highways	-do-	-do-	19,048	127,000	15.00

(Contd.)

Table 1. (Concld.)

Item	Unit	Year	Gujarat	India	State vis-à-vis India
(1)	(2)	(3)	(4)	(5)	(6)=[(4)/(5)]* 100
19. Industrial Disputes					
(a) Workers involved	'00	1993	242	9539	2.54
(b) Mandays Lost	'00	1993	7126	203007	3.51
20. Education: Registered Pupils					
(a) Primary School	'000	1993-94	5983	108201	5.53
(b) Middle School	-do-	-do-	1995	39915	5.00
(c) High School	-do-	-do-	921	15783	5.84
(d) Higher Secondary	-do-	-do-	520	5120	10.16
21. Health Sector					
(a) Infant Mortality Rate	No.	1993	58	74	78.38
(b) Hospitals & Dispensaries	No.	1-1-92	10622	38605	27.51
(c) No. of Beds	No.	-do-	73917	664035	11.13
22. Incidence of Poverty	per cent	1987-88	18.4	29.9	61.54

Source: Centre for Monitoring Gujarat Economy, Directorate of Economics and Statistics, Government of Gujarat: *Basic Statistics - Gujarat and India, 1994*, April 1995.

commodities where Gujarat has relative advantage and greater intensity of production are of special interest to the nation's government, particularly from the point of view of revenue generation. It is here that the FCs become specifically important to the State.

III. DEVOLUTION OF RESOURCES FROM THE CENTRE

In the recent past, the Centre has come under tremendous pressure to perform and show the resolve for fiscal discipline. The Tenth Finance Commission (TFC) (1994) affirmed that 'The primary responsibility for strengthening the resource base is that of the states. The states will have to make continuous efforts to improve their revenue base, strengthen their capacity to provide better services and curtail expenditure' [GOI, 1994, p. 5]. The Reserve Bank of India (RBI) has also argued that phasing out of revenue deficits of States is crucial for the reform of the State finances [Cited in EPW, 1995, p. 2,527]. With this background, we may examine some of the important and frequent changes in the formulae for vertical and horizontal distribution of the total divisible pool of resources with the Centre.

Both, the Planning Commission and successive FCs, have been trying to evolve more and more 'progressive' formulae of horizontal distribution of revenue [Bagchi, 1995]. The Seventh Finance Commission (7th FC) (1980-85) took some initiative in this direction. The Eighth Finance Commission (EFC) (1985-90) retained some of those changes and introduced a few more 'progressive' looking ones. The Ninth Finance Commission (NFC) (1990-95) did not modify the formulae to a great extent. The broad formulae adopted by recent FCs *inter alia* for the horizontal distribution of resources, primarily from Income Tax and Union Excise which the Centre shares with the states under the Constitution, are summarised in Table 2.

Table 2. Formulae to Transfer Tax Revenues to States from Centre under Various FCs in India

FC (Effective Period)	Income Tax		Union Excise		Additional Excise in lieu of Sales Tax	
	Net Share given to States (per cent)	*Inter se* Distribution Formula (Weights) (per cent)	Share given to States (per cent)	*Inter se* Distribution Formula (Weights) (per cent)	Share given to States (per cent)	*Inter se* Distribution Formula (Weights) (per cent)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
6th (1974-79)	80	10 Contribution to Income Tax 90 Population	20	75 Population 25 Backwardness of the State (Distance Formula)	98.59	Population
7th (1979-84)	85	10 Contribution to Income Tax 90 Population	40	25 Population 25 Inverse of per capita SDP multiplied by population 25 Poverty ratio 25 Revenue equalisation formula of the FC	96.73 in case of sugar 97.81 in case of textile and tobacco	As per value of despatches of sugar 100 weightage to SDP
8th (1984-89)	85	10 Contribution to Income Tax 90 by following weights: i) 25 Population ii) 25 Inverse of per capita income multiplied by population iii) 50 Distance from the highest per capita income State multiplied by population	45	40 by following weights: i) 25 Population ii) 25 Inverse of per capita income iii) 50 Distance from the highest per capita income State 5 remaining to deficit states in proportion to deficits of the States after tax devolution	97.61	50 SDP 50 Population
9th (1990-95) (Second Report)	85	10 Contribution to Income Tax, 45 Distance formula, 22.5 population,	45	37.575 by following weights: i) 29.94 Population ii) 40.12 Distance from *the highest* per capita income State	98.10	50 SDP 50 Population

(Contd.)

Table 2. (Concld.)

FC (Effective Period)	Income Tax		Union Excise		Additional Excise in lieu of Sales Tax	
	Net Share given to States (per cent)	*Inter se* Distribution Formula (Weights) (per cent)	Share given to States (per cent)	*Inter se* Distribution Formula (Weights) (per cent)	Share given to States (per cent)	*Inter se* Distribution Formula (Weights) (per cent)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
		11.25 composite index of backwardness compiled by FC, 11.25 Inverse of per capita income multiplied by population		iii) 14.97 Inverse of per capita income iv) 14.97 Poverty ratio 7.5 by deficits of the States after the devolution		
10th(1995-2000)*	77.5	20 Population 60 Distance from the highest per capita income State Multiplied by population 5 Area of the State 5 Index of Infra-structure 10 State's tax effort	47.5	40 by following weights: i) 20 Population ii) 60 Distance from highest per capita income State iii) 5 Area of the State iv) 5 Index of Infrastructure v) 10 Index of State's own tax efforts in Sales Tax etc. 7.5 by deficits of the State after tax devolution	97.80	50 Population 40 Per capita SDP 10 Average Collection of State Sales Tax.

Note: * Alternative formula for vertical distribution (i.e., 29 per cent of all taxes) was recommended by the TFC but the constitutional change required for this purpose is awaited.
Source: Reports of Different FCs.

It may be mentioned here that although the sharing of income tax proceeds to the States is mandatory under the Indian Constitution, that of excise is not. However, customarily the Parliament has been permitting its sharing, and the issue is referred to the FCs which recommend the proportion to be shared with the States. It is important to observe that until recently, the share of excise revenue given to the States has never exceeded 45 per cent. Out of the remaining part, some amount does flow back to States but it is largely by way of grants, either under general heads or under some specific heads. This makes their devolution more discretionary from the Centre's viewpoint and more discriminatory for the States. What is worse is that horizontal devolution of both these proceeds is largely done on the basis of criteria, like population, as well as the so-called socio-economic backwardness and/or economic distance. Contribution by a given State to the national kitty is not regarded as an important factor. The EFC and NFC gave 10 per cent weight to the factor of 'contribution' of a State towards the income-tax pool. This is indeed a very meagre incentive for the States to improve their records. In the case of excise revenue, even such a meagre weightage to the 'contribution' factor was not thought necessary.

The TFC, unlike EFC and NFC, proposed to give 10 per cent weight to 'tax efforts' by a State instead of contribution factor. Tax effort in this context is measured by the ratio of per capita own tax revenue of a State to its per capita income [GOI, 1994, p. 23].

The corporate tax and customs duty which are known to be more income elastic in nature are not shared at all with the States under the Constitutional arrangement. The TFC (1995-2000) has suggested in its Alternative Scheme that all central taxes be pooled together and 29 per cent of the total be allocated to the States. This would enable the States to share the aggregate buoyancy of all central taxes [GOI, 1994, Chapter XIII]. This suggestion of the TFC has been accepted in principle but will be implemented only after the necessary constitutional amendment required for this purpose. Experts, like Gulati [1995] and Bagchi [1995], feel that the alternative proposal for change in the formula for vertical distribution between the Centre and the States by the TFC would not result in any substantial difference in the ultimate outcome since only 29 per cent of the pool is to be shared. And moreover, the principles governing the horizontal distribution formula have more or less remained the same. The Planning Commission also attaches some weight to 'fiscal management' and 'tax effort' for devolution of the Plan funds. Guhan [1995] however, feels that 'the carrot is too small and uncertain for the donkey'. (Perhaps, he deliberately used the word 'donkey' instead of 'rabbit' to indicate the Centre's attitude).

The additional excise duty in lieu of the sales tax on sugar, tobacco and textile has been levied by the Centre and the proceeds are distributed among the States. As can be seen from Table 2, the 7th FC recommended to devolve the levy on sugar on the basis of consumption criteria measured by value of despatches of sugar to a State. As far as duties from the tobacco and textiles are concerned, they were devolved by giving 100 per cent weightage to State Domestic Product (SDP) of a State [GOI, 1979, Pp. 48-49]. But the EFC changed the distribution formula of these three items by giving 50 per cent weight to population and 50 per cent to SDP. As we can see from Table 1, in two out of these three commodities, namely tobacco and textiles, Gujarat has a major share in the national output (29 per cent and 35 per cent, respectively). The State loses its right to impose sales tax on these important goods because the Centre levies additional excise in lieu of sales tax. However, the proceeds from this duty is shared among all States and that too according to 'progressive' formulae. (The word 'progressive' indicates relatively higher share going to relatively poor States). In the Indian context, where there is a statistically significant and negative correlation between the per capita income and population, the criteria of population for devolution is likely to make the transfers progressive. This, in turn, necessarily indicates lower weightage to 'efficiency' criteria. The TFC in its alternative scheme proposed clubbing of these additional excise duties with the basic excise duties rather than accepting the Gujarat State's request of reverting to the states the power to impose sales tax on these items. This is in sharp contrast to the Commission's own position that the primary responsibility of improving the revenue base and strengthening the resource base must lie with the States.

The changes in the distribution formulae since the EFC have been particularly against the interests of industrially prosperous, trade intensive and marginally better-off States, like Gujarat. This is because the growth of industries and trade in Gujarat, which is in the range of 10 to 12 per cent in real terms during the late eighties and nineties [Dholakia, 1999, p. 5], would have certainly led to larger and larger contribution to the Central exchequer during all these years. Moreover, during the last few years, income from agriculture in Gujarat has been declining significantly in relative terms in favour of the non-agricultural sectors. Since agricultural incomes

are largely not taxed whereas the non-agricultural incomes are taxed more and more, Gujarat's contribution even in terms of income tax would be growing substantially over years. The surcharge on income tax and corporate tax was in existence till recently. Gujarat would also end up contributing a large sum even by way of tax surcharge. Many economists believe that surcharges are often levied as a device to deprive States of their share of the divisible taxes rather than to meet any extraordinary or emergent demand [Gulati, 1995]. On the other hand, States like Gujarat have to spend a considerable amount of their resources to meet the infrastructural needs and demands arising out of the rapid growth of industrial and trade activities in the State. Thus, these States have to spend resources without getting a fair share by way of taxes. Moreover, the Centre has not taken sufficient initiative to impose all the taxes under Article 269, whose proceeds would entirely go to the States. Even the existing taxes like estate duty and railway passenger duty were gradually eliminated by the Centre from which the States could have made some earnings.

Though nobody would deny that in a federal structure regional balance and regional equity have an important place, it is interesting to learn how the Planning Commission and each successive FC overplayed these objectives. Until the Sixth Finance Commission, population was given 80 to 90 per cent weightage for *inter-se* distribution of resources. The 7th FC for the first time reduced the weightage of population in the formula for sharing the excise duty to 25 per cent and gave remaining 75 per cent weightage to factors, like poverty incidence, inverse of per capita income, etc. But changes introduced by the EFC were crucial for Gujarat because of the following reasons: Firstly, not only excise but even income tax revenue was now to be devolved on the basis of a formula assigning only 22.5 per cent weightage to population and rest to other criteria, like inverse of per capita income and distance from the highest per capita income. Secondly, to make the matter worse, the EFC estimated the budgetary requirements of the States and following its own criteria identified some States like Gujarat, Maharashtra, Tamil Nadu, etc. as 'surplus' States, which meant little help to these States from the Centre henceforth. On the other hand, States like Uttar Pradesh, Bihar, Orissa, Rajasthan, Madhya Pradesh, etc., were identified as deficit States and hence received special treatment from the Centre. All sorts of grants were available to them under specific heads to cover their non-plan revenue gap, to pay the additional dearness allowance to government employees, to improve and upgrade the administration, and so on. The obsession of uplifting the so-called poor and backward States created a lot of uncertainty, bitterness and financial crunch among the better performers and encouraged the States like Gujarat, Maharashtra and Karnataka to become deficit States. Rationality would certainly drive them to pose as deficit States in future so as to get favour from the Centre. The proposal of the TFC to give debt relief to the States like Uttar Pradesh, Bihar, Orissa, etc., which are under fiscal stress proves the point that a State may get not only larger funds from the Centre if it is lagging behind in infrastructure but also a premium in terms of debt relief if it faces (or can create!) the problem of high borrowing.

The strategy adopted by the Planning Commission is no less responsible for the current fiscal problems of the better performing States. As such the Gadgil formula gave as high as 60 per cent weight to population, and it was worsened by the first modification in the formula which was brought about to make the planned transfers more 'progressive'. This led to the rise in percentage of resource transfers to the States with below average per capita income and, thereby, reduced the relative shares available to the States with above average per capita income. Subsequently, re-modification attempts were made by D.T. Lakdawala, Madhu Dandavate as well as R. Vaidyanathan, to correct this situation, but no

consensus was arrived at by the members of the National Development Council (NDC) to accept the re-modification [Vithal, 1995]. Thus, both the Planning Commission and FCs have similar approach of penalising the efficient and rewarding the inefficient as both of them have somewhat subjective approach to devolving the resources among the States. Vithal observes in a similar context that 'The element of gamble is as much there in the democratic dynamics (of NDC) as there is in the award (by FC) process. The difference is that in one case there are 26 interested parties, while in the other there are five, perhaps opinionated but disinterested players !!' [Vithal, 1995]. In short, it is the Centre's policy of discretion rather than rules which could have created the fiscal crisis in the otherwise better performing States. It has been strongly felt that some objective norms should be set up for determining the vertical distribution as well as horizontal distribution of the proceeds. Lakdawala had suggested the normative approach to assessing the revenue gap of the States by looking at the tax bases available to the States and also estimating the expenditure needs. On the other side, the Centre should also estimate its expenditure needs and revenue receipts and see what it can transfer to the States. If the two do not match, the norms could be reworked. [Lakdawala, 1993, p. 8]. The States should be asked to make the downward revision and the Centre could make revisions looking at the States' needs, so that both sides, viz., deficits (gap) of the States and surplus of the Centre match. Thus, the revenue to be shared between the Centre and the States should be estimated through iteration. [Lakdawala, 1993 and Bagchi, 1995, p. 1,988]. While arguing in favour of such a method Bagchi mentions that though some broad judgement would still be needed, an approach based either on 'average' or 'representative' State model does show the way to set up norms with a measure of objectivity. But the TFC has not proposed any of these options. It can be criticised on the ground that in deciding the distribution formula it has gone by what has happened in the past rather than following any objective criteria 'The TFC can be faulted not for being unrealistic but for almost disavowing faith in the normative approach' [Bagchi, 1995, p. 1987].

The discussion above clearly suggests that as of today the degree of freedom available with the State economies, both with respect to revenue collection as well as expenditure is quite less than that to the Centre. More importantly, under the name of regional equity, the efficiency factors are totally sacrificed. Moreover, Table 2 clearly reveals that the EFC introduced substantial changes in the distribution formula which were more or less continued by the NFC. The TFC (1994) observed that the real trouble in majority of the States arose around the year 1985-86 when the Centre as well as the States started borrowing for meeting the revenue deficits. Almost identical turning points for all States 'seem to suggest that there are systemic factors underlying this deterioration rather than State-specific reasons' [TFC, 1994, p. 5]. We have argued here that these factors are related with the changes in the *inter-se* distribution formulae adopted by the Centre since then. With this background let us now examine different types of deficits in the annual budgets of the Gujarat State.

IV. DEFICITS IN GUJARAT BUDGETS:

The aspects of the fiscal discipline at the State level are traditionally considered by the concepts of the revenue deficit and the budget deficit usually reported in the State budget documents. The budget deficit is defined as the difference between aggregate expenditure and receipts of the State government over the year. This gap is filled by the State's borrowing/ withdrawal from the public account head with the approval of the Public Accounts Committee as well as the overdrafts from the Reserve Bank of India. Unlike the Central budget deficit which leads to increased supply of liquidity in the system, the State budget deficit does not necessarily lead to increased

monetization. In fact, it leads to increased interest burden on the State in future, though at a somewhat lower rate than that of public borrowing. The revenue deficit, on the other hand, denotes more or less the same concept at the Centre as at the State level. If the revenue expenditure of the government exceeds the revenue receipts, there would be a deficit on revenue account, which generally reflects lack of financial health and strength of the government. If there is a surplus on the revenue account, the government actually saves positively to invest or spend on capital account. Thus, ideally speaking, a disciplined State government would always aim at a surplus rather than a deficit on the revenue account and a very low budget deficit.

Table 3 provides the estimates of the revenue deficit and budget deficit in the annual budgets of the State of Gujarat for the period 1978-79 to 1998-99. The period is chosen so as to provide a comparable long time series from the same source, viz., the Directorate of Economics and Statistics, Gujarat. From this table, it can be readily seen that Gujarat had a surplus on the revenue account for all the years prior to 1985-86. It is only for the period beginning from 1985-86 that Gujarat shows a deficit on the revenue account. Interestingly, this period coincides with the effective implementation of the recommendations of the EFC (Table 2). The revenue deficit as a percentage of the total expenditure was as high as 12.3 per cent in 1990-91 which was the year of crisis in the Indian economy. Barring this exceptional year, the revenue deficit in Gujarat never exceeded 8.2 per cent. In 1993-94 and 1994-95, it again became a surplus. But soon after, due to political uncertainty and change of the government in Gujarat, it turned into deficit in 1995-96 and 1996-97. These figures imply that the State government was positively saving for the capital expenditure from its revenue receipts until 1985-86 after which it started dissaving even for its revenue expenditures until 1993-94. Of late, the extent of the government dissaving on the revenue account is of the order of around 1 per cent of NSDP. It is interesting to compare Gujarat's revenue deficit with the same for Uttar Pradesh which is one of the States receiving relatively high resource transfers from the Centre. In the year 1995-96, the revenue deficit in U.P. accounted for 21 per cent of the State's revenue receipts and 9 per cent of its total receipts [Kripa Shankar, 1995], whereas in Gujarat the revenue deficit accounted for only 2 per cent of the State's revenue receipts and only 1.5 per cent of its total receipts.

In terms of the budget deficit, Gujarat never had a very comfortable position except in 1993-94 when its budget deficit was only 0.43 per cent of the total expenditure. For the whole period under consideration, the State had overall budget deficit every year. On the whole, the budget deficit is fluctuating year after year, but it shows an increase from about 7.6 per cent of total expenditure in 1978-79 to the maximum of 17.5 per cent in 1990-91 - the year of crisis for the national economy - and then falling to about 4 per cent in 1997-98. When we consider the trend in the budget deficit together with the trend in the revenue deficit, we find a very disturbing trend for the State economy. This is because

Budget Deficit = Revenue Deficit + Deficit on Capital Account

In the period up to 1985-86, i.e., from 1978-79 to 1984-85, there was a surplus on revenue account. In the initial years, it was to the extent of about 7 to 8 per cent of the total expenditure. The budget deficit during the period was to the tune of 6 to 8 per cent. Thus, the deficit on the capital account was of the order of about 15 to 16 per cent of the total expenditure during 1978-81. However, during the recent years, the revenue deficit is about 2 to 4 per cent and the budget deficit is about 4 to 6 per cent which implies the deficit on capital account to be only about 2 per cent. The reduction of the budget deficit is more by cutting the capital expenditures in the State

because the State government is unable to keep its current expenditures within the limits of the revenue receipts. This is also discussed in the next section.

Table 3. Budget Deficit and Revenue Deficit in Gujarat State, 1978-79 to 1996-97

Year	Rs Crore (Actuals)			Per cent of Total Expenditure		
	Budget Deficit	Revenue Deficit	Deficit on Capital A/c	Budget Deficit	Revenue Deficit	Deficit on Capital A/c
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1978-79	70.68	(-)71.03	141.71	7.55	(-)7.58	15.13
1979-80	89.58	(-)92.30	181.88	7.99	(-)8.24	16.23
1980-81	92.36	(-)121.73	214.09	6.16	(-)8.12	14.28
1981-82	88.76	(-)120.31	209.07	5.26	(-)7.13	12.39
1982-83	97.38	(-)66.26	163.64	4.78	(-)3.25	8.03
1983-84	158.44	(-)139.03	297.47	6.51	(-)5.71	12.22
1984-85	201.51	(-)68.26	269.77	8.02	(-)2.72	10.74
1985-86	120.86	69.91	50.95	4.29	2.48	1.81
1986-87	442.72	309.52	133.20	11.65	8.14	3.51
1987-88	245.52	286.60	(-)41.08	5.54	6.47	(-)0.93
1988-89	151.85	126.71	25.14	2.98	2.48	0.50
1989-90	232.63	126.11	106.52	4.67	2.53	2.14
1990-91	1000.08	702.65	297.43	17.51	12.30	5.21
1991-92	1043.53	575.65	467.88	13.40	7.39	6.01
1992-93	455.11	299.82	155.29	5.24	3.45	1.79
1993-94	40.23	(-)96.22	136.45	0.43	(-)1.03	1.47
1994-95	349.57	(-)262.17	611.74	3.64	(-)2.73	6.36
1995-96	443.63	222.04	221.59	4.10	2.05	2.05
1996-97	867.25	591.40	275.85	6.66	4.54	2.12
1997-98(R)	540.15	638.06	(-)97.91	3.64	4.30	(-)0.66
1998-99(B)	35.84	(-)314.80	350.64	0.22	(-)1.92	2.14

Note: (1) B = Budget Estimate; R = Revised Estimate
(2) Surplus is denoted by (-) sign.
Source: Directorate of Economics and Statistics, *Budget in Brief,* Annual Publication, Government of Gujarat, Gandhinagar.

Reduction in the budget deficit is generally considered to be an important fiscal parameter to monitor the fiscal discipline of the State government. If, however, the fiscal discipline is achieved by reducing the investment in productive activities and assets, it is not necessarily a welcome development. A better indicator of the fiscal discipline of the State is the revenue deficit and movement therein. However, we need to appreciate that interest payment is an important item of expenditure on the revenue account of the budget. Since it is a committed expenditure arising out of the past borrowings of the State, the trend in the revenue deficit should be adjusted for the interest payment to get a proper idea about the direction of the fiscal discipline of the State government. In order to get a proper perspective on the fiscal movements at the State level, we need to consider the concepts of fiscal deficit and primary deficit. Although these concepts are more popular at the Central level, they have utility for the State level analysis also. The fiscal deficit is defined as the summation of budget deficit and the public borrowing of the State. From the financing viewpoint, the fiscal deficit in the State budget shows the resource gap which the State government has to somehow bridge by incurring interest cost. Similarly, the primary deficit is an indicator of the fiscal consolidation which is measured as the excess of the fiscal deficit over the interest payment. If a State has a primary surplus but fiscal deficit, it is borrowing to meet only a part of its interest payment - the other part of the interest payment is met out of its current

savings. On the contrary, if a State has a primary deficit, it is borrowing not only to meet the whole interest obligation but also to meet other expenditures. Table 4 presents the fiscal deficit, primary deficit and interest adjusted revenue deficit in Gujarat for the years 1978-79 to 1998-99.

Table 4. Fiscal Deficit and Primary Deficits in Gujarat, 1978-79 to 1996-97

Year	Rs Crore (Actuals)			Per cent of Total Expenditure		
	Fiscal Deficit	Primary Deficit	Interest Adjusted Revenue Deficit	Fiscal Deficit	Primary Deficit	Interest Adjusted Revenue Deficit
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1978-79	129.33	82.29	(-)118.07	13.81	8.79	(-)12.60
1979-80	223.18	178.43	(-)137.05	19.92	15.92	(-)12.23
1980-81	246.79	178.23	(-)190.29	16.46	11.89	(-)12.69
1981-82	251.64	169.92	(-)202.03	14.91	10.07	(-)11.97
1982-83	376.36	276.69	(-)165.93	18.47	13.58	(-)8.14
1983-84	407.62	290.44	(-)256.21	16.74	11.93	(-)19.52
1984-85	519.81	373.65	(-)214.42	20.68	14.87	(-)8.53
1985-86	512.32	324.76	(-)117.65	18.20	11.54	(-)4.19
1986-87	900.57	656.58	65.53	23.69	17.27	1.72
1987-88	976.50	668.33	(-)21.57	21.77	14.90	(-)0.49
1988-89	733.85	334.19	(-)262.95	14.38	6.74	(-)5.16
1989-90	971.04	505.84	(-)339.09	19.50	10.16	(-)6.81
1990-91	1,789.52	1,260.76	173.89	31.32	22.07	3.04
1991-92	1,790.84	1,078.10	(-)137.09	23.00	13.85	(-)1.76
1992-93	1,150.43	222.92	(-)627.69	13.24	2.57	(-)7.22
1993-94	526.58	(-)516.09	(-)1,138.89	5.66	(-)5.55	(-)12.25
1994-95	1,292.43	105.10	(-)1,449.50	13.45	1.09	(-)15.08
1995-96	1,745.47	417.40	(-)1,106.03	16.15	3.86	(-)10.23
1996-97	2,358.26	755.20	(-)1,011.66	18.10	5.80	(-)7.77
1997-98(R)	2,801.29	922.35	(-)1,240.88	18.88	6.22	(-)8.36
1998-99(B)	2,344.73	166.27	(-)2,493.26	14.28	1.01	(-)15.18

Notes: (1) B = Budget Estimate; R = Revised Estimate.
(2) Surplus is denoted by (-) sign.
(3) RBI measures Fiscal Deficit as net borrowing from Centre + net internal borrowing + contingency + public account + overall deficit. This is evident from their calculations of Fiscal Deficit and its decomposition reported in the *RBI Bulletin* from time to time.
(4) Primary Deficit is Fiscal Deficit - Interest Payment.
(5) Interest adjusted revenue deficit means revenue deficit net of interest payment of government.
Source: Same as Table 3 above.

From Table 4, it can be seen that the fiscal deficit in Gujarat is consistently very high throughout the period. It is, however, increasing from about 20 per cent of total expenditure in 1979-80 to about 31 per cent in 1990-91 and then declining sharply to about 18 per cent in 1996-97. This shows the extent of the borrowing the State government had to resort to. An increasing amount of borrowing would imply that interest burden would also be increasing over time. This is clearly brought out by the magnitude of the primary deficit in relation to the fiscal deficit as given in Table 4. Gujarat had a very high extent of the primary deficit up to 1992-93. It has, however, sharply fallen thereafter. What is important to note is that during 1978-79 to 1984-85, the interest payments were of the order of about 4 to 5 per cent of the total expenditure. Thereafter, however, the interest payment as a percentage of the total expenditure started rising continuously and in 1996-97, it was as high as 12 per cent. This is largely on account of very high deficits and, hence, borrowing by the State during the EFC period and the crises years. Increasing interest payment necessarily indicates increasing debt financing which is largely on account of three

reasons. One is reduction in average transfers from the Centre during certain years accompanied by high fluctuations. Second is growth of expenditure, especially non-developmental expenditure arising due to populist policies and pressures from the public sector employees [Dholakia, 1998(a), p. 25]. Third is general apathy of the government towards raising the user fees of public services, resulting into low quality of services and low non-tax revenue [Dholakia, 1998(b), p. 103]. Unfortunately, the distribution formulae of FCs have not provided for any effective mechanism to the above three factors which can help reducing the fiscal gap and, thereby, debt and interest burden. Although the fiscal deficit in Gujarat in 1997-98 stood at 19 per cent, the primary deficit was only about 6 per cent. A sharp reduction in the primary deficit from 22 per cent in 1990-91 to only 6 per cent in 1997-98 indicates a good progress in restoring the fiscal discipline by the State. However, as we have seen earlier from Table 3, this movement could be on account of a decline in the capital expenditure or it could be due to significant savings on revenue account. The interest adjusted revenue deficit given in Table 4 can throw useful light on this.

It can be seen from Table 4 that the revenue account without interest payment shows surplus of the order of about 12 to 13 per cent of the total expenditure during 1978-82 and it is about 8 to 9 per cent during 1996-98. In the rest of the period it showed a decline in the surplus, turning it even into deficit around 1986-87 and 1990-91, but again showing surplus in recent years. Thus, the fiscal discipline restored during the recent years from the serious lapse during 1990-91 brings the State back to its original efficiency level on revenue account. But in terms of the primary deficit, there has been a remarkable achievement in recent years as compared to the period 1978-81. This is largely on account of a sharp decline in the deficit on capital account which, in turn, is due to sharp cut on the capital expenditure. However, if we take the year 1990-91 as the basis, the remarkable decline in 1997-98 in the primary deficit (as a percentage of the total expenditure) of 15.85 percentage points is on account of 11.4 percentage point increase in the revenue surplus after interest adjustment and the rest due to decline in the deficit on capital account. Thus, about 72 per cent of the decline in the primary deficit as a percentage of the total expenditure is due to improvement in the revenue account in Gujarat. Since most of the budgetary resource transfer from the Centre to the State takes place through the revenue receipts, it would be interesting to examine the role played by the Centre in restoring the fiscal discipline of the Gujarat State.

V. ROLE OF THE CENTRE

Table 5 presents the transfers from the Centre and State's own resources on revenue account in Gujarat since 1978-79. It can be seen from the table that Gujarat received the revenue resources from the Centre to the tune of about 19 to 21 per cent of the total expenditure of the State during 1978-81. After 1979-81, this level of the resource transfer from the Centre started declining and never reached this level again. During 1980 to 1985 (i.e., 7th FC, period), it declined up to the level of 16 per cent of total expenditure by the State. But during 1986 to 1991 (i.e., EFC, period), the revenue resource transfer from the Centre to Gujarat declined sharply. It touched the lowest level of only 8 per cent of total expenditure by the State in 1991-92. From 1992 onwards, again the revenue transfers from the Centre to the Gujarat State have started rising and reached the level of about 16 per cent of total expenditure by the State in 1997-98. The series shows a considerable variation, the ratio of the highest (20.98) to the lowest (8.14) values being 2.6. It may be argued that some variation in the transfer of the revenue resources from the Centre to the States over time is desirable. But actual variation found in the case of Gujarat State appears to be excessive.

Table 5. Centre's Transfers and State's Own Resources on Revenue Account in Gujarat

Year	Rs Crore (Actuals)			Per cent of Total Expenditure		
	Tax Transfers from Centre	Tax Transfers + Grants from Centre	State's Own Collection	Tax Transfers from Centre	Tax Transfers + Grants from Centre	State's Own Collection
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1978-79	97.04	177.64	496.75	10.36	18.97	53.04
1979-80	173.33	235.09	601.26	15.47	20.98	53.66
1980-81	189.67	308.41	716.58	12.65	20.57	47.79
1981-82	208.03	310.32	849.14	12.33	18.39	50.32
1982-83	211.16	341.14	1,008.15	10.36	16.74	49.47
1983-84	226.71	393.94	1,171.20	9.31	16.18	48.09
1984-85	306.18	457.48	1,311.98	12.18	18.20	52.20
1985-86	279.12	500.30	1,402.18	9.92	17.78	49.82
1986-87	123.21	338.48	1,821.24	3.24	8.90	47.91
1987-88	360.62	826.03	1,980.44	8.14	18.64	44.69
1988-89	397.81	791.78	2,443.91	7.79	15.51	47.89
1989-90	428.69	629.41	2,971.83	8.61	12.64	59.69
1990-91	280.26	576.08	2,803.19	4.91	10.08	49.07
1991-92	307.47	633.99	4,028.56	3.95	8.14	51.74
1992-93	813.09	1,296.56	4,614.52	9.36	14.92	53.11
1993-94	983.09	1,689.51	5,340.50	10.57	18.17	57.44
1994-95	978.63	1,575.42	6,230.97	10.18	16.39	64.82
1995-96	1,139.26	1,620.01	7,131.41	10.54	14.99	65.97
1996-97	1,174.50	2,029.35	7,638.69	9.02	15.58	58.64
1997-98(R)	1,557.13	2,435.00	8,485.96	10.49	16.41	57.19
1998-99(B)	1,782.84	2,828.78	10,253.04	10.86	17.23	62.44

Notes: (1) B = Budget Estimate; R = Revised Estimate.
Source: Same as Table 3 above.

The State's own revenue collection as a percentage of the total expenditure also shows similar trend of decline from about 53 per cent in 1978-80 to the low of about 48 per cent during 1980-85, which further fell to the low of about 45 per cent during 1986 to 1991. After 1991-92, the State's own collection as a percentage of its total expenditure started rising and is currently at about 60 per cent. The series does show variation with 44.69 per cent as the minimum value and 65.97 per cent as the maximum value. Considering the importance of the own revenue collection in the State budget, which can also be considered as an indication of the autonomy of the State, the actual variation in the series may be considered as very high and undesirable. As we have argued earlier, the recommendations of the EFC were most likely to provide disincentives to the States like Gujarat. The incentive-disincentive effects of the revenue resource transfers from the Centre to the States can be clearly seen from Gujarat's case if we take averages over respective FC periods. Moreover, the variation in the total revenue transfers from Centre are largely explained by the variation in the tax transfers rather than grants from the Centre. The correlation coefficient between the tax transfers and total revenue transfers including grants from the Centre to the Gujarat State over the period works out to be +0.91, which is very high and also statistically highly significant (worked out from columns (2) and (3) of Table 5). The tax transfers from the Centre are based on the formulae suggested by the FCs.

Tables 4 and 5 also throw light on the question of fiscal discipline of the State after 1990-91. As we have seen in the preceding section, the improvement on the revenue account surplus after adjusting for the interest payment accounts for about 72 per cent of the decline of 15.85 percentage points in the primary deficit in the State between 1990-91 and 1997-98. Within the

revenue account of the State budget, the total transfers from the Centre increased by 6.33 percentage points and Gujarat's own collection increased by 8.12 percentage points (Table 5). Thus, the State's total revenue increased by 14.45 percentage points. The interest adjusted revenue surplus, however, showed an increase of only 11.4 percentage points which implies that Gujarat's revenue expenditure other than interest increased by 3.0 percentage points of the total expenditure in the State. Thus, in terms of controlling the revenue expenditure, the State's performance is not very encouraging. This is, however, a problem faced at all levels of the governments in the country. As far as the revenue receipts are concerned, the State seems to be doing very well. The Centre's contribution in restoring the balance through increasing its revenue resource transfers works out to only 44 per cent. Gujarat's own collections on revenue account contributed about 56 per cent.

Table 6. Selected Expenditures in Gujarat's Budgets

Year	Total Expenditure (Rs Crore)	Per cent of Total Expenditure					
		Revenue Expenditure	Capital Expenditure	Developmental Expenditure	Non-Developmental Expenditure	Debt Service	Subsidies
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1978-79	936.56	64.42	35.58	67.64	31.89	5.12	4.70
1979-80	1,120.49	66.42	33.58	74.92	24.46	3.99	4.50
1980-81	1,499.46	60.24	39.76	67.02	32.59	4.57	4.20
1981-82	1,687.48	61.58	38.42	68.47	31.10	4.84	4.80
1982-83	2,037.94	62.96	37.04	71.19	28.43	4.89	2.50
1983-84	2,435.44	58.56	41.44	67.51	32.16	4.81	3.00
1984-85	2,513.17	67.69	32.31	75.14	24.50	5.81	3.70
1985-86	2,814.44	70.08	29.92	67.81	31.73	6.67	4.20
1986-87	3,801.22	64.96	35.04	65.22	34.40	6.42	5.60
1987-88	4,431.26	69.80	30.20	68.55	31.12	6.96	6.04
1988-89	5,103.51	65.88	34.12	61.91	37.81	7.64	7.00
1989-90	4,978.73	74.87	25.13	70.13	29.56	9.34	9.69
1990-91	5,712.84	71.45	28.55	69.05	30.62	9.26	6.40
1991-92	7,785.48	67.28	32.72	65.04	34.70	9.16	12.40
1992-93	8,688.22	71.49	28.51	64.85	34.84	10.67	15.82
1993-94	9,298.14	74.57	25.43	63.64	36.08	11.21	17.46
1994-95	9,612.70	78.48	21.52	68.72	30.92	12.35	13.85
1995-96	10,810.58	81.09	18.91	70.92	28.71	12.28	15.26
1996-97	13,025.90	78.76	21.24	66.80	32.85	12.31	14.30*
1997-98(R)	14,838.19	77.90	22.10	67.85	31.79	12.66	9.68**
s1998-99(B)	16,420.11	77.75	22.25	67.25	32.45	13.27	N.A.

Notes: * Revised ** Budgeted.
Source: Same as Table 3 above; and for Column (8), Government of Gujarat: *Economic and Purpose Classification of Budgets of Gujarat State* (Annual).

Table 6 presents the trend in a few selected expenditures in the Gujarat State. It can readily be seen from the table that the proportion of revenue expenditure has an overall tendency to increase from 64 per cent in 1978-79 to around 78 per cent in 1997-98. Accordingly, the capital expenditure as a proportion of the total expenditure in the State budget shows an overall tendency to decline sharply. This tendency is much stronger particularly after 1991-92. As pointed out earlier, this is certainly a cause for concern because reduction in productive investments or in infrastructural facilities would not be good for the future health and growth of the economy. Moreover, the proportion of the non-developmental expenditure is also rising from 30.6 per cent in 1990-91 to 31.8

per cent in 1997-98. Especially, the interest liabilities and subsidies have increased considerably. Table 6 clearly brings out that subsidies as a proportion of total expenditure has substantially increased in Gujarat after 1985-86 and particularly after 1990-91. The tendency to increase subsidies at the cost of fiscal discipline might have been encouraged by the incentive-disincentive structure contained in the EFC. This is a slippery ground particularly in the environment of political uncertainties. As a result, we find the situation fast worsening after 1990-91. The Ninth FC had not provided sufficient incentives to curb and eventually reverse this tendency.

It can be seen from Table 4 that the State requires increased revenue resources to the extent of 6 to 7 per cent of the total expenditure to eliminate the primary deficit from its budget. Even if total transfers from the Centre to Gujarat were to be at its previous peak level of 20.98 per cent of total expenditure achieved in 1979-80, the primary deficit of 2 to 3 per cent of total expenditure in the State budget would still remain (Tables 4 and 5). The state has to either increase its own collection further or reduce its revenue expenditure to this extent. In comparison to the past, Gujarat State has considerably progressed in the direction of achieving fiscal discipline. But it has yet not achieved it adequately. Considering that Gujarat has achieved significant increase in its own collection on revenue account in recent years, it is difficult to raise further resources internally in the immediate future unless it is able to generate capital receipts without interest burden through privatisation of the state owned public enterprises and/or make efforts to raise the non-tax revenue. It is not easy to achieve this with depressed capital market and political controversies over the issue. The only option for the State, therefore, is to cut its less productive or non-developmental revenue expenditures like subsidies. As discussed above, it is possible for Gujarat to remove its primary deficit. The Centre must provide incentives to the States precisely for achieving cuts in their less productive revenue expenditures other than interest. The Centre has not played this role successfully so far.

VI. CONCLUDING REMARKS:

In the present paper, we have examined the fiscal performance of the Gujarat State and the role played by the Centre over the recent past. The State's fiscal performance has considerably improved particularly after 1990-91. The Centre has played a role in the process of turn-around of the Gujarat State. But the major role - about 60 per cent - is played by State's own effort in raising its revenue receipts. Currently, Gujarat's own collection on revenue account has been around 60 per cent of its total expenditure while the tax and non-tax transfers from the Centre account for only about 17 per cent. Both these sources of the State revenue have shown remarkable increase since 1990-91. The Centre had restored more stable transfer of resources to Gujarat and reversed some of the disincentives existing in the earlier period (1986-87 to 1991-92). The State also responded with a significant revenue collection on own account. The case of Gujarat is in sharp contrast to the average fiscal performance of States in India over the same period as summarised by Joshi and Little [1996]. According to them, the fiscal deficit in relative terms remained more or less constant, the primary deficit declined only marginally, most of the revenue increase came from the Centre's increased tax and non-tax transfers to States, and a stagnancy of States' own collection on revenue account continued. In all these respects Gujarat differs sharply from the average performance of States in India over the recent period. What the State still needs to achieve is a determined cut in its less productive revenue expenditures. These expenditures are, in fact, rising in the face of a relatively small but persisting primary deficit. The Centre has also failed to provide proper incentives to induce States to control their less productive revenue expenditures.

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AN EMPIRICAL ANALYSIS OF THE PERFORMANCE OF SOME INDIAN DEVELOPMENT FINANCIAL INSTITUTIONS

Abhay Pethe and Anuradha Malshe

Development Financial Institutions (DFIs) have been an integral part of India's developmental strategy. However, the economic crisis in the early nineties and the consequent paradigmatic change have perhaps necessitated a fresh look and evaluation of the performance of the DFIs which may, hence, help us to take a view about their continued relevance. In this paper we first briefly look at the origin and role of some of the DFIs and undertake the so-called Subsidy Dependence Index (SDI) analysis for a select set of DFIs, viz., IDBI, ICICI and NABARD. This SDI analysis is supplemented by another tool called Implicit Cost of Resources which is devised with the help of SDI figures. Both these parameters try to give a better estimation of the burden of subsidies borne not by the DFIs but rather by the economy at large.

I. INTRODUCTION

Ever since the development of the first Development Financial Institution in 1822 in Belgium, the primary purpose of these institutions has been to serve as a conduit for channelling credit. Over time, there has been some expansion and change in their objectives and focus. In developing countries these institutions have been assisting governmental development programmes. They have provided credit to priority sectors often at concessional terms and have aimed to achieve social goals that were believed to be either neglected by or beyond the pale of market forces. This gave rise to directed credit programmes. The interest rates charged on directed credits often deviated substantially from non-preferential credit. The large implicit subsidy had to be borne by someone. Subsidies have sometimes been covered by low cost loans from international agencies, by a charge against public spending, or by cheap re-discounts from the central bank. Otherwise, they have had to be covered by cross subsidisation, [World Bank, 1989]. The adverse impact of directed credit on DFIs* are seen all over the world and India is no exception.

In India we have had a fifty-year-old tradition of DFIs. The first such institution to be set up was Industrial Finance Corporation of India (IFCI), in 1948. Since then, a variety of such institutions have been formed catering to the needs of different segments and for assisting development process. Then, there is an equally long tradition of directed credit programmes, wherein commercial banks too have played an important role via priority sector lending, with all its attendant problems. As long as the developments on the financial scene were unidirectional, the type of questions faced by the financial institutions and the answers to them were of a different temperament and belonged to a different ideology. However, since 1990-91, there have been sweeping changes in the financial scene, basically due to financial liberalisation that was ushered in. In this type of atmosphere, the need to analyse the DFIs entails quite naturally a novel method of studying them. Jacob Yaron has proposed just such an analysis - the *Subsidy Dependence Index Analysis (SDI)* - where he specifically analyses the social justification of continued existence of DFIs in developing countries. This analysis is different from traditional process of studying the DFIs where the emphasis has been profit and loss statements. The traditional analysis falls short of evaluating the directed credit programmes of DFIs, as it ignores the subsidy element present in the cost structure of funds of the DFIs. In India, as might be the case in many other countries, the subsidies received by the DFIs have become the mainstay of their total incomes. If a certain

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* Expanded forms of abbreviations used in the paper are given in the glossary at the end.

ideology or reason justifies the continued existence of subsidies and if the DFIs must absolutely continue in the same set up of subsidy dependence and directed credit, then notion of financial viability ushered in by the liberalisation process becomes truncated, if not redundant. Whichever way one looks at things, estimation of the subsidy burden of the DFIs which is borne by the government, sometimes at the cost of crowding out other private financial institutions, becomes a must. The *Subsidy Dependence Index Analysis (SDI)* allows us to do just that. *It needs to be stressed here that the existence of subsidy dependence to whatever extent does not, prima facie, negate the rationale for the existence of DFIs.* However, the burden of proof is clearly and explicitly on the relevant decision-makers to justify - maybe through some argument based on social benefit - the prevailing magnitude of such subsidy. Clearly, an evaluation of this nature must presume an estimation of subsidy dependence as an essential prerequisite. Thus, although subsidy dependence of DFIs is not the only problem plaguing their functioning as such, it is chosen as it is most pertinent not only from economic but also from social point of view. We now turn to providing a brief and selective overview with reference to some of the Indian DFIs.

2. BRIEF AND SELECTIVE OVERVIEW OF DEVELOPMENT BANKING IN INDIA

In this section, we look very briefly at the history and general functions of certain DFIs, like Industrial Development Bank of India, Industrial Credit and Investment Corporation of India, and NABARD [for greater details see Salvi, 1999, or Malshe, 1998]. Historically speaking, the idea of establishing special institutions for the provision of finance for industry was put forth in strong terms, as far back as in 1931, by the Central Banking Enquiry Committee. The Committee recommended the creation of Provincial Industrial Credit Corporation and an all-India institution for the purpose of meeting the financial requirements of industries of regional and national importance. It was in pursuance of the suggestions of the General Purposes Subcommittee, appointed by the Department of Planning and Development of the Central Government, that the question of adequate arrangements for the provision of industrial finance was examined by the finance department in consultation with the Reserve Bank of India in 1945. The study proceeded on the basis that specialised institutions should be set up at both, the all-India and regional levels. It also indicated fairly elaborately the respective fields of operations of the all-India and the regional institutions. On account of the constitutional changes that took place, legislation for the establishment of the Industrial Finance Corporation (IFCI) was passed only in February 1948. The setting up of IFCI in 1948 marked the beginning of the era of development banking in India [Khan, 1985].

Alongside the establishment of special institutions, efforts were also made to accelerate the growth of other financial institutions and to mould their structure and policies in the interest of industrial development. Thus, commercial banks too were introduced to term lending and underwriting of industrial securities and were required through credit control measures to direct an increasing proportion of their advances into industry. To supplement these efforts, the life insurance companies which were amalgamated into a state owned institution, now playing a dominant role in the industrial securities market and in the underwriting of new industrial issues, were also introduced in this direction of development. The characteristics of these special institutions - which distinguish them from the conventional ones - are:

1. The operations of the special institutions are restricted to the provision of developmental finance, i.e. finance for the new real investment, generally investment in fixed assets. For this reason, the term, development bank, often used in current economic literature to describe them, seems very appropriate. In contrast, a good deal - perhaps the greater

part - of the financing operations of the conventional institutions is not related directly to new real investment and seems mainly to provide liquidity to investment made earlier.

2. Although special institutions have been required to act on business principles, they have also been charged with duty to pay due regard to public interest. Thus, broad economic and social considerations enter, more or less, directly into decisions of the special institutions. These institutions are expected to work in complete harmony with official plans, and their criteria for selecting projects for assistance have to take into account the broad objectives of national development and must not be based simply on the narrow considerations of commercial profit or loss.
3. Special institutions are expected not to compete with the normal channels of finance. Essentially, their role is that of gap-fillers. They are frequently required and, in any case, always expected to satisfy themselves that the finance required from them cannot be had from any other source on terms considered reasonable [Gupta, 1969].

Some of the DFIs established in the country were: the Industrial Finance Corporation of India (IFCI) which is the first DFI and was established in 1948, and the Industrial Credit and Investment Corporation of India, Ltd., which was set up in 1955 and provides long and medium term assistance in the form of loans or equity participation for the creation, expansion and modernisation of individual enterprises. The Life Insurance Corporation of India was set up in 1956, the Unit Trust of India in 1964, the Industrial Development Bank of India in 1964, the General Insurance Corporation of India in 1971, the Export-Import Bank of India in 1982. Further, there are State Financial Corporations (SFCs) for each state which operate at the state level. With the emerging new priorities of the country with changing development needs of expansion of infrastructure to support further growth, the Infrastructure Development Finance Company (IDFC) was set up in 1997-98, to catalyze private capital flows for infrastructure finance on a commercially sound basis in five key areas, viz., power, telecommunications, ports, roads and urban finance. It was set up by the Government of India and the Reserve Bank of India with the State Bank, IDBI, IFCI, ICICI, UTI and HDFC as co-promoters, besides certain foreign financial institutions. Let us now turn to three of the DFIs - ICICI, IDBI and NABARD - in some detail. Although IFCI was the first to be set up, due to paucity of data we shall not consider it here.

2.1 Industrial Credit and Investment Corporation of India (ICICI)

The central objective of ICICI was to encourage and assist industrial investment in the private sector. The International Bank for Reconstruction and Development (IBRD) played an important role in its formation. The World Bank had initially considered utilising the IFCI as the agency for providing foreign exchange assistance to industrial concerns in India. After this idea was given up and on the recommendations of mission of the World Bank, a privately owned and operated development bank to finance expansion and modernisation of private industry in the form of ICICI was launched. Having accepted 'mixed economy' as the basic economic pattern, the Government of India came forward to encourage the venture by providing an interest-free loan. To enable participation by foreign institutions, the ICICI was registered as a public limited company on 5 January 1955 [Khan, 1985]. In view of the fact that ICICI is a wholly privately owned development bank and is in no way responsible to the Parliament for its activities, it has a greater degree of independence and flexibility in its operations. The many statutory requirements in the case of IFCI are not to be found in the case of ICICI. For instance, under its statute, ICICI has no shackles regarding the

minimum margin to be maintained, type of security to be accepted, and so on. Unlike IFCI, ICICI has no restrictions on the minimum and maximum amounts of assistance it can give to industrial concerns. It can provide this assistance irrespective of their size and period of loan [Saksena, 1970]. The type of assistance and scope of activities of ICICI are, more or less, similar to those of the IFCI. However, till a few years back, it was the only institution which was providing foreign currency loans and even now its foreign currency loans business is much greater than that of other financial institutions. It was one of the earliest institutions to start merchant banking division; it has developed the field of lease finance and investment sales; it has played an important role in setting up institutions, such as Over the Counter Exchange, Technology Development Corporation of India, Shipping Credit and Investment Corporation of India (SCICI), Credit Rating and Investment Services of India, Ltd. (CRISIL), and venture capital funds, through which it provides a variety of financial services [Bhole, 1993]. The ICICI has been established for the purpose of assisting industrial enterprises in the private sector of industry in India, in general, by assisting in the creation, expansion and modernisation of such enterprises, encouraging and promoting the participation of private capital, both internal and external, in ownership of industrial investment and the expansion of investment markets, and in particular, by (a) providing finance in the form of medium term loans or equity participation, (b) sponsoring and underwriting new issues of securities, (c) guaranteeing loans from other private investment sources, (d) making funds available for re-investment as rapidly as prudent, and (e) furnishing managerial, technical and administrative advice and assisting in obtaining managerial, technical and administrative services to Indian industry [Khan, 1985]. Its resources are in the form of share capital, initial interest free loan by the Government of India, advance in foreign currency by the World Bank, rupee loan by IDBI, borrowings from the RBI, lines of credit from the World Bank, bond issues in India and foreign capital markets, issues of shares to Indian public and reserves [Bhole, 1993]. It entered the capital market for the first time in 1973 by issuing bonds of Swiss Franks in European capital market. It has expanded its rupee resources by increasing its capital base by rights issues and by the issue of debentures to public [Khan, 1985]. ICICI does not generally provide assistance to the agricultural sector. ICICI does not normally make general working capital loans, which are typically provided by commercial banks. ICICI's primary activity is providing project financing to private industrial enterprises in the form of rupee and foreign currency loans, underwriting and direct subscription to issues of shares and debentures, and guarantees to suppliers of equipment and foreign lenders. In response to the liberalisation of the Indian economy in the early 1990s, ICICI has entered into new areas of business through its subsidiaries, such as commercial banking and asset management, and expanded its existing business, such as investment banking. In addition ICICI has diversified its own range of activities into several fee and commission based services, such as debenture trusteeship, custodial services, advisory services, and corporate risk management services [ICICI, 1996].

2.2 *Industrial Development Bank of India (IDBI)*

It was set up as a wholly owned subsidiary of the Reserve Bank of India in July 1964 by merging the Industrial Refinance Corporation (IRC) which in turn was set up by the government earlier in June 1958. In February 1976, IDBI was delinked from the Reserve Bank and since then it has become a separate and independent entity wholly owned by the government. It is now the central or apex institution in the field of industrial finance. It functions as a development finance agency in its own right, in addition to its work of co-ordinating, supplementing and monitoring the operations of other term lending institutions in the

country. Apart from providing direct assistance of the types supplied by IFCI and ICICI, it provides indirect assistance in the form of discounting/ re-discounting long term bills and promissory notes, refinancing of loans given by State Financial Corporations, commercial banks, and so on, and subscribing to resources of notified financial institutions, such as SFCs, ICICI, Industrial Reconstruction Bank of India (IRBI), and so on. At the end of March 1990, there were 869 primary lending institutions which were eligible for refinancing facilities of the IDBI. It also takes up various promotional activities, such as balanced development of regions, entrepreneurship development, technology development, and so on. The resources of IDBI are, more or less, similar to those of IFCI [Bhole, 1993].

2.2.1 Resources of IDBI

'The central government may after due appropriation made by the Parliament by law in this regard, advance to the Development Bank-

(a) An interest free loan of ten crores of rupees repayable in fifteen equal annual instalments, commencing on the expiry of a period of fifteen years from the date of the receipt of the loan; and

(b) Such further sums of money by way of loan on such terms and conditions as may be agreed upon provided that the central government may, on a request being made to it by the Development Bank, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable under clause (a).

The Development Bank may, for the purpose of carrying out its functions under this Act-

(a) issue and sell bonds and debentures with or without the guarantee of the central government;

(b) borrow money from the Reserve Bank

(i) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest money according to law in existence at the time in India,

(ii) against bills of exchange or promissory notes arising out of bonafide commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of the borrowing,

(iii) out of National Industrial Credit (Long Term Operations) Fund established under Section 46 C of the Reserve Bank of India Act, 1934, for any of the purposes specified in that section;

(c) borrow money from such other authority, organisation or institution in India as be generally or specially approved by the central government; and

(d) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit on such terms as may generally or specially be approved by the Reserve Bank'.

'The central government may, on a request being made to it by the Development Bank, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government' (IDBI Act).

Besides setting up organisations for technical consultancy and entrepreneurship development, IDBI has had a major role in setting up of the Biotech Consortium of India, Ltd. Since capital market is of immense importance in industrial development, IDBI took a lead role in setting up of several institutions for its healthy development. These are Stock Holding Corporation of India, Ltd. (SHCL), Over the Counter Exchange of India

(OTCEI), Securities and Exchange Board of India (SEBI), National Stock Exchange of India, Ltd. (NSEIL), Credit Analysis and Research, Ltd. (CARE) and Investor Services of India, Ltd (ISIL). In October 1994, the IDBI Act was amended to enable IDBI to restructure its Board of Directors and attain greater operational flexibility. Consequently, IDBI made its first public issue of equity in July 1995, the largest ever in the Indian capital market [IDBI, 1994-95].

2.3 National Bank for Agriculture and Rural Development (NABARD)

The establishment of NABARD was the outcome of the acceptance of the recommendations in this behalf contained in the *Interim Report of the Committee to Review Arrangement for Institutional Credit for Agricultural Development* constituted by the Reserve Bank in consultation with the central government in 1979. The bill for setting up the institution was passed by the Parliament in December 1981 and the NABARD came into existence on July 12, 1982. The Committee, which recommended the establishment of the Bank, envisaged that the new apex bank would be an organisational device for providing undivided attention, forceful direction and pointed focus to the credit problems arising out of the integrated approach to rural development. The Committee recommended that the new bank would take over from the Reserve Bank the overseeing of entire rural credit system, including credit for artisans and village industries, and the statutory inspection of co-operative banks and Regional Rural Banks (RRBs) on an agency basis, the Reserve Bank continuing to maintain its essential controls [Rao, 1986].

The functions of NABARD are as follows:

1. Development policy, planning and operational matters relating to credit for agriculture, allied activities, rural artisans and industries and other rural developmental activities;
2. Training, research and consultancy relating to credit for agricultural and rural development;
3. Refinance - short, medium and long term - to the co-operatives and Regional Rural Banks, including co-operative marketing and distribution;
4. Refinance to commercial banks against term lending - medium and long term - and short term accommodation for special purposes;
5. Direct lending singly or through consortium arrangements in special cases;
6. Co-ordination and monitoring of agricultural and rural lending activities with a view to tying them up with extension and planned development activities in rural sector;
7. Inspection of co-operative banks and Regional Rural Banks; and
8. Advice and guidance to state governments, federations of co-operatives, etc., in regard to the co-operative movement, in close collaboration with the Reserve Bank and central government.

2.3.1 Resources of NABARD 'As at present the funds should be raised through borrowings through the RBI (National Agricultural Credit (Long-Term Operations) Fund) and Government of India, and flotation of bonds by the new Bank. As regards the deposits as a source of funds, there should be an enabling provision for NABARD to receive deposits from State Cooperative Bank (SCBs) and State Land Development (SLDBs) as also other deposits such as those accruing incidentally in the business of the new Bank. Regarding the funds required for providing short term working capital loans to rural production, marketing and distribution in the agricultural and rural industrial sector, NABARD has to depend largely on the borrowings from the RBI which should fix the aggregate credit limits in favour of the new Bank for these purposes in favour of present practice of fixing separate credit limit for each of the SCBs/ Overseas Corporate Bodies (OCBs), RRBs and commercial banks. Funds also

should be made available on similar basis, from the RBI out of National Agricultural Credit (NAC) (Stabilisation) Fund for relief in times of natural calamity and from out of NAC Long Term Operations (LTO) Fund for granting medium term loans to SCBs/OCBs, and share capital loans to state governments. NABARD should also have access to National Industrial Credit (Long Term Operations Fund) for facilitating block or composite loans to rural industries' (NABARD Act, 1981). As in the case of IDBI, there is no stipulation of any borrowing limit for NABARD.

'The National Bank may for the purpose of carrying out its functions under this Act -

(a) issue and sell bonds and debentures carrying interest, which bonds and debentures shall be guaranteed by the central government as to the repayment of principal and payment of interest at such rates as may be fixed by the central government with the Reserve Bank at the time the bonds or debentures are issued;

(b) borrow money from the Reserve Bank repayable on demand or on the expiry of fixed periods not exceeding eighteen months from the date of making of the loan or advance, on such terms and conditions, including the terms to security and purpose, as may be specified by the Reserve Bank;

(c) borrow money from the central government and from any other authority or organisation or institution approved by the government on such terms and conditions as may be agreed upon;

(d) accept from the central government, state government, a local authority, a state land development bank, a state co-operative bank, a scheduled bank or any person approved by the central government in this behalf, deposits repayable after the expiry of a period which shall not be in any case less than twelve months from the making of such deposit and on such terms as the National Bank may, with the prior approval of the Reserve Bank fix; and

(e) receive gifts, grants, donations or benefactions from government or any other source.

(1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973, or any other law for the time being in force relating to foreign exchange, the National Bank may borrow, with the previous approval of the central government and in consultation with the Reserve Bank, foreign currency from any other bank or financial institutions in India or elsewhere.

(2) The central government may guarantee loans by the National Bank under sub-section (1) as to the repayment of principal and the payment of interest thereon and other incidental charges' (NABARD Act, 1981).

Having briefly looked at the three DFIs of our concern in this paper let us now turn to the concept of Subsidy Dependence Index, its computation and its relevance.

3. What is Subsidy Dependence Index

The SDI aims at providing a public interest analysis of a DFI's financial performance and subsidy dependence. This type of analysis involves taking full account of the overall social costs entailed on operating a DFI, including the full value of all subsidies received by the institution. The SDI makes explicit the subsidy needed to keep the institution afloat, much of which is not reflected in conventional accounting reporting. The SDI is instrumental in:

- placing the total amount of subsidies received by a DFI in the context of its activity level, represented by interest earned on its portfolio (similar to calculations of effective protection, domestic resource cost or job creation cost);
- tracking a DFI's subsidy dependence over time;

comparing the subsidy dependence of a DFI with that of other DFIs providing similar services to similar clientele.

Conventional accounting practices measure the cost of funds priced at their actual cost. The opportunity cost of a DFI's borrowed funds, that is, the cost the DFI would have to pay for its funds if access to concessional funds was eliminated, is not taken into account. The SDI calculation assumes that the volume of the DFI's loan portfolio remains unchanged. Thus, if a central bank loans to a DFI at 2 per cent, conventional accounting practices list the cost of the loan at 2 per cent per annum. However, if the cost of alternative non-concessional funds is 12 per cent per annum, then the SDI takes into consideration the 10 per cent difference on those funds and identifies this subsidy received by the DFI. The rationale is that, if the subsidised DFI paid only 2 per cent per annum on central bank re-discounting facilities, instead of the prevailing market deposit rate of 12 per cent per annum, the accounting profit and the financial ratios measuring the DFI's profitability would not convey that such ratios were only obtained due to the significant subsidy embodied in the cheap central bank re-discounting facilities. Providing a DFI with concessional funds is the most common method of subsidisation, yet calculating the value of subsidy implicit in the DFI's concessionally borrowed funds requires information not included in the DFI's financial statements [Yaron, 1992].

In contrast to the profit maximiser, who does not differentiate between profit that is subsidy dependent, as long as continued subsidisation is ensured, and profit that is fully subsidy-independent, subsidy dependence is crucial to DFI's performance assessment. The social cost of DFI's operations, of which subsidy constitutes a significant share, is - as already noted - essential to determine the social justification for their existence and continued operation, because DFIs are generally public or quasi-public institutions.

The financial self-sustainability of a DFI is achieved when the return on equity, net of any subsidy received, equals or exceeds the opportunity cost of funds. This assumes a profit maximiser's approach, whereby funds will be diverted to an alternative use when a higher return can be obtained elsewhere. Subsidy dependence is the inverse of self-sustainability.

The most common subsidies provided to DFIs have been

1. interest rate differences between the market deposit interest rate and rate paid on concessional borrowed funds;
2. assumption by the state of risk of the foreign exchange losses on foreign currency-denominated loans;
3. obligatory deposits of other banks in a DFI at a below-market rate;
4. direct reimbursement of some or all operating costs incurred by a DFI;
5. reserve requirement and forced investment exemptions for deposit accepting DFIs;
6. direct financial transfers; and
7. tax exemption.

The Subsidy Dependence Index (SDI) assesses and quantifies subsidy dependence. Its assessment and calculation require the application of certain procedures as well as judgement. The SDI is a ratio that measures the percentage increase in the average on-lending interest rate required to compensate a DFI for the elimination of subsidies in a given year while keeping its return on equity equal to the approximate non-concessional borrowing cost. The index assumes, for simplicity, that an increase in the on-lending interest rate is the only change made to compensate for loss of subsidy.

3.1 Computation of the Subsidy Dependence Index

The amount of the annual subsidy received by a DFI is defined as:

$$S = A (m-c) + [(E^* m) - P] + K$$

Where: S = Annual subsidy received by the DFI.
A = DFI's concessional borrowed funds outstanding (annual average).
m = Interest rate the DFI would be assumed to pay for borrowed funds if access to borrowed concessional funds were eliminated.
c = Weighted average annual concessional rate of interest actually paid by the DFI on its average annual concessional borrowed funds outstanding.
E = Average annual equity.
P = Reported annual profit (before tax) (adjusted when necessary, for loan loss provisions, inflation, etc.). And
K = the sum of all other annual subsidies received by the DFI (such as partial or complete coverage of the DFI's operational costs by the state).

The financial ratio that is suggested as subsidy dependence index (SDI) is:

$$SDI = S / LP^*i$$

where: SDI = Index of subsidy dependence of DFI,
S = Annual subsidy received by the DFI,
LP = Average annual outstanding loan portfolio of the DFI, and
i = Weighted average on-lending interest rate received on the loan portfolio of the DFI.

SDI of zero means that a DFI achieved full self-sustainability. An SDI of 100 per cent indicates that a doubling of the average on-lending interest rate is required, if subsidies are to be eliminated. Similarly, an SDI of 200 per cent indicates that a three-fold increase in the on-lending interest rate is required, to compensate for the subsidy elimination. A negative SDI indicates that a DFI not only fully achieved self-sustainability, but that its annual profits, minus its capital (equity) charged at the approximate market interest rate, exceeded the total annual value of subsidies, if subsidies were received by the DFI. A negative SDI also implies that the DFI could have lowered its average on-lending interest rate while simultaneously eliminating any subsidies received in the same year [Yaron, 1992].

While applying this analysis to Indian DFIs some changes were made in the original formula. Yaron's version is:

$$S = A (m-c) + [(E^* m) - P] + K$$

Our changed version is:

$$S = A (m-c) - (P- K)$$

where: S = Annual subsidy received by the DFI.
A = Total funds that are generated by the DFI. It comprises of all kinds of borrowings + capital.
c = average annual concessional rate of interest actually paid on its borrowed funds by the DFI. Only a simple average is calculated. *'c' is worked out as total interest paid / total resources or funds borrowed.*
P = Annual profit before tax.
K = Sum of any other subsidy received by the DFI. (In case of IDBI, interest free loans comprise subsidy, in case of NABARD it is gifts and grants. There was no such explicit subsidy item found in the balance sheets of ICICI). And
m = interest rate the DFI would be assumed to pay for borrowed funds, if access to borrowed concessional funds were eliminated. So this denotes the market rate of interest that all other borrowers (excluding the subsidy receiving DFI, but including other financial institutions) are paying, as they do not have access to concessional funds.

Yaron [1992, p. 18] has suggested, 'For example, treasury bill rates (adequate risk premia) could serve as a reference rate for non-concessionally borrowed funds. Reference rates could also be based upon bank commercial paper or certificates of deposit with maturities of six months to one year'. However, in India we have had a regime of administered interest rates, whereby historically, the treasury bill (T-bill) rates were abysmally low. Such low rates - way below what could have prevailed in the market - cannot be ideal representative market rates. While it is true that with the abolishing of ad-hocs and on tap T-bills, much progress has been made towards development of primary and secondary markets for T-bills in India, we have a long way to go before a truly market determined /accepted reference rate may come to prevail [Pethe and Chakrabarty, 1999]. In the absence of such a representative rate, fixed deposit rate of reputed private company, for rupees one lakh and above, was considered.

The financial ratio that is suggested as a Subsidy Dependence Index (SDI) is:

SDI= S/ LP * i

where: SDI = Index of subsidy dependence of DFI.

S = Annual subsidy received by the DFI.

LP = Actual advances made by the DFI in the year. And

i = average interest rate received by the DFI on the advances made; 'i' is worked out as total interest received/ total loans actually made.

In the formula that is applied to the Indian DFI, (E * m) is not considered. In this changed version, 'A' denotes total amount of borrowed funds. Here capital is pooled alongside actual funds borrowed, so 'E', that denotes equity, is dropped, as capital is taken to be a substitute for equity and is considered while compiling 'A'.

Total borrowings of:

• *IDBI: capital + bonds and debentures + deposits + (total borrowings - interestfree loans)*

• *NABARD: capital + NRC (LTO) Funds + NRC STAB Funds + deposits + bonds and debentures + borrowings + SDC-V fund + Kfw + ARDR scheme*

Where:

NRC Funds = National Rural Credit,

LTO = long term operations,

STAB = stabilization,

SDC-V = Swiss Development Co-operation - V project fund

• *ICICI : shareholders' funds + loan funds*

When computations of SDI are performed, if they are not adjusted for inflation, the resultant SDI might lose some of its original significance. Yaron had, thus, suggested that explicit care be taken while defining 'm', i.e., market rate of interest. As he puts it, 'In highly inflationary economies, a DFI may receive a form of implicit subsidy, if legal interest rate ceilings that are significantly below inflation prevailing in the country. If there is a legal ceiling for the interest rates charged by commercial banks or other entities from which the DFI may borrow then, even if this interest rate is the one that the DFI would have to pay in the absence of concessional borrowing, an inflation subsidy would still be implicit. This is because the prevailing interest rate does not adequately reflect the cost of voluntary savings, as it is distorted significantly by legal ceilings, as the DFI must only pay the legal ceiling rate (significantly below the inflation rate) to the creditor. Thus, in these rare cases of long-prevailing savings in highly inflationary economies without indexation, at rates below inflation, and to account for the subsidy provided by the deposit rate ceiling, the inflation rate plus a premium of a few points to cover the estimated administrative costs, should be used as a better

proxy for the approximate market deposit rate the DFI would have to pay in the absence of an interest rate ceiling' [Yaron, 1992]. He further adds that 'Sometimes there will be a need to adjust a DFI's financial statements for inflation. This need arises because in a highly inflationary environment, a DFI's unadjusted financial statements can be deceptive. To the extent that the DFI's financial statements are meaningless or misleading, the SDI calculated on the basis of unadjusted statements, when inflation adjustment is needed, will also render meaningless or misleading information' [Yaron, 1992].

When the SDI analysis is applied to India, the following points need to be made clear.

- In India, there are 64 economic indicators available, any one of which could be chosen as a deflator. It is very difficult to choose an appropriate indicator to act as deflator in the computation of SDI, since we are concerned here with neither a consumer good nor an industrial commodity.
- In India, administered interest rate regime has prevailed for a long time, even today there is some ceiling. The monetary authority prescribes the ceilings. As advocated by Yaron, 'inflation rate + a premium of a few points to cover the administrative costs' cannot be used as proxy for market rate of interest. First, it is very difficult to determine an average administrative cost which could be uniformly applied to all DFIs. Second, the inflation rate takes into account WPI - weighted price index - which is composed of a variety of commodities, many of which have administered prices. So finding inflation implicit becomes complex and ambiguous.
- Ours is a developing economy. The rates of inflation are to be assumed, keeping in mind the state of development and phase of development, economic ills, also socio-political goals and policies. Finally, India is not hyper-inflationary. The state of Indian economy is different from Latin American economies, where galloping or runaway inflation is evident.

Thus, we believe we are justified in using, the fixed deposit rates of a private company, for the sum of one lakh and above, as a proxy for market rate of interest.

The SDI analysis was undertaken for IDBI, ICICI and NABARD for a period from 1984-85 till 1995-96. The findings are as below:

Table 1. SDIs for IDBI, ICICI and NABARD
(percentages)

Year (1)	IDBI (2)	ICICI (3)	NABARD (4)
1984-85	113	69	204
1985-86	105	67	251
1986-87	94	n.a.	276
1987-88	81	42	288
1988-89	138	64	469
1989-90	79	55	335
1990-91	69	51	340
1991-92	73	52	421
1992-93	55	37	350
1993-94	53	42	411
1994-95	54	50	250
1995-96	47	50	173

Notes: 1. n.a. = not available.
2. For details, see appendix tables at the end.
Source: Actual data used for the exercise are from the annual reports of the institutions for the respective years.

The SDI analysis for IDBI, NABARD and ICICI, when undertaken for the time-period from 1984-85, highlights following facts:

- SDI figures for ICICI are the lowest, amongst the three institutions. The maximum is 67 per cent and minimum is 37 per cent. NABARD has the highest SDI figures. In 1988-89, it is an astronomical high of 469 per cent. IDBI falls between these two DFIs. In fact, since 1990-91, the SDI figures for IDBI are showing a decreasing trend. The lowest is 47 per cent in 1995-96.
- There are differences even in the concessional rates of interest that each institution had to pay. Again NABARD has enjoyed maximum concessions. In 1988-89 the rate was as low as 1.89 per cent. It never went

beyond 3.21 per cent. And the concessionality is manifest in the high SDI figures, even after making allowances for NABARD being a refinancing institution and so the ultimate rate being higher.

The concessional rates of interest that IDBI and ICICI had to pay are comparable. For IDBI, the range is 6.44 per cent to 9.73 per cent, while for ICICI, it is 7.18 per cent to 9.91 per cent. However, in the case of IDBI, the interest rate is steadily increasing. For ICICI, also the rate of interest is rising but not as steadily. In 1987-88 it was 9.06 per cent, but dipped slightly to 7.83 per cent in 1988-89 and then picked up again to become 8.40 per cent in 1989-90. Once more it came down slightly in 1991-92 and then again rose steadily till 1995-96.

Same is the case of on-lending interest rate. It is the lowest in case of NABARD. It ranges between 2.85 per cent and 6.78 per cent. ICICI's rates are higher than those for IDBI. The range for ICICI is 10.66 per cent to 14.10 per cent and for IDBI it is 7.90 per cent to 13.44 per cent. (Rates of interest were calculated from the balance sheets for respective years. For greater details, see Malshe [1998]).

Very low borrowing and lending rates seem to be a characteristic feature of these three institutions. It is clearly manifest in their high SDI figures. This will certainly tell on their commercial viability and profitability. The general trend of subsidy dependence has not much varied over time. In conclusion, it can be said that, more or less, the style of functioning of these DFIs has not changed much. They still seem to be subsidy dependent. They still get concessional loans. Low borrowing rates enable them to enjoy comfortable spreads. In a nutshell, the opportunity cost of these funds is still very high, since the on-lending rate and, ultimately, the interest earnings are not so high.

4. IMPLICIT COST OF RESOURCES

The SDI analysis helps yield insights into functioning of the DFIs - particularly directed credit programmes and the social cost of maintaining the DFIs. Whether the subsidy received by the DFIs is justified or not is wholly another question and completely outside the purview of the present study, since it entails social as well political connotations. But one more parameter which helps measure the cost of resources of the DFIs is the 'implicit cost of resources'. This kind of analysis becomes important, especially, in the case of the high subsidy receiving DFIs. Here, interest rate is taken as comprising all the cost of resources. In actual fact, interest rate is not the sole cost of funds, but it is the proxy variable for all economic costs that the institutions bear while raising resources. However, interest rate is a definable and tangible parameter that can help derive implicit cost of resources. The rationale for undertaking this analysis is that: the rate of interest that the DFIs are paying for the funds borrowed is the explicit cost of resources, as subsidy is subsumed in this rate of interest. As a consequence, this is not the true rate of interest nor does it denote true cost of resources. Since the DFIs are operating with a very high subsidy component, it is assumed that this subsidy plus the actual rate of interest that they pay will render the true cost of funds. This can be called 'implicit cost of resources'. The Subsidy Dependence Index Analysis, along with Implicit Cost of Resources, accurately underlines the social burden of maintaining DFIs.

The method used for this is very simple. While computing the SDI, two different costs or two different types of rates of interest are taken into account. One is 'm', i.e., the interest rate the DFI would be assumed to pay if access to concessional funds were eliminated. In fact, this translates as market rate of interest that all other financial institutions are paying. And the other is 'c', i.e., the average annual concessional rate of interest actually paid by the DFI on its borrowed funds. The rate of interest at which the DFIs actually borrowed money, i.e., 'c' is taken and to that is added the component of subsidy received for that particular year by that particular institution. The

amount of subsidy received is derived from the Subsidy Dependence Index, for that institution for that year.

The method for computing subsidy received is as follows: As an example, consider the case of NABARD for the year 1984-85, the SDI is 204 per cent and the rate of interest at which funds are borrowed is 3.21 per cent. The subsidy is 204 per cent of 3.21, i.e., 6.54 percentage points and 3.21 + 6.54 = 9.75. Thus, 9.75 per cent is the actual rate of interest that NABARD would have had to pay in the absence of subsidy. So it is termed as the *implicit cost of resources.* This is computed for all the three institutions, for all the years and then their spreads are recalculated using the revised rate of interest.

TABLE 2. Implicit Cost of Resources for IDBI, ICICI and NABARD

(Percentages)

Year (1)	IDBI (2)	ICICI (3)	NABARD (4)
1984-85	13.71	12.13	9.75
1985-86	13.71	12.19	11.09
1986-87	13.46	N.A.	11.16
1987-88	13.33	12.86	11.25
1988-89	13.23	12.84	10.75
1989-90	13.47	13.02	10.78
1990-91	13.48	12.83	10.86
1991-92	13.39	12.31	13.33
1992-93	13.40	12.54	11.11
1993-94	14.36	12.87	11.49
1994-95	14.21	14.01	7.24
1995-96	14.30	14.86	7.94

Note: For details, see Appendix Tables.

- The implicit cost for IDBI has remained, more or less, the same for the entire period under consideration, except for the last three years where it has increased by one percentage point only.
- In case of ICICI also, the same observation is true, i.e., there is, by and large, no fluctuations for the entire period. Only in the last two years it shows a marginal rise.
- In case of NABARD, the general range is 7.24 per cent to 13.33 per cent. Whatever variations there are, are within this band. In fact, in contrast to the other two institutions, namely IDBI and ICICI, the cost seems to have come down substantially in the last two years. It is 7.24 per cent and 7.94 per cent in 1994-95 and 1995-96, respectively.

TABLE 3. Revised Spreads Based on Implicit Cost of Resources

(Percentages)

Year (1)	IDBI (2)	ICICI (3)	NABARD (4)
1984-85	-4.91	-1.41	-3.20
1985-86	-4.59	-1.53	-5.90
1986-87	-4.01	N. A.	-6.37
1987-88	-3.14	0.25	-6.78
1988-89	-5.33	-2.16	-7.90
1989-90	-1.57	-1.67	-7.10
1990-91	-2.59	-0.95	-6.74
1991-92	-2.40	1.55	-9.92
1992-93	-1.22	2.52	-6.74
1993-94	-1.61	0.38	-7.47
1994-95	-1.56	-0.25	-0.86
1995-96	-0.86	-0.76	-1.16

Notes: 'Spread' means the difference between the rate of interest received and the rate of interest paid. Details are given in Appendix Tables.

- For NABARD and IDBI the revised spreads are negative. However in case of IDBI the absolute value shows a decreasing trend. There is no such trend seen for the first seven years for NABARD. But in the last five years it comes down, except in the year 1993-94 where it shows a marginal rise.
- For ICICI also they are negative but not for all the years under consideration. For years, 1987-88, 1991-92, 1992-93, 1993-94 the spreads are positive.

5. CONCLUSION

The SDI figures for the DFIs analysed are very high which shows that they are still a long way off from self-sustainability. Furthermore, the implicit cost of resources points out the estimated burden of subsidies that is being borne by the government, on account of DFIs. Whether this is justified or not becomes a social as well as a political issue and quite outside the purview of the present study. However, this analysis gives a magnitudinal basis for computing social costs and debating some important questions regarding the continued relevance of DFIs, which place cumbersome burden on the already strained financial authority. Of course, changing the focus of DFI operations makes them competitors with commercial banks as both hurtle towards universal banking. This is a vital area of research that we will take up another day.

GLOSSARY

ARDR	Agricultural Rural Debt Relief.
CARE	Credit Analysis and Research, Ltd.
CRISIL	Credit Rating and Investment Services of India, Ltd.
DFI	Development Financial Institutions.
HDFC	Housing Development Finance Corporation
IBRD	International Bank for Reconstruction and Development
ICICI	Industrial Credit and Investment Corporation of India
IDBI	Industrial Development Bank of India
IDFC	Infrastructure Development Finance Company
IFCI	Industrial Finance Corporation of India
IRBI	Industrial Reconstruction Bank of India
IRC	Industrial Refinance Corporation
ISIL	Investor Services of India, Ltd.
Kfw	Kreditanstalt fur wiederaufbau
LTO	Lond Term Operations
NABARD	National Bank for Agriculture and Rural Development
NAC	National Agricultural Credit
NSEIL	National Stock Exchange of India, Ltd.
OCBs	Overseas Corporate Bodies
OTCEI	Over the Counter Exchange of India
RBI	Reserve Bank of India
RRBs	Regional Rural Banks
SCBs	State Cooperative Banks
SCICI	Shipping Credit and Investment Corporation of India
SDI	Subsidy Dependence Index
SEBI	Securities and Exchange Board of India.
SFCs	State Finance Corporations
SHCL	Stock Holding Corporation of India, Ltd.
SLDBs	State Land Development Banks
UTI	Unit Trust of India

APPENDIX TABLES

A1. SDI for IDBI

Years (1)	A (2)	m (3)	c (4)	P (5)	K (6)	S (7)	LP (8)	i (9)	LP*i (10)	SDI (11)
1984-85	6,874.52	14	6.44	79.9	5.33	51,896.8	5,203.1	8.80	45,838	113
1985-86	8,389.61	14	6.69	108.11	4.66	91,224.6	6,380.76	9.12	58,221	105
1986-87	9,830.87	14	6.94	144	4.00	69,265.94	7,783.13	9.45	73,601	94
1987-88	11,775.87	14	7.37	180.09	3.33	77,897.26	9,346.22	10.19	95,291	81
1988-89	14,075.48	14	5.56	162	3.33	118,638.4	10,830.56	7.90	85,660	138
1989-90	17,141.8	14	7.53	261	2.66	110,649.1	12,467.77	11.19	139,582	79
1990-91	19,384.01	14	7.98	333.18	2.00	116,360.6	15,479.78	10.89	168,636	69
1991-92	24,291.61	14	7.74	573.86	1.33	151,492.9	18,618.25	10.99	204,757	73
1992-93	26,806.82	14	8.65	618.19	0.66	142,799.0	21,126.56	12.18	257,469	55
1993-94	28,572.25	15	9.39	795.4	0.00	159,494.9	23,509.34	12.75	299,831	53
1994-95	31,571.15	15	9.23	1031.01	0.00	181,134.5	26,146.76	12.65	330,771	54
1995-96	34,763.05	15.25	9.73	1309.93	0.00	190,582.1	30,004.73	13.44	403,438	47

Note: SDI figures are in percentage (%) terms.

A2. SDI for ICICI

Years (1)	A (2)	m (3)	c (4)	P (5)	K (6)	S (7)	LP (8)	i (9)	LP*i (10)	SDI (11)
1984-85	2,007.18	14	7.18	51.71	0.00	13,630.81	1,823.87	10.72	19,568	79
1985-86	2,509.84	14	7.30	72.94	0.00	16,736.82	2,338.66	10.66	24,950	67
1986-87	N.A.	14	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
1987-88	3,402.66	14	9.06	92.65	0.00	16,703.59	3,000.35	13.12	39,383	42
1988-89	4,221.85	14	7.83	93.7	0.00	25,941.2	3,788.48	10.68	40,467	64
1989-90	5,252.14	14	8.40	118.13	0.00	29,244.83	4,661.35	11.35	52,936	55
1990-91	6,821.38	14	8.50	164.82	0.00	37,333.5	6,130.41	11.88	72,883	51
1991-92	9,613.81	14	8.10	235.26	0.00	56,473.08	7,763.11	13.87	107,713	52
1992-93	11,389.31	14	9.16	233.6	0.00	54,838.74	9,586.85	15.07	144,488	37
1993-94	13,865.64	15	9.07	379.56	0.00	81,713.04	11,026.92	17.26	190,357	42
1994-95	16,530.04	15	9.34	454.66	0.00	93,050.94	13,356.99	13.76	183,919	50
1995-96	19,971.22	15.25	9.91	546.02	0.00	106,022.0 8	14,923.09	14.10	210,463	50

Note: SDI figures are in percentage (%) terms.

A3. SDI for NABARD

Years (1)	A (2)	m (3)	c (4)	P (5)	K (6)	S (7)	LP (8)	i (9)	LP*i (10)	SDI (11)
1984-85	5,575.3	14	3.21	184.83	6.87	59,979.53	4,480.17	6.55	29,383	204
1985-86	6,285.16	14	3.16	41.58	0.00	68,089.55	5,203.74	5.19	27,059	251
1986-87	7,110.84	14	2.97	43.68	0.00	78,388.89	5,919.55	4.79	28,377	276
1987-88	8,413.2	14	2.9	45.15	4.39	93,345.76	7,235.89	4.47	32,402	288
1988-89	9,972.82	14	1.89	36.87	31.92	120,765.9	8,993.11	2.85	25,700	469
1989-90	11,279.27	14	2.48	58.61	24.97	129,903.6	10,516.14	3.68	38,712	335
1990-91	13,241.18	14	2.47	63.45	35.78	152,643.1	10,887.86	4.12	44,838	340
1991-92	15,523.81	14	2.56	105.81	5.53	177,492.1	12,316.45	3.41	42,102	421
1992-93	16,984.41	14	2.47	77.82	4.65	195,757.1	12,790.18	4.37	55,903	350
1993-94	17,108.12	15	2.25	84.85	1.61	218,045.3	13,154.08	4.02	52,966	411
1994-95	19,073.82	15	2.07	498.35	7.8	246,133.9	15,377.15	6.38	98,146	250
1995-96	16,451.09	15.25	2.91	509.16	11.7	202,509.0	17,202.81	6.38	116,640	173

Note: SDI figures are in percentage (%) terms.

A4. Implicit Cost of Resources - IDBI

Year (1)	R/I (2)	SDI (3)	% Subsidy (4)	Re R/I (5)	Onle R/I (6)	Spread (7)	Re. Spread (8)
1984-85	6.44	113	7.27	13.71	8.8	2.36	-4.91
1985-86	6.69	105	7.02	13.71	9.12	2.43	-4.59
1986-87	6.94	94	6.52	13.46	9.45	2.51	-4.01
1987-88	7.37	81	5.96	13.33	10.19	2.82	-3.14
1988-89	5.56	138	7.67	13.23	7.9	2.34	-5.33
1989-90	7.53	79	5.94	13.47	11.9	3.66	-1.57
1990-91	7.98	69	5.50	13.48	10.89	2.91	-2.59
1991-92	7.74	73	5.65	13.39	10.99	3.25	-2.40
1992-93	8.65	55	5.75	13.40	12.18	3.53	-1.22
1993-94	9.39	53	4.97	14.36	12.75	3.36	-1.61
1994-95	9.23	54	4.98	14.21	12.65	3.42	-1.56
1995-96	9.73	47	4.57	14.30	13.44	3.71	-0.86

Notes: Re.= Revised, Onle. = Onlending Rate of interest, R/I = Rate of Interest.
Revised Rate of Interest signifies the implicit cost.

A5. Implicit Cost of Resources - ICICI

Years (1)	R/I (2)	SDI (3)	% Subsidy (4)	Re R/I (5)	Onle R/I (6)	Spread (7)	Re. Spread (8)
1984-85	7.18	69	4.95	12.13	10.72	3.54	-1.41
1985-86	7.30	67	4.81	12.19	10.66	3.36	-1.53
1986-87	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
1987-88	9.06	42	3.80	12.86	13.12	4.06	0.25
1988-89	11.83	64	5.01	12.84	10.68	2.85	-2.16
1989-90	8.4	55	4.62	13.02	11.35	2.95	-1.67
1990-91	8.5	51	4.33	12.83	11.88	3.38	-0.95
1991-92	8.1	52	4.21	12.31	13.87	5.77	1.55
1992-93	9.16	37	3.38	12.54	15.07	5.91	2.52
1993-94	9.07	42	3.80	12.87	13.26	4.19	0.38
1994-95	9.34	50	4.67	14.01	13.76	4.42	-0.25
1995-96	9.91	50	4.95	14.86	14.1	4.19	-0.76

Notes: Re.= Revised, Onle. = Onlending Rate of interest, R/I = Rate of Interest.
Revised Rate of Interest signifies the implicit cost.

A6. Implicit Cost of Resources - NABARD

Years (1)	R/I (2)	SDI (3)	% Subsidy (4)	Re R/I (5)	Onle R/I (6)	Spread (7)	Re. Spread (8)
1984-85	3.21	204	6.54	9.75	6.55	3.34	-3.20
1985-86	3.16	251	7.93	11.09	5.19	2.03	-5.90
1986-87	2.97	276	8.19	11.16	4.79	1.82	-6.37
1987-88	2.9	288	8.35	11.25	4.47	1.57	-6.78
1988-89	1.89	469	8.86	10.75	2.85	0.96	-7.90
1989-90	2.48	335	8.30	10.78	3.68	1.20	-7.10
1990-91	2.47	340	8.39	10.86	4.12	1.65	-6.74
1991-92	2.56	421	10.77	13.33	3.41	0.85	-9.92
1992-93	2.47	350	8.64	11.11	4.37	1.90	-6.74
1993-94	2.25	411	9.24	11.49	4.02	1.77	-7.47
1994-95	2.07	250	5.17	7.24	6.38	4.31	-0.86
1995-96	2.91	173	5.03	7.94	6.78	3.87	-1.16

Notes: Re.= Revised, Onle. = Onlending Rate of interest, R/I = Rate of Interest.
Revised Rate of Interest signifies the implicit cost.
In all the above tables R/I denotes the rate of interest at which funds are borrowed. 'Percentage (%)' subsidy is calculated based on SDI as explained in the paper and is in percentage (%) point terms. Revised Rate of Interest is the implicit cost of resources and revised spreads are calculated by taking into account Revised Rate of Interest and Onlending Rate of Interest.

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GRANTS-AID TO COLLEGIATE EDUCATION IN KARNATAKA: CURRENT STATUS AND POLICY ISSUES

M.R. Narayana

This paper makes a positive analysis of the current status and policy issues in the grants-in-aid to private degree and law colleges (or the GIA, in brief) in Karnataka State. The current status is described in terms of nature, scope and objectives of the GIA, trends in the size and growth of GIA and current characteristics of the colleges on the GIA (or aided colleges). The major policy issue in the current GIA is traced back to the start of national economic reforms in the country in July, 1991, especially in regard to expenditure reduction strategies for containing the deficits of the Central and State governments. And, various issues and implications, arising out of a reduction in the GIA, for the State governments, teachers, students and management of the aided colleges are examined.

I. INTRODUCTION

Education is one of the important social sectors for allocation of budgetary resources in the framework of multi-sectoral planning in Karnataka State. Total allocation for the education sector is divided between general education and technical education. Within the general education, the allocation is divided between elementary education, secondary education, university and higher education, language development and general. Next, within the university and higher education, assistance to non-government colleges and institutions is an important item for allocation of resources. And, within the resources allocated for assistance to non-government colleges and institutions, grants-in-aid to collegiate education (i.e. to private degree and law colleges under plan and non-plan expenditure) is one the most important items.

This paper makes a positive analysis of the current status of and policy issues in public financing of higher education in Karnataka State, as these are related to grants-in-aid to private degree and law colleges (or, in brief, the GIA throughout) in the State.

The current status of the GIA is analysed in terms of specific institutional and behaviour factors, as embodied in the GIA codes. In essence, the GIA code is a set of rules and regulations of the State government for payment of the GIA to eligible colleges within the State. The GIA codes comprise (a) a set of definitions including those for a college, institution and management; (b) general conditions for payments and non-payment of GIA including the affiliation requirements and nature of courses; (c) explanation of different types of GIA payable including teaching (or maintenance) grant, grant towards loss of fee income, building grants and equipment grants; and (d) guidelines and application format for different types of GIA.[1]

The major policy issues raised in this paper are related to the consequences of a reduction in the size of the GIA, as one of the proposed expenditure-reduction strategies for containing the deficit of the State government, and to the question how the colleges can cope with such a new situation of reduced State support for their expenditure needs.

To my knowledge, no systematic and published study seems to exist on the current status of and policy issues in the GIA in Karnataka State.[2] However, there is a need for such a study as it is useful for comparison of the current status of and policy issues in the GIA policy between

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Karnataka and other states in India. Such comparisons are helpful in drawing lessons for other states from Karnataka's experience and vice versa.

The rest of the paper is organised as follows. Section 2 describes the current status of the GIA policy in the State. In Section 3, major policy issues in the current GIA policy are highlighted. Section 4 concludes the paper with implications.

2. CURRENT STATUS

The current status of grant-in-aid policy in Karnataka State is described below in terms of (a) nature, scope and objectives of the GIA; (b) trends in the size and growth of the GIA in time and space; and (c) characteristics of the colleges on the GIA. These descriptions are intended to provide a factual basis for raising relevant policy issues in the subsequent section.

2.1. Nature, Scope and Objectives of the GIA Policy

In principle, the GIA may be given in different forms, namely, teaching (maintenance) grant, building grant and equipment grant. However, in practice and at present, the nature of GIA is limited to teaching grant in the form of cent per cent direct reimbursement of salary for the staff in the aided colleges. Thus, at present, by the GIA we mean only the teaching/maintenance grants to private degree colleges in Karnataka State.[3]

The GIA above is limited to privately managed degree and law colleges, affiliated to statutory universities within the State. And, within the affiliated private degree colleges, courses leading to B.A., B.Sc., and B.Com. degree and affiliated to a university are eligible for the GIA. In the case of law colleges, the three-year course leading to the award of a law degree (e.g. LL.B.) is eligible for the GIA. However, a college is eligible for the GIA only upon completing five years of working, and a course (existing or new) in such a college is eligible only upon completing five years from the year of its introduction.

The general conditions for the teaching grant include the following. First, average daily attendance in the college shall not be less than 80 pupils per term. Second, the college shall not work for less than the minimum number of days as fixed by the university to which the college is affiliated.[4]

It should be emphasised that the GIA is a discretionary grant as the State government has reserved all the rights to itself in regard to changing and interpreting the rules, and refusing or withdrawing the grant. Thus, the GIA cannot be claimed as a matter of right. For instance, since 1987-88, new colleges have been allowed to be opened on permanently non-GIA basis. Further, an important pre-condition for the GIA is the availability of funds under the concerned heads of expenditure in the State budget, i.e., 2202-03-104-1-01 for teaching/ maintenance grant under non-plan expenditure and 2202-03-104-1-02 for placing new private degree colleges on the GIA under plan expenditure.

The most important objectives of the GIA are the following:

First, the GIA policy aims at encouraging private enterprise/ management in higher education, in such a way that both public and private financing are ensured.

Second, through GIA policy, the Government can regulate the activities of private colleges (e.g., in staff recruitment, students enrolment and fixation of students' fee) in a socially desirable manner.

Third, the GIA policy aims at reducing the total cost of providing collegiate education for the State government, especially as compared to a hypothetical situation where all the colleges are

to be established and run entirely as government colleges. In the same way, it reduces the cost of production of education by the private colleges as the salary expenditure on the aided courses is reimbursed by the government.

Fourth, because of the GIA, the teaching and non-teaching staff in the aided colleges are (a) paid at par with the staff in government colleges, (b) offered attractive service conditions (e.g., job security) and benefits (e.g., retirement benefits). Thus, it is expected that private managements can attract the best of qualified and experienced staff for their colleges which, in the ultimate analysis, is a critical input for improving the quality of education in colleges.

Fifth, the GIA policy aims at reducing the cost of obtaining collegiate education by students, as compared to a situation when the GIA is absent and the private colleges work on the basis of full cost recovery from the students.

Thus, the objectives of the GIA policy include the objectives for all major agents involved in collegiate education, viz., the State government, management of private degree colleges, teachers and students in colleges.[5]

2.2. Trends in Size, Growth and Distribution of GIA

2.2.1. Pattern of Budgetary Expenditure on the Education Sector: Table 1 presents the trends in expenditure (i.e. revenue and capital) on education [(EE) = expenditure on general and technical education] in relation to total expenditure (TE), expenditure on social and economic services (ESES) and expenditure on social services (ESS) in the State for select years from 1990-91 to 1997-98.

First of all, among all expenditures in absolute terms, revenue expenditure constitutes the largest share and shows a continued rise for all the years. On the other hand, capital expenditure shows variations and distinct patterns. For instance, the size of capital expenditure in TE, ESES and ESS shows an increase from 1990-91 to 1995-96 and a decline during 1995-96 to 1996-97. Further, the capital expenditure for ESS and EE is not only negligible in size but also highly fluctuating since 1995-96. For instance, the share of capital expenditure was about 2.47 (2.14) per cent in the total ESS and about 0.54 (0.35) per cent in the total EE during 1995-96 (1997-98).

Second, of the TE, the share of ESES is considerable especially on the capital account. For instance, during 1997-98, the budgeted revenue ESES is about 67 per cent of TE on revenue account whereas capital ESES is about 98 per cent of the TE on capital account.

Third, the percentage share of ESS in TE on revenue account shows stagnation from 1990-91 through 1997-98. For instance, this percentage was 38.75 during 1990-91, 38.32 during 1995-96 and 38.65 during 1997-98. In contrast, the percentage share of ESS in total expenditure on capital account shows a continued increase over the year. Thus, this percentage was 2.69 during 1990-91, 6.64 during 1995-96 and 10.14 during 1997-98. Further, the percentage share of ESS in ESES shows annual fluctuations in revenue account whereas in capital account the percentage share shows a continuous increase. Nevertheless, ESS has remained a major component of revenue expenditure in the ESES. And, interestingly, the share of ESS on capital account in both, TE and ESES, is almost the same for all the years.

Fourth, EE is mainly on revenue account in TE, ESES and in ESS. During 1997-98, in revenue (capital) account, EE as a percentage of (a) TE is about 18 (0.76); (b) ESES is about 28 (0.77); and (c) ESS is about 47 (7.5). However, these percentages vary between years indicating a fluctuating trend over the years. Further, as

Table 1. Select Budgetary Expenditure Pattern in Karnataka State: 1990-91 to 1997-98

Year	Total Expenditure (TE): Rs Crore		Expenditure on Social and Economic Services (ESES): Rs Crore		Expenditure on Social Services (ESS): Rs Crore		Expenditure on Education (EE): Rs Crore		ESES as Percentage of TE		ESS as Percentage of TE		ESS as Percentage of ESES		EE as Percentage of TE		EE as Percentage of ESES		EE as Percentage of ESS	
	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital	Revenue	Capital
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
1990-91	3,971.09	854.8	2,696.22	843.42	1,538.92	17.6	780.78	1.72	67.95	98.26	38.75	2.69	57.03	2.74	19.66	0.26	28.94	0.27	50.74	9.77
1993-94	6,208.25	1,187.87	4,179.4	1,164.88	2,378.5	52.06	1,241.86	9.06	67.32	98.06	38.31	4.38	56.91	4.47	20.00	0.76	29.71	0.78	52.21	17.40
1995-96	8,481.18	1,240.45	5,695.81	1,215.75	3,250.3	82.33	1,652.76	8.92	67.16	98.01	38.32	6.64	57.06	6.77	19.49	0.72	29.02	0.73	50.85	10.83
1996-97 (R.E.)	10,756.1	908.97	7,355.39	886.74	3,857.08	62.82	1,889.06	4.47	68.38	97.55	35.88	6.91	52.44	7.08	17.56	0.49	25.88	0.50	48.98	7.12
1997-98 (B.E.)	11,965.5	996.85	7,818.64	980.84	4,624.34	101.06	2,159.5	7.56	65.34	98.39	38.65	10.14	59.15	10.30	18.05	0.76	27.62	0.77	46.70	7.48

Notes: (1) R.E. refers to revised estimate and B.E. to budget estimate.

(2) All figures are at current prices.

(3) Total expenditure includes General Services, Social Services and Economic Services.

(4) Expenditure on capital account refers to expenditure outside the revenue account.

(5) Expenditure on education under Revenue Account includes General and Technical Education; while Capital Account, for lack of separate data in Karnataka Budget Documents, includes General, Technical Education, Arts and Culture.

Source: Complied and Computed from various issues of *Karnataka Budget Documents*.

compared to 1995-96, the share of EE, on both revenue and capital account, is observed to have declined in TE, ESES and ESS. This decline is the most important aspect of the recent pattern of EE in Karnataka.

2.2.2. Pattern and Composition of Budgetary Expenditure for General Education: Table 2 summarises the pattern of budgetary expenditure for and within the general education from 1990-91 to 1997-98. The table divides total expenditure on general education (TEGE) into plan and non-plan expenditure in both revenue and capital accounts. However, in respect of total expenditure for university and higher education (TEUHE) and assistance to non-government colleges (ANGC) data only on plan and non-plan expenditure are shown. It should be noted that ANGC is used here as synonymous with GIA to private degree colleges under the purview of collegiate education.

First, of the total expenditure on education sector in Table 1, the lion's share is accounted for general education. For instance, during 1990-91 (1997-98), TEGE on revenue (plan and non-plan) account was Rs 758.53 crore (Rs 2,112.69 crore), and constituted about 97 per cent (98 per cent) of the total EE on revenue account.

Second, of the TEGE on revenue account, the bulk of the amount is expended on non-plan expenditure. For instance, the percentage of non-plan revenue expenditure to the TEGE revenue expenditure was about 87 during 1990-91 and about 83 during 1997-98.

Third, TEUHE constitutes a smaller and declining share in the TEGE. For instance, the share of TEUHE in TEGE on plan (non-plan) account has declined from 13.25 (15) per cent during 1990-91 to 7.68 (15) in 1995-96 and to 5.73 (14) per cent during 1997-98.

Fourth, year-wise data on ANGC on plan account exhibits a declining trend with respect to TEGE, but a high fluctuation with respect to TEUHE. In particular, between 1996-97 and 1997-98, expenditure on ANGC has declined on both plan and non-plan account as a proportion of TEGE as well as that of TEUHE. Thus, the declining share of expenditure on ANGC is the most important feature of the intra-sectoral allocation of expenditure within general education.[6]

2.3. Current Characteristics of Colleges on GIA

2.3.1. Nature and Number of Degree Colleges: Table 3 summarises information on the nature and number of degree colleges, in general, and the GIA colleges, in particular, at the State level. The data refers to 1997-98, the latest year for which the required information is available in a processed form. Thus, throughout, the data for 1997-98 is treated as current information for colleges on the GIA.

First, of the 777 degree colleges in the State, 149 (about 19 per cent) are government colleges and the remaining 628 (81 per cent) are private colleges. Thus, private sector participation in collegiate education is of considerable importance for the State.

Second, of the total government or private colleges, over 80 (95) per cent are co-education (day) colleges. Thus, the role of men's or women's colleges as well as of evening colleges is less important in the State. Furthermore, there are no men's colleges among the total un-aided private colleges, and there is only one evening government college in the entire State.

Third, of the total colleges by management in the State, only about 11 (8) per cent are Minority (SC/ST) colleges. And the remaining colleges belong to 'Other' (or neither Minority nor SC/ST) management. Interestingly, of the total aided colleges, 16 per cent are Minority colleges,

Table 2. Allocation of Resource within General Education Sector in Karnataka State: 1990-91 to 1997-98

Year	Total Expenditure on General Education (TEGE): (Rs Crore)				Total Expenditure on University and Higher Education (TEUHE): (Rs Crore)		Assistance to Non-Government Colleges (ANGC): (Rs Crore)		TEUHE as a percentage of TEGE		ANGC as a percentage of TEGE		ANGC as a percentage of TEUHE	
	Revenue		Capital											
(1)	Plan (2)	Non-Plan (3)	Plan (4)	Non-Plan (5)	Plan (6)	Non-Plan (7)	Plan (8)	Non-Plan (9)	Plan (10)	Non-Plan (11)	Plan (12)	Non-Plan (13)	Plan (14)	Non-Plan (15)
1990-91	79.02	679.51	1.72	0	10.7	101.12	4.48	50.67	13.25	14.88	5.55	7.48	41.87	50.11
1993-94	188.88	1,021.98	9.06	0	15.42	161.11	3.08	83.47	7.79	15.76	1.56	8.17	19.97	51.81
1995-96	325.41	1,286.42	8.92	0	25.69	192.85	3.55	108.25	7.68	14.99	1.06	8.41	13.82	56.13
1996-97 (R.E.)	372.93	1,469.84	4.47	0	26.35	219.89	7.5	117.47	6.98	14.96	1.99	7.99	28.46	53.42
1997-98 (B.E.)	312.01	1,800.68	7.56	0	18.3	254.98	1.55	133.82	5.73	14.16	0.49	7.43	8.47	52.48

Notes: (1) R.E. refers to revised estimate and B.E. to budget estimate.

(2) All figures are at current prices.

(3) Assistance for non-government degree colleges under plan expenditure includes teaching grant and under non-plan expenditure includes bringing private degree colleges under Grant-in-Aids Code.

(4) Plan and non-plan expenditure under TEUHE and ANGC includes revenue and capital expenditure.

Source: Complied and computed from the various issues of *Karnataka Budget Documents.*

Table 3. Observed Characteristics of Aided-Degree Colleges in Karnataka State During: 1997-98

Sr. No.	Characteristics	Number of Government Colleges	Number of Private Colleges		Number of Colleges
			Aided	Un-aided	
(1)	(2)	(3)	(4)	(5)	(6)
1.	Men's Colleges	5 (3.36)	6 (2.07)	0 (0.00)	11 (1.31)
2.	Women's Colleges	9 (6.04)	44 (15.17)	47 (13.91)	100 (11.95)
3.	Composite Colleges	17 (11.41)	166 (57.24)	30 (8.88)	213 (25.45)
4.	Day Colleges	148 (99.33)	278 (95.86)	330 (97.63)	758 (97.55)
5.	Minority Colleges	0 (0.00)	46 (15.86)	43 (12.72)	89 (11.45)
6.	SC/ST Colleges	0 (0.00)	8 (2.76)	57 (16.88)	65 (8.37)
7.	Colleges located away from the District and Taluk Headquarters	37 (24.83)	51 (17.59)	93 (27.51)	181 (23.29)
8.	Total Number of Colleges in the State	149 [19.18]	290 [37.32]	338 [43.50]	777 [100.0]

Notes: (1) Figures in the parentheses are percentage to total. Figures in the squre brackets are percentages to row total.
(2) Composite Colleges are those which include Pre-University and Degree Education. In the GIA Code, such colleges are called First Grade Colleges and a college which has only a Pre-University Education is called a Second Grade College.
Source: Compiled and computed from the basic data in Government of Karnataka, 1998a.

though Minority colleges as a group form 11 per cent of all colleges in the State. The picture in respect of SC/ST colleges is different. Such colleges form 8 per cent of all colleges in the State but, among the aided colleges, only 3 per cent are SC/ST colleges.

Fourth, about 24 per cent of government colleges, about 18 per cent of aided private colleges and 28 per cent of unaided (private) colleges are away from district and taluk headquarters in the State. This indicates an element of urban-bias in the location of colleges, assuming that the district or taluk headquarters are considered as urban areas.

2.3.2. *Nature and Number of Law Colleges*: Table 4 summarises the characteristics of law colleges in the State during 1997-98. It is apparent that of the total law colleges in the State, only 8 (about 13 per cent) colleges are aided colleges.

Of the total law colleges, 77 per cent are day colleges, about 8 per cent minority colleges and about 3 per cent SC/ST colleges. 75 per cent of all colleges, and 100 per cent of all aided colleges (i.e., only 8 colleges and all day colleges) are recognised by the Bar Council of India. Since the GIA is restricted for colleges with three years' courses, no college with five years' course is on the GIA.

Like the location of aided degree colleges, the location of aided law colleges is equally and clearly urban-biased. This is reflected in only 3 per cent of all aided colleges, and no aided college, being located away from district and taluk headquarters in the State.

It may be mentioned that there exists only one government law college in the State. This is a day college with three years course and is located in Kolar of the Kolar district.

Table 4. Observed Characteristics of Aided-Law Colleges in Karnataka State During 1997-98

Sr. No.	Characteristics	Number of aided and unaided Colleges	Number of Aided Colleges
(1)	(2)	(3)	(4)
1.	Day Colleges	46 (76.77)	8 (100.00)
2.	Minority Colleges	5 (8.33)	0 (0.00)
3.	SC/ST Colleges	2 (3.33)	1 (12.50)
4.	Bar Council Recognised Colleges	45 (75.00)	8 (100.00)
5.	Colleges with Three Years' Course	40 (66.67)	8 (100.00)
6.	Colleges with Five Years' Course	9 (15.00)	0 (0.00)
7.	Colleges Located away from the District and Taluk Head-quarters	2 (3.33)	0 (0.00)
8.	Total Number of Colleges	60 100.0	8 100.0

Note: Figures in the parentheses are percentage to column total.
Source: Compiled and computed from the basic data in Government of Karnataka (1998a).

2.3.3. Spatial Distribution of Degree and Law Colleges: Table 5 presents the spatial distribution of current degree colleges in the State. For clarity, the distribution is presented and described by universities and districts in the State.

At the very outset, it is important to mention the following two points: First, districts in the State are not the same in geographical and population size, and in level of economic development, as reflected in the size and growth of district income. And second, not all the universities have the same number of districts. While making comparison between universities and districts, however, no attempt shall be made to adjust for these realities. Thus, the inter-university and inter-district comparison below is merely descriptive of the observed basic data.

Of the 6 universities in the State, Karnataka University has the largest number of total degree colleges with 196 colleges or about 25 per cent of total colleges in the State. This is followed by the Bangalore University Gulbarga University, Kuvempu University, Mysore University, and Mangalore University. In regard to distribution of law colleges, however, the highest number of colleges (21 out of 60) is in Bangalore University, followed by Karnataka, Mysore, Mangalore, and Kuvempu as also Gulbarga Universities.

Of the 20 districts, the highest number of degree and law colleges is in Bangalore Urban district with 125 and 17 colleges, respectively. Thus, Bangalore Urban district accounts for about 16 per cent of all degree and 28 per cent of law colleges in the State. Kodagu district accounts for the least number of colleges with only 7 degree colleges and no law college.

Table 5. University-wise and District-wise Distribution of Aided Degree and Law Colleges in Karnataka State During 1997-98

University/ District	Total Colleges (TC)				Total Unaided Colleges (TUAC)				Total Aided Colleges (TAC)				TUAC as a % TC		TAC as a % TC	
	Degree	Per Cent to Total	Law	Per Cent to Total	Degree	Per Cent to Total	Law	Per Cent to Total	Degree	Per Cent to Total	Law	Per Cent to Total	Degree	Law	Degree	Law
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
Bangalore University	194	24.97	21	35.00	95	28.11	20	39.22	61	21.03	0	11.11	48.97	95.24	31.44	4.76
1. Bangalore Urban	125	16.09	17	28.33	70	20.71	17	33.33	44	15.17	0	0.00	56.00	100.00	35.20	0.00
2. Bangalore Rural	15	1.93	0	0.00	4	1.18	0	0.00	4	1.38	0	0.00	26.67	0.00	26.67	0.00
3. Tumkur	35	4.50	2	3.33	17	5.03	2	3.92	8	2.76	0	0.00	48.57	100.00	22.86	0.00
4. Kolar	19	2.45	2	3.33	4	1.18	1	1.96	5	1.72	0	11.11	21.05	50.00	26.32	50.00
Mysore University	91	11.71	9	15.00	37	10.95	7	13.73	28	9.66	2	22.22	40.66	77.78	30.77	22.22
5. Mysore	50	6.44	4	6.67	23	6.80	3	5.88	16	5.52	1	11.11	46.00	75.00	32.00	25.00
6. Mandya	20	2.57	3	5.00	8	2.37	3	5.88	7	2.41	0	0.00	40.00	100.00	35.00	0.00
7. Hassan	21	2.70	2	3.33	6	1.78	1	1.96	5	1.72	1	11.11	28.57	50.00	23.61	50.00
Kuvempu University	101	13.00	5	8.33	47	13.91	4	7.84	27	9.31	1	11.11	46.53	80.00	26.73	20.00
8. Shimoga	38	4.89	1	1.67	18	5.33	0	0.00	9	3.10	1	11.11	47.37	0.00	23.68	100.00
9. Chitradurga	50	6.44	3	5.00	27	7.99	3	5.88	14	4.83	0	0.00	54.00	100.00	28.00	0.00
10. Chikmangalur	13	1.67	1	1.67	2	0.59	1	1.96	4	1.38	0	0.00	15.38	100.00	30.77	0.00
Mangalore University	78	10.04	6	10.00	28	8.28	6	11.76	35	12.07	0	0.00	35.90	100.00	44.87	0.00
11. Dakshina Kannada	71	9.14	6	10.00	25	7.40	6	11.76	32	11.03	0	0.00	35.21	100.00	45.07	0.00
12. Kodagu	7	0.90	0	0.00	3	0.89	0	0.00	3	1.03	0	0.00	42.86	0.00	42.86	0.00
Karnataka University	196	25.23	14	23.33	79	23.37	11	21.57	98	33.79	3	33.33	40.31	78.57	50.00	21.43
13. Dharwad	71	9.14	6	10.00	30	8.88	5	9.60	31	10.69	1	11.11	42.25	83.33	43.66	16.67
14. Uttar Kannada	21	2.70	2	3.33	4	1.18	1	1.96	13	4.48	1	11.11	19.05	50.00	61.90	50.00
15. Belgaum	56	7.21	4	6.67	25	7.40	3	5.88	28	9.66	1	11.11	44.64	75.00	50.00	25.00
16. Bijapur	48	6.18	2	3.33	20	5.92	2	3.92	26	8.97	0	0.00	41.67	100.00	54.17	0.00
Gulbarga University	117	15.08	5	8.33	52	15.38	3	5.88	41	14.14	2	22.22	44.44	60.00	35.04	40.00
17. Gulbarga	46	5.92	2	3.33	22	6.51	0	0.00	14	4.83	2	22.22	47.83	0.00	30.43	100.00
18. Raichur	24	3.09	1	1.67	8	2.37	1	1.96	8	2.76	0	0.00	33.33	100.00	33.33	0.00
19. Bellary	20	2.57	1	1.67	6	1.78	1	1.96	9	3.10	0	0.00	30.00	100.00	45.00	0.00
20. Bidar	27	3.47	1	1.67	16	4.73	1	1.96	10	3.45	0	0.00	59.26	100.00	37.04	0.00
Total	777		60*		338		51		290		8					

Notes: (1) Total colleges include government colleges, unaided colleges and aided colleges.
(2) Aided (Unaided) colleges refer to private degree colleges on the GIA (not on the GIA).
Source: Compiled and computed from the basic data in Government of Karnataka, 1997.

In the same way, the distribution of unaided colleges shows a heavy concentration of colleges in Bangalore University and in Bangalore Urban district, followed by Karnataka University and by Dharwad district. Kodagu district occupies the last position in the spatial distribution of unaided colleges in the State.

Interestingly, the spatial distribution of aided colleges presents a different picture as compared to the distribution of unaided colleges above. First, the highest number of aided degree and law colleges are in Karnataka University. Second, Mangalore University has no aided law college. In the same way, many districts have no aided law colleges in the State. Third, the Bangalore Urban district has the highest number of aided degree colleges with 44 colleges and is followed by Dakshina Kannada district with 32 colleges, Dharwad district with 31 colleges, Belgaum with 28 colleges, Bijapur with 26 colleges and Mysore district with 16 colleges. In short, the 6 districts account for 177 aided colleges, i.e., 61 per cent of all the aided degree colleges.

Further, the distribution of total degree colleges between aided and un-aided shows the following interesting feature. In the universities and in districts covered by them, the proportion of unaided colleges is in most cases higher than or equal to the proportion of aided colleges. However, the proportion varies significantly between universities and in districts covered by them. For instance, Bangalore (Mangalore) University has the highest (lowest) proportion of unaided degree colleges. And, the same proportion is the highest (lowest) for Bangalore Urban (Chickmagalore) district.

In addition, the proportion of total aided degree colleges to total colleges shows wide variations between universities and districts covered by them. For instance, the proportion is the highest in the case of Karnataka University and the lowest for Kuvempu University. Again, the proportion is the highest (lowest) in Uttar Kannada (Tumkur) district.

Thus, considerable disparities exist between universities and districts in regard to the distribution of absolute number of total, aided and un-aided colleges in the State.

2.3.4. Temporal Distribution of Degree and Law Colleges on GIA: Although there exist 290 aided degree (and 8 law) colleges in the State, not all of them have been brought under the GIA during the same year. This is indicated in the temporal distribution of aided degree colleges in Table 6 and aided law colleges in Table 7.

Table 6 shows, for colleges started during different periods, the number of colleges on the GIA in different periods. The information covers 275 out of 290 colleges. For the remaining 15 colleges, information on the year of the GIA is not reported, either consistently or completely, in [Government of Karnataka, 1998a, Pp. 10-25].[7]

Three points are clearly evident in Table 6. First, of 275 colleges, the highest number of colleges is started before 1970. Second, of the colleges started before 1970 and awarded the GIA, about 76 per cent colleges were awarded the GIA during 1971-80. Of the colleges started during 1971-80 and awarded GIA, about 60 per cent of colleges were placed on the GIA during 1971-80 itself. Third, all the 275 aided degree colleges were started before 1987. This is consistent with the policy decision of the State government that all new degree colleges since 1987-88 have to be started on permanently non-GIA basis.

Table 6. Temporal Distribution of Aided Degree Colleges in Karnataka State

Year of Starting	Number of Colleges Placed on GIA				Total
	Up to 1970	1971-80	1981-90	Since 1991	
(1)	(2)	(3)	(4)	(5)	(6)
Up to 1970	20 (100.0)	97 (66.9) (76.4)#	5 (6.6)	5 (14.7)	127 (46.2)
1971-1980		42 (29.0) (59.2)*	26 (34.2)	3 (6.8)	71 (25.8)
1981-1987		6 (4.1)	45 (59.2)	26 (76.5)	77 (28.0)
Column *Total*	20 (7.3)	145 (52.7)	76 (27.6)	34 (12.4)	275 (100.0)

Notes: Figures in parentheses (except for the two figures indicated) are per cent to Column Totals in the last row and those in the last row, to row total.
This shows proportion of colleges started up to 1970 but brought on the GIA during 1971-80 to Column 6 .
* This shows proportion of colleges started during 1971-80 and brought under the GIA during 1971-80 itself to Column 6.
Source: Compiled and computed from the basic data in Government of Karnataka, 1998a.

Table 7 reports the temporal distribution of aided law colleges in the State. The table shows that the highest number of colleges is started before 1970 but have been awarded the GIA only during 1981-87. This is the same feature as the one we found for the temporal distribution of aided degree colleges in Table 6 above.

Table 7. Temporal Distribution of Aided Law Colleges in Karnataka State

Year of Starting	Number of Colleges	Per cent to Total	Number of Colleges on GIA	Per cent to Total
(1)	(2)	(3)	(4)	(5)
Up to 1970	5	62.50	0	0.00
1971-1980	2	25.00	0	0.00
1981-1988	1	12.50	5	62.50
Since 1988	0	0.00	3	37.50
Total	8	100.00	8	100.00

Source: Compiled and computed from the basic data in Government of Karnataka, 1998a.

2.3.5. Distribution of Students in Aided Degree Colleges: Table 8 gives the course-wise distribution of absolute number of students in degree colleges in universities and districts in the State. And, the distribution indicates many interesting features and patterns.

First, the distribution of students in all (i.e., aided and un-aided) colleges in the State indicates that the Karnataka University (Bangalore University) has the highest number of students in Arts (Science and Commerce) with about 29 (44 and 38) per cent of all Arts (Science and Commerce) students in the State. And, of the districts, Bangalore Urban district has the highest concentration of students in all courses. The district's share of students is about 11 per cent in Arts, 33 per cent in Science and 32 per cent in Commerce.

Second, the course-wise distribution of students in aided colleges indicates the same pattern between universities and districts as in the case of all colleges above. For instance, Karnataka (Bangalore) University has the highest share of

Table 8. District-wise, University-wise and Course-wise Distribution of Students in Aided Degree Colleges in Karnataka State as on April 1, 1997

University/ District	Total Students in all Colleges						Total Students in Aided Colleges						Total Students in Aided Colleges as a % of Total Students in all Colleges		
	Arts	Per cent to Total	Science	Per cent to Total	Commerce	Per cent to Total	Arts	Per cent to Total	Science	Per cent to Total	Commerce	Per cent to Total	Arts	Science	Commerce
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Bangalore University	63,440	24.44	38,462	44.09	43,074	37.59	33,243	20.43	28,541	41.26	30,826	34.92	52.40	74.21	71.57
1. Bangalore Urban	28,573	11.01	29,081	33.33	37,022	32.31	18,306	11.25	22,374	32.34	27,120	30.72	64.07	76.94	73.25
2. Bangalore Rural	6,492	2.50	935	1.07	981	0.86	3,730	2.29	746	1.08	497	0.56	57.46	79.79	50.66
3. Tumkur	14,151	5.45	3,779	4.33	1,908	1.66	6,872	4.22	2,499	3.61	1,041	1.18	48.56	66.13	54.62
4. Kolar	14,224	5.48	4,667	5.35	9,165	2.76	4,335	2.66	2,922	4.22	2,168	2.46	30.48	62.61	68.50
Mysore University	34,487	13.29	10,715	12.28	11,359	9.91	18,265	11.23	6,163	8.91	8,344	9.45	52.96	57.52	73.50
5. Mysore	14,787	5.70	6,101	6.99	8,505	7.42	8,075	4.96	3,409	4.93	6,459	7.32	54.61	55.88	75.94
6. Mandya	10,865	4.19	2,493	2.88	1,417	1.24	5,938	3.65	1,611	2.35	939	1.06	54.63	64.82	65.84
7. Hassan	8,835	3.40	2,121	2.43	1,431	1.25	4,254	2.61	1,143	1.65	952	1.08	48.15	53.89	66.53
Kuvempu University	33,113	12.76	5,190	5.95	7,778	6.79	15,903	9.78	3,772	5.45	4,666	5.29	48.03	72.68	59.99
8. Shimoga	11,501	4.43	1,349	1.55	4,249	3.71	47,650	2.86	1,203	1.74	2,165	2.45	40.43	89.18	50.95
9. Chitradurga	17,158	6.61	3,370	3.88	2,488	2.17	9,008	5.54	2,385	3.45	1,855	2.10	52.50	70.77	74.62
10. Chikmangalur	4,454	1.72	471	0.54	1,043	0.91	2,245	1.38	184	0.27	646	0.73	50.40	39.07	61.94
Mangalore University	17,311	6.67	7,201	8.25	17,884	15.81	14,439	8.88	7,042	10.18	13,377	15.15	83.41	97.79	74.80
11. Dakshina Kannada	15,547	5.99	7,062	8.09	17,096	14.92	13,148	8.08	6,903	9.98	12,820	14.52	84.57	97.75	74.99
12. Kodagu	1,764	0.68	139	0.16	788	0.69	1,291	0.79	139	0.20	557	0.63	73.19	100.00	70.69
Karnataka University	76,203	29.36	16,743	19.19	25,677	22.41	58,277	35.82	1,5804	22.84	23,848	27.01	76.48	94.39	92.88
13. Dharwad	26,084	10.05	6,044	6.93	9,255	8.08	18,256	11.22	5,888	8.48	8,478	9.60	69.99	97.09	91.58
14. Uttar Kannada	8,795	3.39	1,935	2.22	4,729	4.12	7,098	4.36	1,548	2.24	4,258	4.82	80.70	80.00	90.15
15. Belgaum	18,145	6.99	4,512	5.17	8,418	7.35	14,173	8.71	4,278	6.18	8,289	9.39	78.11	94.61	98.47
16. Bijapur	23,179	8.93	4,252	4.87	3,281	2.86	18,750	11.53	4,110	5.94	2,825	3.20	80.89	96.66	86.10
Gulbarga University	35,029	13.49	8,932	10.24	8,814	7.69	22,580	13.87	7,859	11.36	7,225	8.18	64.40	87.99	81.97
17. Gulbarga	12,062	4.65	3,071	3.52	2,610	2.28	6,105	3.75	2,173	3.14	2,069	2.34	50.61	70.76	79.27
18. Raichur	5,928	2.28	855	0.98	2,069	1.81	3,887	2.38	838	1.21	1,740	1.97	65.23	98.01	84.10
19. Bellary	9,333	3.60	3,131	3.59	3,499	3.05	7,045	4.33	3,131	4.53	2,870	3.25	75.48	100.00	82.02
20. Bidar	7,706	2.97	1,875	2.15	636	0.58	5,543	3.41	1,717	2.48	546	0.62	71.93	91.57	85.85
Total	259,583		87,243		114,580		162,687		69,181		88,286				

Note: (1) Total students in all colleges include students in government and private (aided and unaided) colleges.

Source: Compiled and computed from the basic data in Proforma-1, *Abstract Information District-wise* as on 01-04-1997 (Provisional), Statistical Division, Department of Collegiate Education, Government of Karnataka, Bangalore.

Arts students (Science and Commerce) with about 36 (41 and 35) per cent of all Arts (Science and Commerce) students in aided colleges in the State. And, Bangalore Urban district tops in the list of all districts with about 11 per cent of Arts students, 32 per cent of Science students and 31 per cent of Commerce students in all aided colleges in the State.

Third, the course-wise distribution of students in aided colleges as a percentage of total students in all courses is an alternative way of describing the course-wise distribution of students between aided and non-aided college in universities and districts in the State. For instance, in Karnataka University, more than 75 per cent of students in all courses are in aided colleges. And, of the three courses, the highest percentage of students in aided colleges is in Science course, viz. 94 per cent. In Bangalore (Mangalore) University, over 50 (80) per cent of Arts students, and over 70 (96) per cent of Science students and over 70 (70) per cent of Commerce students are in aided colleges. On the whole, except for Arts course in Kuvempu University, in all universities and in all courses, over 50 per cent, in fact in most cases, far more than 60 per cent of total students are in aided colleges.

2.3.6. Distribution of Teaching Staff in Aided Colleges: Table 9 presents the number and distribution of teaching staff by universities and districts in the State. First of all, Bangalore University has the largest number of total (i.e., in aided and un-aided colleges) teaching staff in the State and is followed by Karnataka University, Mysore University, Gulbarga University, Kuvempu University and Mangalore University, in that order. Of the districts, Bangalore Urban district has the highest number of teaching staff and is followed by districts, such as, Dharwad and Mysore. Interestingly, the total number of teaching staff in Bangalore Urban district is more than the total number of teaching staff in any of the remaining universities, except Karnataka University.

More interestingly, if the universities are ranked by total number of colleges, using data in Table 5, the resulting ranking does not match with the ranking of universities by total number of teaching staff in all colleges or in aided colleges in Table 9. This mismatch may be explained by the inclusion of teaching staff in all courses in a college while reporting the total number of teaching staff. Accordingly, a university, whose affiliated colleges have a large number of un-aided courses, would report a larger number of teaching staff than otherwise.

However, if universities and districts are ranked by total number of aided colleges as in Table 5, then that ranking coincides exactly for universities but mostly for districts with the ranking (of universities and districts) in terms of the number of teaching staff in aided colleges (Table 9).

Further, the student-teacher ratio in all colleges (i.e., total number of students in all courses divided by the total number of teaching staff for all courses in all colleges) is found to be the highest (lowest) in Bangalore (Gulbarga) University at about 44 (36). In aided colleges, the same two universities show the highest and lowest ratio, respectively. Among the districts, the student-teacher ratio is highest (lowest) in Kolar (Bidar) district at about 56 (27).

2.3.7. Growth and Distribution of GIA by Universities and Districts: The growth and distribution of the GIA[8] may be analysed in terms of current prices and constant prices. For clarity, these analyses are separately presented below.

Table 9. District-wise and University-wise Distribution of Teaching Staff in Aided Degree Colleges in Karnataka as on April 1, 1997

District	Total Number of Teaching Staff				Student-Teacher Ratio (for all courses)	
	All Colleges	Per cent to Total	Aided Colleges	Per cent to Total	All Colleges	Aided Colleges
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Bangalore University	3,304	29.88	2,107	26.59	43.88	43.95
1. Bangalore Urban	2,095	18.95	1,580	19.94	45.19	42.91
2. Bangalore Rural	185	1.67	112	1.41	45.45	44.40
3. Tumkur	506	4.58	239	3.02	39.20	43.56
4. Kolar	518	4.68	176	2.22	42.58	55.55
Mysore University	1,479	13.38	776	9.79	38.24	42.23
5. Mysore	787	7.12	437	5.51	37.35	41.06
6. Mandya	344	3.11	190	2.40	42.95	44.63
7. Hassan	348	3.15	149	1.88	35.59	42.61
Kuvempu University	1,192	10.78	668	8.43	38.68	36.44
8. Shimoga	366	3.31	210	2.65	46.72	38.18
9. Chitradurga	616	5.57	381	4.81	37.36	34.77
10. Chickmagalore	210	1.90	77	0.97	28.42	39.94
Mangalore University	970	8.77	857	10.81	43.71	40.67
11. Dakshina Kannada	903	8.17	805	10.16	43.97	40.83
12. Kodagu	67	0.61	52	0.66	40.16	38.21
Karnataka University	2,653	23.99	2,440	30.79	44.71	40.13
13. Dharwad	865	7.82	762	9.62	47.84	42.78
14. Uttar Kannada	382	3.45	306	3.86	40.45	42.17
15. Belgaum	693	6.27	682	8.61	44.84	39.21
16. Bijapur	713	6.45	690	8.71	43.07	37.22
Gulbarga University	1,459	13.20	1,077	13.59	36.17	34.95
17. Gulbarga	513	4.64	308	3.89	34.59	33.59
18. Raichur	248	2.24	149	1.88	35.89	43.26
19. Bellary	385	3.48	333	4.20	41.46	39.18
20. Bidar	313	2.83	287	3.62	32.64	27.20
Total	11,057		7,925		41.73	40.40

Notes: (1) Total students in all colleges include students in government and private (aided and un-aided) colleges.
(2) Total number of teaching staff in all colleges includes teaching staff in government and private (aided and un-aided) colleges.
Source: Compiled and computed from the basic data in Proforma-1, *Abstract Information District-wise* as on 01-04-1997 (Provisional), Statistical Division, Department of Collegiate Education, Government of Karnataka, Bangalore.

2.3.7.1. At Current Prices

Table 10 presents the distribution of the GIA(non-plan expenditure) by universities and districts in Karnataka from 1992-93 to 1996-97. All the GIA data in the table refer to budget estimates. This is because of the following data problems. First, district-wise data on the GIA in terms of budget estimates, revised estimates and actuals are not available in published and unpublished forms. Rather, they are available only in the form of budget-provision (or proposed budget outlay or budget estimates). However, at the State level, data is also available on the expenditure (=actual) on the GIA. Second, over the years, there has been no significant difference in the budget provision and expenditure of GIA in regard to non-plan expenditure. For instance, the budget estimate (actual) for the non-plan GIA during 1995-96 was Rs 10,815 (Rs 10,825) lakh. More recently, for 1997-98, the budget provision and expenditure have exactly coincided at Rs 13,382.06 lakh. Thus, the figures in Table 10 are considered to be relevant either for budget provision or expenditure for the respective years.

Table 10. District-wise and University-wise Allocation of the GIA (non-plan expenditure) in Karnataka: 1992-93 - 1996-97

University/ District	Total GIA (Rs Lakh)										Allocation of the GIA during 1996-97	
	1992-93 (B.E.)	Per cent to Total	1993-94 (B.E.)	Per cent to Total	1994-95 (B.E.)	Per cent to Total	1995-96 (B.E.)	Per cent to Total	1996-97 (B.E.)	Per cent to Total	Per College	Per Student
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Bangalore University	1,494.71	21.03	1,590.2	21.03	1,848.83	21.03	2,274.88	21.03	2,628.18	21.03	43.09	0.03
1. Bangalore Urban	1,078.15	15.17	1,147.03	15.17	1,332.14	15.17	1,640.9	15.17	1,896.1	15.17	43.09	0.03
2. Bangalore Rural	98.01	1.38	104.28	1.38	121.1	1.38	149.17	1.38	172.37	1.38	43.09	0.03
3. Tumkur	196.03	2.76	208.55	2.76	242.21	2.76	298.34	2.76	344.74	2.76	43.09	0.03
4. Kolar	122.52	1.72	130.34	1.72	151.38	1.72	166.47	1.72	215.47	1.72	43.09	0.02
Mysore University	686.1	9.66	729.92	9.66	847.72	9.66	1,044.21	9.66	1,206.61	9.66	43.09	0.04
5. Mysore	392.06	5.52	417.1	5.52	484.41	5.52	596.69	5.52	689.49	5.52	43.09	0.04
6. Mandya	171.52	2.41	182.48	2.41	211.93	2.41	261.05	2.41	301.65	2.41	43.09	0.04
7. Hassan	122.52	1.72	130.34	1.72	151.38	1.72	166.47	1.72	215.47	1.72	43.09	0.03
Kuvempu University	861.59	9.31	703.87	9.31	817.44	9.31	1,006.91	9.31	1,163.51	9.31	43.09	0.05
8. Shimoga	220.53	3.10	234.62	3.10	272.48	3.10	335.64	3.10	387.84	3.10	43.09	0.05
9. Chitradurga	343.05	4.83	364.97	4.89	423.86	4.83	522.1	4.83	603.3	4.83	43.09	0.05
10. Chikmangalur	98.01	1.38	104.28	1.38	121.1	1.38	149.17	1.38	172.37	1.38	43.09	0.06
Mangalore University	857.82	12.07	912.42	12.07	1,059.66	12.07	1,305.26	12.07	1,508.26	12.07	43.09	0.04
11. Dakshina Kannada	784.11	11.03	834.21	11.03	968.83	11.03	1193.38	11.03	1378.98	11.03	43.09	0.04
12. Kodagu	73.51	1.03	78.21	1.03	90.83	1.03	111.88	1.03	129.28	1.03	43.09	0.07
Karnataka University	2,401.34	33.79	2,554.76	33.79	2,967.03	33.79	3,854.73	33.79	4,223.13	33.79	43.09	0.04
13. Dharwad	759.61	10.69	808.14	10.69	938.55	10.69	1,158.09	10.69	1,335.89	10.69	43.09	0.04
14. Uttar Kannada	318.54	4.48	338.9	4.48	393.59	4.48	484.81	4.48	580.21	4.48	43.09	0.04
15. Belgaum	686.1	9.68	729.93	9.66	847.72	9.68	1044.21	9.68	1206.61	9.68	43.09	0.05
16. Bijapur	637.09	8.97	677.79	8.97	787.17	8.97	969.62	8.97	1120.42	8.97	43.09	0.04
Gulbarga University	1,004.64	14.14	1,068.83	14.14	1,241.31	14.14	1,529.01	14.14	1,766.81	14.14	43.09	0.05
17. Gulbarga	343.05	4.83	364.97	4.83	423.86	4.83	522.1	4.83	603.3	4.83	43.09	0.06
18. Raichur	196.03	2.76	208.55	2.76	242.21	2.76	298.34	2.76	344.74	2.76	43.09	0.05
19. Bellary	220.53	3.10	234.62	3.10	272.48	3.10	335.64	3.10	387.84	3.10	43.09	0.03
20. Bidar	245.03	3.45	260.69	3.45	302.76	3.45	372.93	3.45	430.93	3.45	43.09	0.06
Total	7,106		7,580		8,779.99		10,815		12,497		43.09	0.04

Notes: (1) The allocation of the GIA per college is total GIA divided by total number of aided colleges in the district/university.
(2) The allocation of the GIA per student is total GIA divided by total number of students (in all courses) in the aided colleges in the district/university.
(3) All the figures in the table refer to current prices.
(4) B.E. refers to Budget Estimate (Revised Estimate).
Source: Compiled and computed from the basic data in Proforma-II, *Abstract Information District-wise* as on 01-04-1997 (Provisional), Statistical Division, Department of Collegiate Education. Government of Karnataka, Bangalore.

The budgeted total expenditure on the GIA for collegiate education has increased from Rs 71.1 crore in 1992-93 to Rs 124.97 crore in 1996-97, an increase of about 76 per cent over a period of five years. Three important factors for the nominal rise in the GIA must be pointed out. First, rise in salaries due to pay revisions. Second, rise in allowances due to price rise, as the salaries are indexed for inflation. Third, regularisation of temporary and/or part-time staff, appointed on stop-gap arrangement, mainly due to directions of the law courts (especially in 1992 and in 1994). This has contributed to an expansion in the teaching staff on the GIA, although these posts have not been categorised as sanctioned posts in the colleges. Thus, there has been an increase in the actual number of posts, although the number of sanctioned posts has remained the same since 1989-90.

Of the six universities in the State, Karnataka University gets the largest amount of the GIA with the highest share in the State's total. Of districts covered by the Karnataka University, Dharwad (Uttar Kannada) receives the largest (smallest) share of the GIA. In terms of size distribution and share in State's GIA, Bangalore University, Gulbarga University, Mangalore University, Mysore University and Kuvempu University may be ranked in the descending order. And, within these universities, marked variations in the allocation of the GIA are observed between districts. Of all the districts in the State, Bangalore Urban district gets the largest amount of GIA and the highest share in the State's total.

There are distinct features of the distribution of the GIA in Table 10. First, share of each university and district in the State's total has remained the same for all the years. This implies that the allocation of the GIA (university-wise and district-wise) is constant at the State level. Second, the GIA allocation per college is the same for all the universities and districts in the State. For instance, during 1996-97, the GIA per college is Rs 43.09 lakh. This underlines the existence of a strong equalisation principle in the spatial allocation of the GIA between colleges in the State. However, such an equalisation is not observable between students as per student GIA ranges from Rs 0.03 lakh to Rs 0.07 lakh in the State.

2.3.7.2. At Constant Prices

To generate the district-wise GIA at constant prices, the values of the GIA at current prices must be deflated by a suitable deflator. In this regard, we adopt the price deflator used for construction of net district income at constant prices (i.e., 1980-81 prices) by the Bureau of Economics and Statistics [Government of Karnataka, (1998b)]. According to the Bureau, first of all, for those sectors, such as, Agriculture and Animal Husbandary, Forestry and Logging, and Manufacturing and Construction, where income estimates are worked out by 'production approach', the current year productions are evaluated on the basis of base year prices to obtain the value of output at 1980-81 prices. In this case, the price deflator varies between districts. Second, for the remaining sectors, the district income estimates at constant prices are obtained using State level deflator. In this case, the price deflator does not vary between districts.

Table 11 presents the net district income and per capita district income in Karnataka from 1993-94 to 1995-96, all at constant prices (i.e., 1980-81 prices). First, the income data are presented based on the variable (or district-wise) deflator methodology of the Bureau. Second, the income data are presented based on constant-deflator in terms of the State level deflator (i.e., 2.8 for 1992-93; 3.01 for 1993-94; 3.4 for 1994-95; and 3.7 for 1995-96) for all the sectors and in all the districts. And, the divergence between the two estimates is given by the ratio (which is identical for net district income and per capita income) based on Bureau's methodology to the district incomes based on the State level deflator. If the ratio is greater (less) than one, the constant-deflator methodology underestimates (overestimates) the district incomes as compared to the variable-deflator methodology. If the ratio equals to one, however, the estimated district incomes at constant prices by both the methodologies are identical.

Table 11. Net District Income and Per Capita Net District Income in Karnataka: 1992-93 to 1995-96

	District	Based on Bureau's District Level Deflator							
		1992-93		1993-94		1994-95		1995-96	
		Income (Rs Lakh)	Per Capita Income (Rs)	Income (Rs Lakh)	Per Capita Income (Rs)	Income (Rs Lakh)	Per Capita Income (Rs)	Income (Rs Lakh)	Per Capita Income (Rs)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	Bangalore	200,870	4,047	216,057	4,287	226,656	4,431	244,493	4,712
2.	Bangalore Rural	47,941	2,794	50,178	2,880	39,998	2,262	42,708	2,381
3.	Belgaum	90,898	2,472	95,583	2,560	94,817	2,502	90,824	2,383
4.	Bellary	36,122	1,864	39,460	2,006	41,223	2,085	43,996	2,145
5.	Bidar	20,445	1,588	21,246	1,826	23,953	1,806	26,940	2,002
6.	Bijapur	51,822	1,726	61,914	2,030	70,513	2,278	66,871	2,130
7.	Chickmagalore	26,938	2,584	26,501	2,692	29,500	2,748	30,373	2,787
8.	Chitradurga	48,464	2,186	49,839	2,194	48,271	2,094	49,963	2,136
9.	Dakshina Kannada	72,037	2,607	73,427	2,617	71,616	2,515	76,018	2,632
10.	Dharwad	70,478	1,961	72,398	1,984	76,972	2,078	81,257	2,163
11.	Gulbarga	47,806	1,805	55,520	2,065	55,958	2,051	67,304	2,431
12.	Hassan	32,053	1,991	33,250	2,034	36,086	2,175	33,641	1,999
13.	Kodagu	17,622	3,504	18,778	3,676	17,961	3,466	19,815	3,770
14.	Kolar	31,077	1,366	38,562	1,583	36,001	1,536	37,763	1,588
15.	Mandya	34,430	2,045	37,688	2,204	43,347	2,498	40,618	2,308
16.	Mysore	80,406	2,476	79,122	2,399	91,603	2,737	94,553	2,785
17.	Raichur	38,542	1,629	42,136	1,753	43,095	1,767	47,830	1,933
18.	Shimoga	47,958	2,446	52,644	2,644	54,633	2,704	58,540	2,759
19.	Tumkur	45,890	1,939	44,670	1,859	42,479	1,742	50,648	2,047
20.	Uttar Kannada	26,394	2,111	25,926	2,042	28,164	2,188	28,734	2,199
	State	1068,193	2,315	1134,899	2,423	1172,848	2,487	1230,289	2,551

Table 11. (Contd.)

	District	Based on State Level Deflator							
		1992-93		1993-94		1994-95		1995-96	
		Income (Rs Lakh)	Per Capita Income (Rs)	Income (Rs Lakh)	Per Capita Income (Rs)	Income (Rs Lakh)	Per Capita Income (Rs)	Income (Rs Lakh)	Per Capita Income (Rs)
(1)	(2)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
1.	Bangalore	186,956.07	3,766.43	194,395.02	3,856.81	203,942.06	3,986.76	218,153.24	4,204.32
2.	Bangalore Rural	47,148.79	2,747.50	45,791.36	2,627.91	39,109.12	2,211.47	41,070.00	2,289.46
3.	Belgaum	85,670.00	2,330.00	90,632.89	2,427.57	91,894.41	2,425.29	86,793.78	2,258.38
4.	Bellary	36,771.79	1,897.88	41,441.53	2,108.31	44,989.41	2,253.24	48,788.65	2,309.19
5.	Bidar	19,454.64	1,511.43	21,318.27	1,631.23	22,879.41	1,725.00	25,535.68	1,898.11
6.	Bijapur	52,140.36	1,738.07	59,670.78	1,958.81	64,189.12	2,074.12	82,386.78	1,986.49
7.	Chikmagalore	31,920.00	3,081.43	34,640.20	3,272.43	33,476.47	3,115.88	43,547.03	3,995.41
8.	Chitradurga	47,880.00	2,138.93	48,878.07	2,151.50	48,131.47	2,087.35	50,069.19	2,140.81
9.	Dakshina Kannada	74,696.07	2,703.21	76,035.88	2,709.97	76,700.59	2,693.53	83,263.78	2,882.43
10.	Dharwad	71,651.07	1,993.93	72,774.75	1,994.55	78,075.53	2,108.24	80,747.84	2,149.46
11.	Gulbarga	46,608.57	1,759.29	53,925.91	2,005.65	53,854.12	1,973.53	67,088.11	2,423.51
12.	Hassan	32,257.50	2,003.57	32,126.25	1,965.12	32,637.08	1,967.08	38,212.97	2,151.62
13.	Kodagu	20,026.07	3,982.14	22,164.12	4,240.86	19,608.18	3,783.53	28,581.89	5,437.84
14.	Kolar	34,075.71	1,498.21	38,063.46	1,648.17	38,861.18	1,858.24	39,982.16	1,881.89
15.	Mandya	33,153.21	1,968.93	36,054.49	2,108.64	39,254.12	2,262.35	36,246.22	2,059.19
16.	Mysore	79,017.14	2,432.86	79,179.40	2,401.00	90,529.71	2,705.00	90,799.45	2,874.59
17.	Raichur	36,800.71	1,555.00	41,828.24	1,740.53	45,138.53	1,850.88	49,598.65	2,004.88
18.	Shimoga	47,148.93	2,405.00	51,086.71	2,588.11	54,255.29	2,685.29	56,061.62	2,735.41
19.	Tumkur	46,775.36	1,976.43	44,039.53	1,832.56	42,259.12	1,732.65	49,657.57	2,007.30
20.	Uttar Kannada	31,421.79	2,513.21	29,374.75	2,313.95	31,910.59	2,477.06	30,490.54	2,332.97
	State	1061,551.79	2,301.07	1113,421.59	2,377.08	1151,691.47	2,422.65	1223,035.14	2,538.22

(Contd.)

Table 11. *(Concld.)*

(1)	District (2)	Ratio of Income (Net or Per Capita) Using Bureau's Deflator to the Income (Net or Per Capita) Using State Level Deflator			
		1992-93 (19)	1993-94 (20)	1994-95 (21)	1995-96 (22)
1.	Bangalore	1.07	1.11	1.11	1.12
2.	Bangalore Rural	1.02	1.10	1.02	1.04
3.	Belgaum	1.06	1.05	1.03	1.05
4.	Bellary	0.98	0.95	0.92	0.93
5.	Bidar	1.05	1.00	1.05	1.05
6.	Bijapur	0.99	1.04	1.10	1.07
7.	Chickmagalore	0.84	0.82	0.88	0.70
8.	Chitradurga	1.01	1.02	1.00	1.00
9.	Dakshina Kannada	0.96	0.97	0.93	0.91
10.	Dharwad	0.98	0.99	0.99	1.01
11.	Gulbarga	1.03	1.03	1.04	1.00
12.	Hassan	0.99	1.03	1.11	0.93
13.	Kodagu	0.88	0.85	0.92	0.69
14.	Kolar	0.91	0.96	0.93	0.94
15.	Mandya	1.04	1.05	1.10	1.12
16.	Mysore	1.02	1.00	1.01	1.04
17.	Raichur	1.05	1.01	0.95	0.96
18.	Shimoga	1.02	1.03	1.01	1.01
19.	Tumkur	0.98	1.01	1.01	1.02
20.	Uttar Kannada	0.84	0.88	0.88	0.94
	State	1.01	1.02	1.02	1.01

Notes:
Sources: (1) Government of Karnataka, 1995, *State Domestic Product Karnataka: 1980-81 to 1993-94*, Bureau of Economics and Statistics (Bangalore).
(2) Government of Karnataka, 1996, *State Domestic Product Karnataka: 1980-81, 1990-91 to 1994-95*, Bureau of Economics and Statistics, Bangalore.
(3) Government of Karnataka, 1997, *State Domestic Product Karnataka: 1980-81, 1990-91 to 1995-96*, Bureau of Economics and Statistics, Bangalore.
(4) Government of Karnataka, 1998, *State Domestic Product Karnataka: 1980-81, 1990-91 to 1996-97*, Bureau of Economics and Statistics, Bangalore.

If the Bureau's methodology is plausible, given the results in Table 11, it is easy to devise a computational strategy for estimating the district-wise allocation of the GIA at constant prices or the real GIA from 1993-94 to 1995-96.

This computational strategy involves the following steps. First, the nominal GIA to each district is to be deflated by the State level deflator for the respective years. Second, the deflated district-level GIA is to be multiplied by the inverse of the respective districts' ratios for different years. Thus, the real GIA figures are obtained in terms of the Bureau's methodology.

Table 12 presents the total real GIA by districts and the district-wise distribution of total real GIA in the State from 1993-94 to 1995-96. First, as compared to total nominal GIA in Table 10, there exists a large size difference between nominal and real GIA (i.e., real GIA is less than half of the nominal GIA) in all districts and for all years. This suggests that, other things being equal, over half

of the nominal GIA is due to price inflation over the years. Second, inter-district allocation of the real GIA is qualitatively comparable with the allocation of nominal GIA in Table 10. Thus, real GIA matters when the size of GIA by districts is an important matter for policy consideration.

Table 12. District-wise and University-wise Allocation of the Real GIA in Karnataka State: 1992-93 - 1995-96

University/District	Total Real GIA (Rs Lakh)							
(1)	1992-93 (2)	Per cent to Total (3)	1993-94 (4)	Per cent to Total (5)	1994-95 (6)	Per cent to Total (7)	1995-96 (8)	Per cent to Total (9)
Bangalore University	512.15	20.05	487.87	19.06	506.30	19.25	586.89	19.28
1. Bangalore Urban	358.38	14.03	342.87	13.39	352.54	13.41	395.71	13.46
2. Bangalore Rural	34.42	1.35	31.62	1.23	34.83	1.32	38.77	1.32
3. Tumkur	71.36	2.79	68.31	2.67	70.87	2.69	79.06	2.69
4. Kolar	47.98	1.88	45.08	1.76	48.06	1.83	53.36	1.81
Mysore University	240.62	9.42	238.51	9.32	237.52	9.03	272.08	9.25
5. Mysore	137.60	5.39	138.67	5.42	140.80	5.35	154.87	5.27
6. Mandya	58.99	2.31	58.00	2.27	56.45	2.15	62.96	2.14
7. Hassan	44.04	1.72	41.84	1.63	40.27	1.53	54.25	1.85
Kuvempu University	239.90	9.39	236.66	9.24	244.31	9.29	289.16	9.83
8. Shimoga	77.43	3.03	75.64	2.95	79.59	3.03	89.95	3.06
9. Chitradurga	120.99	4.74	118.91	4.64	124.30	4.73	141.41	4.81
10. Chickmagalore	41.48	1.62	42.11	1.84	40.42	1.54	57.80	1.97
Mangalore University	320.21	12.54	317.66	12.41	334.34	12.71	396.89	13.50
11. Dakshina Kannada	290.38	11.37	286.99	11.21	305.18	11.60	353.28	12.01
12. Kodagu	29.84	1.17	30.67	1.20	29.16	1.11	43.62	1.48
Karnataka University	871.11	34.11	844.41	32.98	863.56	32.84	963.84	32.77
13. Dharwad	275.80	10.80	269.88	10.54	279.99	10.65	310.50	10.56
14. Uttar Kannada	135.44	5.30	127.57	4.98	131.16	4.99	139.04	4.73
15. Belgaum	230.94	9.04	229.94	8.98	241.64	9.19	269.70	9.17
16. Bijapur	228.93	8.96	217.02	8.48	210.76	8.01	244.41	8.31
Gulbarga University	349.75	13.70	355.31	13.88	367.11	13.96	417.57	14.20
17. Gulbarga	119.45	4.68	117.77	4.60	119.98	4.56	140.66	2.78
18. Raichur	66.85	2.62	68.78	2.69	74.62	2.84	63.61	2.84
19. Bellary	80.18	3.14	81.86	3.20	87.46	3.33	97.76	3.32
20. Bidar	83.27	3.26	86.90	3.39	85.06	3.23	95.54	3.25
Total	2522.08		2464.10		2535.77		2905.74	

Source: Computed by the author.

3. MAJOR POLICY ISSUES

3.1. Background

The policy issues in the current GIA policy may be related to the start of national economic reforms in the country in July 1991. Broadly speaking, the reform measures are divided into stabilisation programme and structural adjustment programme. The stabilisation programme is short term in nature and aims at controlling the aggregate demand in the economy through internal stabilisation measures (for containing the domestic price inflation) and external stabilisation measures (for reducing the current account deficit in balance of payments). The structural adjustment programmes are medium term in nature and aim at improving the supply side of the economy. These programmes include measures for increase in the degree of openness to trade, privatisation, marketisation and globalisation. In particular, the reforms have been

effected in fiscal sector, industrial sector, financial sector, public sector and in external sector (i.e., in foreign trade, investment and exchange) of the economy.

As is well-known, a reduction in revenue and/or fiscal deficit is an important component of the fiscal sector reforms.[9] One important policy measure proposed to contain the deficits has been a reduction in non-plan revenue expenditure, especially that on subsidies to different sectors of the economy. This has been made clear in Government of Karnataka [1997, p. 5].

Karnataka State is no exception in aiming at a reduction in the deficits through expenditure reduction strategies. One such strategy that has been proposed in the recent past is a reduction in the subsidies to higher education in the State.[10] The need for such a strategy is forcefully argued in the Government of Karnataka [1997, Pp. 26-27] as follows: '.... While provision of primary and secondary education facilities may be considered as provision for basic minimum needs to the population and therefore the expenditure on them cannot be considered as subsidy, there is no reason why the entire expenditure or even a major part of it on technical/higher education should be borne by the Government. In other words, the higher education involved considerable subsidisation by Government in our country. This is not justified because the benefits accrued to an insignificant proportion of the population irrespective of whether the beneficiaries have the capacity to pay for the services or not. It is therefore highly inequitable. Further, higher education is both costly and improves the skills and employability and income earning capacity of the beneficiaries. Therefore the beneficiaries should pay for such higher education. However, in case of poor students availing the facility, open subsidies by way of freeships, scholarships, etc., may be provided. It is estimated that hardly one-fifth of the government expenditure on higher/university education in the country is recovered by way of fees, etc. This means 80 per cent of the cost of the higher education is subsidised. It should be possible to reduce the extent of subsidy in higher education without affecting the services. It is, therefore, necessary to aim at revising upwards the fees and other payments for higher education in such a way that at least 75 to 80 per cent of the cost of the services are recovered in the long run which can be attempted in phases'.

Thus, the expenditure reduction strategies, as policy measures for containing the deficits, are of relevance and importance for financing of higher education through the GIA policy, considering that the GIA is a form of subsidy for the collegiate education in the State.[11]

However, the above approach to financing higher education from students' fee is not without critics. For instance, recently Tilak [1998, Pp. 225-40] has highlighted the tensions and conflicts in moving towards free-market approach to financing education. To quote Tilak [p. 236]: 'The free-market philosophy, i.e., the benefit principle - those who benefit must pay, and especially the very notion that students should be asked to pay in full the costs of their education - is potentially very dangerous to the very fabric of society. If students pay full costs of their education, the relationship between students and educational institutions, and between students and society at large is affected. State-subsidised education inherently inculcates certain values, most important among them being respect for the nation-state, gratefulness, and a feeling of responsibility to society'.

3.2. Major Issues

There exist two major issues in the current GIA policy which need a systematic analysis.

First, it is important to examine (a) the existing policy guidelines and the GIA code in the State, and (b) to what extent this GIA code has been

responsive to the changing structural changes and requirements in the collegiate education, mainly as a consequence of underlying socio-economic changes over the years in the State. These analyses would be useful to understand the intricacies of existing objectives and criterion/criteria for the GIA and for developing credible alternative objectives and criterion/criteria. The issues to be reexamined include the following.

(i) Whether or not the GIA should be permanent? Or, should it be guided by the criterion of a minimum number of admissions or should it be conditional subject to the professional performance criteria, such as pass percentage and academic achievements of students?

(ii) If the alternative performance criteria are to be based on annual assessment, the GIA may have to be annually renewable rather than sanctioned for-all-years at once. Accordingly, can 'all grants for ever' be replaceable by 'all grants for the year' or 'no grants are for ever'?

(iii) The State government has a policy of reservation of posts and roaster system for persons belonging to the Scheduled Castes/Scheduled Tribes (SC/ST) categories. It is often asked whether or not the GIA be an instrument for accomplishing the objectives of the reservations policy and roaster? It so, can the GIA be tied to the compliance of reservation policy and roaster system?[12]

Second, as mentioned earlier, the GIA as a subsidy for higher education assumes special significance in view of the recent macroeconomic policy changes at the national and State levels. For instance, as a strategy for reduction in budget deficits (e.g., fiscal deficit), a reduction in aggregate public expenditure in general and revenue expenditure in particular (especially non-plan revenue expenditure, as it is related to different subsidies) is targeted. In this regard, several issues emerge. For instance, does this deficit-reduction policy have any implications for the GIA within the higher education? If so, what are its consequences?

For instance, let us consider a situation where the budgetary allocation for the GIA may be less than at present. Thus, other things being equal, there will be a need to cut the GIA to the currently aided colleges. But the nature and duration of cut may differ depending on the intentions and motivations for a budgetary reduction to the GIA. That is, if the reduction is motivated by immediate resource constraints with the State exchequer, then a cut in the GIA today need not persist in the next and following years. If the reduction is intended to eliminate the GIA over a period of time, then a cut in the GIA today may mean a much larger cut in next and following years. In all these situations, the following important policy issues arise:

(i) Should all the aided colleges be subjected to a uniform cut in the size of the GIA? If so, by what percentage? If not, can different colleges be subjected to different cut in the size of their current GIA? And, by what objective criteria can such differential cut be effected?

(ii) How should the management fill in the resource gap due to reduction in the GIA? Will they be given total flexibility in charging fee, collecting donations and any other non-institutional sources of revenues? If so, what are the possible implications of such unregulated pricing of higher education on students from poorer sections of society, in both rural and urban areas?

(iii) Are the courses leading to degrees other than B.A., B.Sc., and B.Com., driven by excess demand? If so, competitive pricing matters. Will that be an instrument to institutions for financing the loss of GIA and subsidisation of students for their inability to pay higher fee and/or donations.

(iv) Will a cut in GIA have immediate or gradual effect on the quality of education (however, measured), especially in rural and backward areas?

(v) Should a cut in the GIA be announced well in advance, so that the concerned colleges may have some/sufficient time to prepare themselves to cope with the new situation?

It should be emphasised that if the State government is constrained to reducing the GIA, then it should be done without sacrificing the existing quality of education (however defined) in aided-private colleges. In essence, this calls for quality-neutral policy options for reducing the GIA. In fact, this is the central issue in the current GIA policy in the State.

4. CONCLUSIONS AND IMPLICATIONS

The major conclusions and implications of this paper are as follows:

First, the current GIA policy has limited scope as it applies only for the maintenance or teaching grant in traditional degree courses. In addition, since 1987-88, all new degree colleges have been started on permanently non-GIA basis. And, since 1991-92, no new grants (i.e., in the form of sanctioning additional teaching staff posts) are made available, either to the existing courses or for new courses, in the aided colleges. However, only those colleges, which were started before 1987-88, have been brought under the GIA in a gradual manner. These policy changes have considerably reduced the scope and coverage of the GIA over the years.

Second, one of the hallmarks of the current GIA policy is its discretionary nature. For instance, other things being equal, a college started before 1987-88 might be brought under the GIA than other colleges only at the discretion of the government. And, once brought under the GIA, a college shall be on the GIA for ever. Unfortunately, discretionary choices are less objective and may not be defendable on factual grounds.

Third, there exist considerable variations between universities and districts in regard to the number of aided and un-aided colleges, number of students in aided and un-aided colleges, and in the amount of the GIA (at current prices as well as at constant prices) to colleges. Nevertheless, the total GIA per college or per student is uniform between universities and districts in the State. From this viewpoint, the GIA has a strong element of equalisation principle in it.

Fourth, the educational performance of students in an aided college may be influenced by multiplicity of factors, but many of these factors are not related to the current GIA policy in the State. These factors include the quality of students admitted into the courses, availability of college infrastructure including water and electricity, stationary, laboratory, equipment, library, sport facilities, buildings, furniture, etc. Thus, to increase the efficacy of the GIA policy, the criteria for the continuation of the GIA may be broadened by linking the GIA to such factors as mentioned above.[13]

Fifth, the major policy issue in the current GIA centres around the compulsions for the State government to reduce the GIA, possibly as a part of expenditure reduction strategies for containing the deficits. However, is a sizable reduction in the current GIA to colleges in the State feasible? If feasible, how to implement such a policy of reduced GIA without affecting the quality of education? These questions are the crucial policy issues in the current GIA policy and have considerable implications on the State government, students, teachers and management of the private degree and law colleges. Thus, a reduction in the GIA only from the viewpoint of the State government would be both myopic and biased.

It might be added here that about 332 new private degree colleges in the State have been started since 1987-88, knowingly that they would be permanently on non-GIA basis. The experience of starting, working and financing of these colleges seems to be a strong practical argument for reducing the GIA to the aided colleges in the State. To our knowledge, there exists no study on the nature and determinants of educational performance of and finances in unaided private degree colleges in the State. Thus, it is not possible to generalise nor derive specific lessons from the experience of unaided colleges, among others, for financing of unaided courses in the aided colleges. This implies that there is a policy imperative for a separate study on the finances of unaided private degree colleges in the State.

NOTES

1. These components of GIA codes are compiled and detailed in a book published by Murthy [1993, Pp. 217-44].

2. To our knowledge, the only recent and published study on the GIA in India is for Kerala State by Mathew [1991].

3. In fact, the current GIA policy has evolved over the years in different forms. First before 1975, the GIA was given in the form of teaching grant and building grant with detailed specified conditions. For instance, the teaching grant was limited to 80 per cent (subsequently, reduced to 70 per cent) of the excess of 'approved expenditure' over the 'direct receipts' (which, shall not be less than 50 per cent of the approved maintenance expenditure as calculated in terms of tuition and laboratory fees at standard rates). In addition, teaching grants also covered grants towards loss of fee income on account of free studentships. The specific conditions for the teaching grants included (i) average daily attendance of not less than 80 students in the college; and (ii) qualifications, salary and allowances of the staff to be the same as prescribed for the corresponding staff in government colleges. Next, building grants were to be limited to 50 per cent of the expenditure on purchase of site, and construction of buildings, subject to a ceiling of Rs 50, 000 per year to any college. For details of the items under direct receipts and approved maintenance expenditure, see Appendix I in Murthy [1993]. For a comparison of forms and conditions of GIA in different States in India before 1975, see Chapter 8 in Azad [1975]. Second, way back in 1977, the GIA was reduced in scope by being restricted only to teaching grant. The maximum GIA was reduced to 75 per cent of the total expenditure on staff salary and allowances.

4. According to the available guidelines for the degree colleges in Bangalore University, the following are important: First, minimum number of days of working is 180. Second, minimum attendance is 15 students for a language subject and 5 for an optional course. Third, minimum attendance for a student is 75 per cent in each subject without a fine or 60 per cent in each subject with a fine of Rs 100.

5. Another important argument for the GIA is to internalise the external benefits (or externalities) it generates. For instance, a college may invest in producing good graduates and these graduates may be employed for instance, in trade and industry. In this situation, a college bears the costs but employers in trade and industry benefit (i.e., free of cost) from it. In the long run, this situation may act as a disincentive to run a college, especially when the price (e.g., tution fee) elasticity of demand for college education is negative. However, if the college is subsidised, say by taxing the trade and industry, then it may get its losses compensated without affecting the students' demand for education. This argument is one of the most celebrated justifications for public subsidies to education, and the GIA is not an exception to this.

6. It should be emphasised that ANGC in Karnataka State up to 1993-94 budget was inclusive of teaching grant and grants for bringing private degree colleges into GIA code under both plan and non-plan expenditure. For instance, in the budget for 1993-94, plan (non-plan) expenditure for teaching grant was Rs 60.48 (Rs 8,345) lakh, and expenditure for bringing private degree colleges under GIA code was Rs 241.8 (Rs 1.7) lakh. Since 1993-94, all plan expenditure is restricted to bringing private degree colleges under the GIA code and non-plan expenditure is restricted to teaching grant. Thus, all plan expenditure under the GIA since 1987-88 have been spent to bring new private degree colleges under the GIA, provided they had been started before June 1, 1987.

7. Inconsistency is found when the year of GIA is reported earlier to year of starting of college. This is evident, for instance, for the Kittle Science College in Dharwad. The year of its starting is reported as 1988-89 and data of GIA as October 29, 1977. Non-reporting of data is evident in about 13 colleges in Gulbarga University, spread in all districts covered by the University.

8. Throughout, the observed allocation for the GIA is considered to be the socially desired (or optimal) allocation as determined by the underlying socio-economic and political sub-processes. Thus, the observed allocation is equalised with optimal allocation or the observed allocation is assumed to be efficient in welfare-theoretic terms. Otherwise, the observed allocation may have to be compared to an optimal allocation, where the optimal allocation is to be derived from an underlying social welfare maximisation analysis. Accordingly, the nature and magnitude of efficiency or inefficiency may be determined and the need for corrective measures may be analysed to reduce or eliminate the inefficiency in question. A discussion on these technical aspects of allocative efficiency is, however, beyond the scope of this paper.

9. Gross Fiscal Deficit (GFD) is defined as the excess of total expenditure over the sum of revenue receipts and non-debt capital receipts. Total expenditure includes revenue (plan and non-plan) expenditure and capital (plan and non-plan) expenditure. Revenue receipts include tax (direct and

indirect) revenues and non-tax revenues. Non-debt capital receipts include receipts from dis-investment in public sector equity and recovery of loans. Revenue Deficit (RD) is defined as the excess of revenue expenditure over revenue receipts.

GFD (RD) of the central government has increased from Rs 44,632 (Rs 18,562) crore during 1990-91 to Rs 60,257 (Rs 32,716) crore during 1993-94 and to Rs 98,630 (Rs 55,673) crore during 1998-99 (BE). As a percentage of GDP, the GFD (RD) was 8.3 (3.5), 7.4 (4) and 5.6 (3) during these years, respectively [for details, see Annexure 9 in Receipts Budget, Government of India, 1998]. On the other hand, the RD of the Government of Karnataka has increased from Rs 78.9 crore during 1990-91 to Rs 116.4 crore during 1993-94 and to Rs 151 crore (BE) during 1998-99. GFD has increased from Rs 917.8 crore during 1991-92 to Rs 1,254 crore during 1993-94 and to Rs 1,901.3 crore (BE) during 1998-99 [for details, see Reserve Bank of India, 1999]. The GIA was 70 per cent of RD during 1990-91, 75 per cent during 1993-94 and 33 per cent during 1997-98. This suggests that expenditure on account of GIA has contributed substantially to the State revenue deficit.

10. The policy concerns with financing higher education are not a special problem in Karnataka. Rather, it is national concern. This is reflected in the following three major policy discussions in the recent past.

First, unlike in the past where privatisation issues were related only to private ownership and management of higher education, the major issue of privatisation under economic reforms is also private financing of higher education. For instance, Mathew [1996, Pp. 866-69] has analysed the financial aspects of privatisation of higher education in India. His analysis emphasises that cost recovery is a major instrument of privatisation of education. In this regard, the merits and demerits of three methods of cost recovery are discussed. These are enhancement of tuition and other fees, student loans and earmarked taxes (e.g., graduation tax and education cess). [For a recent discussion on the arguments for and against student loans in India, see Tilak, 1999]. Further, issues relating to private financing versus self-financing, user-financing versus community financing, and user-financing and State-financing are discussed.

Second, there have been discussions on the recommendations of the *Report of the Committee of Funding of Institutions of Higher Education* [Chairman: Justice K. Punnayya, 1995]. See, for instance, Tilak [1995, Pp. 426-29] for a summary of discussion on these reports in a seminar on Funding of Higher Education, held at the National Institute of Educational Planning and Administration, New Delhi, on January 23-24, 1995.

Third, reference may be made to Government of India's paper on *Government Subsidies in India* [1997]. For a thorough discussion on this paper, see, for instance, the paper by Desai [1998, Pp. 2-7], Panchamukhi and other 14 papers in the reference being cited.

Interestingly, problems of public financing of higher education are not peculiar to India. This is evident, for instance, in the constitution of a committee: *Sir Ron Dearing's Review of Higher Education* (popularly called, Dearing Committee) in 1997 in the United Kingdom, and Professor Smith's Committee on Future *Directions for Post-secondary Education in Canada* in 1996 [for details on Deraring's Committee report, see Dolton et al., 1997; for Smith report see Ontario Provincial Government, 1996].

11. If the GIA is considered as a form of public investment in higher education for generation of human capital which may be needed for regional/national economic development, then the presence of GIA is defendable if the returns to it are positive and its continuation is defendable if the returns to it are positive, and increasing over a period of time. Or, a reduction (removal) in GIA is defendable if the returns tend towards zero (or become negative). Obviously, when the return to public investment (or GIA) in higher education is positive, it is counterproductive to cut the GIA. In fact, there exists a vast literature on the estimation of returns to investment in education. For instance, most recently, Psacharopoulos and Mattson [1998, Pp. 271-87] provide with a review of two important methods of estimation. First, internal rate of returns (IRR) method. Second, estimation of earning function (EF). Depending upon the availability of large or small individual/grouped data set, the IRR method is subdivided into elaborate method and short-cut method. And, estimation of EF is subdivided into basic-Miscerian and extended Mincerian method. In essence, the application of these methods for estimating the return to investment in education requires individual data including earnings, education levels and types, age and cost of education (institutional and household). Thus, in the absence of these data, returns to education in the framework of human capital may not be estimable. Further, Psacharopoulos' and Mattson's study also provides with an empirical evidence for the return to education based on alternative methods under both IRR and EF for data from Venezuela for 1992 and from Bolivia for 1990. For an excellent review article on studies in returns to investment in education, see Psacharopoulos [1994, Pp. 1,325-343].

12. The reservation policy and roaster system in recruitment are not the same. In reservation policy of the jobs in State government services and in institutions on government's aid, excluding minority institutions, certain per cent of jobs are reserved for certain category of persons with specified socio-economic background. For instance, according to the Government Order No. SWD/251/BCA/94, Bangalore, January 31, 1995, the total per cent of jobs reserved equals to 50. Of this, 4 per cent for Category I or for persons belonging to Backward Tribes, such as, fishermen; 15 per cent for Category II(A) or for persons belonging to Backward Castes, such as, *Agasa*; 4 per cent for Category II(B) or for persons belonging to Muslim community; 4 per cent for Category III(A) or for persons belonging to backward community, such as, *Vakkaligas;* 5 per cent for Category III(B) or for persons belonging to backward communities, such as *Veerashiva;* 15 per cent for persons belonging to Scheduled Castes; and 3 per cent for persons belonging to Scheduled Tribes.

On the other hand, the roaster system, among others, specifies the order in which the jobs should be reserved for what category of persons. For instance, if the total number of jobs is 100, the 1st, 6th, 13th, 20th, 27th, 30th, 41st, 48th, 55th, 62nd, 69th, 76th, 83rd, 90th and 97th job should be reserved for Scheduled Castes. And, 2nd, 33rd and 66th job should be reserved for Scheduled Tribes. For details, see Government Order No. DPAR/28/NBC/86, dated December 12, 1986.

13. In Karnataka State, permission to start a new college is granted by the State Government, and the university within which the colleges are located gives affiliation/recognition of colleges/courses. In fact, many of the criteria mentioned above are already a part of the requirements to be fulfilled by the colleges for affiliation with a university. More recently, the University Grant Commission's UGC's National Assessment and Accrediatation Council (NAAC) has come into being on September 16, 1994 with the objective, among others, to devise and establish mechanisms for periodic assessment and accreditation of universities and colleges in the country. For instance, at present, four degree colleges [Christ College, Jyoti Nivas College, St. Joseph College and St. Agnes College] in Karnataka have obtained NAAC's accreditation. Interestingly, all these four colleges are aided degree colleges in the State. For an overview of NAAC's activities, see NACC (1996).

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WORK CULTURE AND INDUSTRIAL DEVELOPMENT OF KERALA

K.V. Joseph

The organised labour which could become a dominant class displays militant behavioural pattern in India as a whole and Kerala in particular. However, the militancy appears to be, on the one hand, as an attempt to maintain its dominance and, on the other, as manifestation of the work culture of the past characterised by indifference to duty. Such a behavioural pattern operates as a retarding factor in the industrial development of Kerala by creating fears in the minds of the potential entrepreneurs from investing their limited capital and by lowering productivity. Nevertheless, with the declining trends in militancy, a new work culture appears to be in the offing.

Industrial development calls for the service of labour in fairly large numbers. The nature of works and the conditions under which they are to be performed under industrial system are altogether different from those of the traditional occupations. Labourer, the human agent, on his part invariably carries with him the elements of his culture, relating to work. Behavioural pattern of the labour in relation to work, which for practical purposes may be termed as work culture and which counts much in the industrial development of any country, may undergo changes as a result of interaction with various parameters appurtenant to the process of industrial development. The question posed is, what would be the complexion of such changes and its impact on industrial development. The theme of this paper is to seek an answer to the question with particular reference to Kerala.

DETERMINANTS OF THE WORK CULTURE

Work culture of any country is moulded and influenced by a number of factors. Among them the climatic and environmental conditions are by far the most important. If the climate is favourable and the land is sufficiently fertile, the inhabitants of such regions may not be pursuing a rigorous work culture and life. An easy life accompanied by a leisurely attitude towards work would suffice for such conditions. In Malaysia, with favourable environmental conditions, for example, the peasants used to work only for four or five hours a day in the past [Holder, 1971, p. 51]. On the other hand, in countries where climatic or environmental conditions are not so favourable, people adopt a tradition of hard work. Thus, the Chinese or the Japanese have acquired a tradition of hard work, a habit imposed by the rigidity of the climatic and environmental conditions.

Admittedly, work is painful and unpleasant. However, man has to earn his livelihood by the sweat of his brows. Inevitably, an element of compulsion is inherent in any type of work. The basic human instinct which aims at avoiding pain and seeking pleasure, therefore, becomes a determinant in the evolution of work culture. Under the dictates of such an instinct, the people who dominate the society excuse themselves from engaging in difficult and unpleasant kinds of work. Coercion and exploitation were but the manifestations of the arrangements made in the society by those who dominated it in the past. In the evolution of the work culture, the part played by the ordinary people or the people who actually carry out the work, especially the difficult ones, was really insignificant. Throughout history, work culture of any society was invariably imposed by those who had control over resources and access to political and cultural authority. What happened in the past was the meek acquiescence to the dictates of the dominant by the weaker sections. Even the moral philosophers and religious preachers have tried to legitimise what the dominant sections had imposed on the society.

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One of the significant developments which have taken place with the evolution of the factory system of labour in the West was the emergence of working class as a decisive factor capable of influencing or altering the work culture. Such a possibility had emerged with the growth of trade union movement. As large number of workers assemble under a single roof, they are able to organise themselves into powerful unions. Other extraneous factors, like the revolution in the means of transport and communication, also facilitate the growth of labour unions as powerful bodies. Labour, which is instrumental in making commodities which yield profit to capitalist employers, hold a strategic position in the entire set-up. Further, the spread of liberal ideas in combination with the socialist ideology has added new leverage to the emergence of labour unions as powerful bodies. As a cumulative result of all these factors, labour unions could acquire so much strength that none of the norms relating to work and the conditions of work can be determined unilaterally and imposed at the will of the employers, as the dominant classes did in the past, without taking cognizance of the wishes of the workers. The workers have emerged as partners in evolving the work culture and the consent of the workers has assumed the status of a determinant in evolving the work culture. Instead of consent by coercion, consent by volition has thus become a reality under the pull of the labour unions in any case in the organised sector of industry.

Mention may be made in this connection that work culture itself is only a sub-section of the culture of the society. Cultural ideas, as Neff puts it 'are rarely wholly lost even though the societies that produced them have disappeared, some of our ideas about work have the aspect of cultural survivals' [Neff, 1968, p. 89]. Survival of ideas of pre-industrial work-culture in the context of the dominance of labour unions can very well add new dimensions in the evolution of work culture under industrial system.

Traditional work culture of India with its imprint of environment can aptly be termed as *aram* culture, meaning rest of and relaxation' [Sinha, 1990, p. 40]. However, under the caste system which provided religious sanctity to occupational division of labour based on birth, the members belonging to the upper castes who formed the dominant section in the Indian society were excluded from engaging in any of the difficult and unpleasant kinds of work. At the same time, they were entitled for a major share of the produce turned out by the efforts of the low caste people who were bound to perform all kinds of work, most of which was looked upon as disgraceful activities. While work was a duty of the low caste people, without any corresponding claim to a return, the upper caste people were bestowed with rights to a share of the produce without any corresponding obligation to work. Thus, the system was soft towards the upper caste people and harsh towards the low caste people. A work culture with indifference to work on the part of the dominant classes was the outcome of such a system.

However, the nature of works and the manner of their performance are altogether different under an industrial system. A new work culture with strong commitment to duty, collective orientation to work, diligent observation of work norms, etc., should emerge for the orderly development of industries. Since the industrial system is an offshoot of the technological processes and work practices that prevailed in Europe, a work culture conducive to the development of industries could emerge in the West as a spontaneous evolution from the existing work culture. Further, the Protestant ethics, which accorded a dignified status to work, facilitated the smooth adoption of such a work culture in the West. By contrast, India had no such experience with machines or factories or the work norms expected under industrial system of production. To the workers who were drafted to the newly opened factories, the work norms and practices

expected to be adopted as well as the organisational arrangements under which they were bound to work were altogether new. All the same, along with industries, the Western ideas of liberty and equality, institutions like trade unions and ideologies like socialism also arrived in India.

The interaction of these various parameters forming part of the industrialisation process with the pre-industrial work culture may not lead to the emergence of a work culture conducive to the development of industries under Indian conditions. Instead, the organised labour was likely to emerge as a dominant class with which the work culture of the past, characterised by a soft attitude towards work on the part of the dominant classes of bygone days, would revive. Whether such a situation has emerged in India as a whole and Kerala, in particular, and, if so, what is its impact on the industrial development of Kerala would be explored in the sections that follow.

EMERGENCE OF THE ORGANISED LABOUR AS A DOMINANT CLASS

As in many other countries, industrial labour in India has emerged as a powerful group capable of displaying strong pulling power in any bargain for better wages. The elevation of labour to such a dominant position is the outcome of a number of factors. The most important among them is the close relationship between unions and political parties. The association of labour with political parties goes back to the formative days of labour movement in India. Though the modern industrial enterprises were started in the country from the middle of the nineteenth century, trade unions as such began to appear only after the First World War. The hardships caused by the War followed by the post-War inflationary conditions were the immediate prompting for organising trade unions. It was the period when freedom movement was gaining momentum in the country. Being a backward agricultural country with the vast majority of the people living in remote villages, adequate number of committed freedom fighters could not always be mobilized at quick notice. The national leaders of the country thought of filling this gap by cultivating special relationship with the growing class of industrial workers who were groaning under the pressure of various problems. For this purpose, the political leaders of the country came to their rescue by highlighting their plight and supporting them whenever agitations for redressing their grievances were launched. In turn, the political leadership could fall back on the working class as a dependable source of committed workers during the freedom movement. Thus, an atmosphere of cooperation and dependence on each other on a reciprocal basis was evolved.

When the national leaders were thus cultivating friendship with the trade unions, the left ideology, particularly that of the Marxian brand, was gaining ground in the country. The Communist Party of India, the main organised plank of left ideology, itself was formed soon after the First World War. At that time, the professed aim of the Communist Party was to capture power by means of an armed uprising of the working class. They, therefore, came forward to organise militant trade unions. The All India Trade Union Congress (AITUC), the largest organisation of trade unions in the country, came under their control soon after its formation. Agitations of one type or other of a political nature were launched on different occasions by the trade unions under the guidance of the Communist Party. Needless to say, organised workers bargain from a position of strength and wrest concessions from their employers by effectively manipulating their political connections.

What happened in free India in so far as the organised labour is concerned is the strengthening of the bond between political parties and trade unions. Instead of having a single union or unions of different categories of workers, each political party has a union under its control. Leadership of such unions is in the hands of the respective parties concerned. Thus, the Congress Party

controls the Indian National Trade Union Congress (INTUC), the Marxist Party, the Centre for Indian Trade Unions (CITU), the Communist Party, the AITUC, the Bharatiya Janata Party, Bhartiya Mazdoor Sangh (BMS), to name only a few trade unions controlled by the big parties. These political parties make use of the unions under their control for their own political purposes. Some of the leaders of the unions may become ministers and high dignitaries in the state. The political patronage enables the unions to intimidate the management. Workers manage to secure maximum benefits by skillfully exploiting the political link, whenever any dispute relating to discipline or bargaining for better remuneration takes place.

Another factor which contributed to the emergence of the organised labour as a dominant class is the entry of government as an active participant in the industrial development of the country by opening a large number of public sector undertakings since Independence. Government's entry as an industrial entrepreneur was motivated by the desire for the eventual transformation of economy into a socialist one. It was then believed that the state would be the main agency capable of achieving industrialisation of the country by raising enough capital and other resources

It can, however, be stated that large scale expansion of the public sector undertakings has contributed much to the emergence of the organised labour, particularly of the public state undertakings, as a dominant section for various reasons. The government servants in India used to regard themselves as masters and the ordinary citizens as subjects. As Myrdal puts it, '(f)rom the colonial times, politicians and civil servants inherited their role as guardians of the people and the superior status that went with it' [Myrdal 1968, p. 619]. There is very little change in the attitude of the government servants in this regard in spite of the fact that a democratic form of government is functioning here since Independence. On their part, the employees of the public sector pose themselves as government servants and display a position of superiority in their dealings with the public. Some of the Acts and Regulations of the government are conducive to promoting and nurturing a *sahib* mentality among the employees of public sector undertakings. For example, selections of the Administrative Officers of the Railway Board are being made by the Union Public Service Commission along with the All India Civil Services Examination. Similarly all the employees of the Kerala State Electricity Board and Kerala State Road Transport Corporation are selected by the Kerala State Public Service Commission as in the case of the selection of any other regular government official. Then again, entrants in public sector undertakings are better educated. Majority of them are from the 'superior' castes. By inclination they tend to regard the ordinary citizens, most of them mere illiterates, as inferior class. Further, many of the public sector undertakings fall within the category of monopolies. The employees of those monopoly concerns effectively twist the monopoly position to their own advantage and exert their dominance over the consumer public. The posture of superiority displayed by the employees of the transport corporations or electricity boards, for instance, stems primarily from the monopolistic character of the respective enterprises.

While the employees of the public sector enterprises pose themselves as a superior class by virtue of their position, education, caste background and monopoly hold, the attitude of the government towards labour in general including their own employees is one of extreme leniency. Since Independence, it has been the policy of the government to treat workers of all categories as under-privileged classes. The Industrial Relations Policy, for instance, as Johri puts it, 'has reflected the belief that the workers were not only

under-developed and poor but also badly organised and lacking in bargaining power' [Johri, 1990]. In pursuance of the above mentioned policy, government used to concede the demands of the workers at the time of any dispute and, thereby, elevate them to the status of a privileged class. The vast army of government servants who have been even otherwise posing themselves as a superior class also formed their own unions and became beneficiaries of this benevolent attitude of the government. Thus, the scenario we find in India is the exalted position of the organised sector of the working class comprising the vast army of government servants, the employees of various public sector undertakings and the workers in the private sector as members of a privileged class. The level of income accruing to the organised labour in comparison to that of the other classes of people brings out this aspect clearly (Table 1).

Table 1. Average Amount of Income Accruing to Different Classes of People in 1981

Class of People	No. of Persons in million	Percentage to Total	Average Income per Person in Rs	Average Annual Income of Family of 3 Persons in Rs	Ratio of Average Income to the Average of the Family of 3 Persons
(1)	(2)	(3)	(4)	(5)	(6)
A. Organised Sector (Labour)	15.5	7.0	10,643	4,890	2.18
a. Public Sector Employees	7.4	3.3	11,289	4,890*	2.31
b. Private Sector Employees	22.9	10.3	10,851	4,890	2.20
Total A					
B. Unorganised Sector (Labour)	55.5	24.9	1,703	4,890	0.35
a. Agricultural Workers	18.1	8.1	4,871	4,890	1.00
b. Non-agricultural Workers	73.6	33.1	2,482	4,890	0.51
Total B					
C. Self-employed Cultivators	92.5	41.6	3,000	4,890	0.61
D. Self-employed Non-cultivators	33.5	15.0	5,066	4,890	1.04
Total (A+B+C+D)	222.5	100.0	3,948	4,890	0.81

Note: * The figure given by CMIE corresponds to three times the per capita income in 1980-81 as appeared in the same edition of CMIE publication.
Source: CMIE: *Basic Statistics Relating to Indian Economy,* August 1991. *Structure of Work Force and Income Per Worker* 1980-81.

As can be seen, the average amount of income accruing to a labourer in the public sector was Rs 10,643 and that of the organised private sector Rs 11,289. These two classes form the organised sector in India. They constituted only a tiny section of the labour force accounting for only 10.3 per cent of the total. The income accruing to the self-employed persons also wage earners of the agricultural and non-agricultural sectors was much lower than that of the organised sector. The workers of the organised sector thus fall within the category of the highest income earning class in India. The ratio between the earning of the workers in the organised and unorganised sectors has been widening further since 1981. By 1991-92, the emoluments of a public sector employee for example, have gone up to Rs 56,611. These work out to 3.4 times higher than that of a family of three [GOI, 1992; CSO, 1992].

Apart from the earnings in money terms, workers in the organised sector are eligible for other benefits like medical reimbursement charges, allowance for education of children, conveyance allowance, housing facilities or loan for construction of houses at subsidised rate of interest, etc. Further, any increase in prices is being neutralised by the periodical revision of dearness allowance. Such benefits do not accrue to any category of self-employed persons or

workers in the unorganised sector. In the words of a well-informed authority, 'the career of industrial worker is quite attractive and much coveted' [Sharma, 1970]. Dandekar goes one step ahead and maintains that the position of the organised labour comprising the public sector and private sector is akin to the 'co-masters of the productive forces of the society' [Dandekar, 1978, p. 121].

The benefits accruing to the employees of the public sector undertaking are still more attractive. It is a well-recognised principle that the workers have no moral claim to a wage rate higher than the rate of productivity. Very often increase in the wage rates itself has been higher than that of the increase in the productivity. Dholakia has calculated, for instance, that the real wages of the public sector undertakings have gone up by 73 per cent between 1960-61 to 1975-76 against an increase of 58 per cent in productivity [Dholakia, 1980, Pp. 174-75]. The workers of all the public sector undertakings are eligible for enhanced rate of wages and bonus even if the concerns are incurring losses. In fact, as Centre for Monitoring Indian Economy (CMIE) report of May 1991 puts it, '(a) most disturbing aspect of the public sector is that over the years it has developed as a high wage island and has thus accentuated the inequality of income in the country' [CMIE, 1991(a)].

The underlying cause for the clamour for reservation in the public sector and the controversy revolving around Mandal proposals can be attributed to the privileged position which the organised sector could attain and the dominance which it displays in the society. The members belonging to the backward communities feel that an entry into the organised sector as an employee is the only channel through which they can rise high in social hierarchy. The widening gap between the earnings of the workers in the organised sector and unorganised sector points to the growing strength of the organised sector to command disproportionately larger share of the national produce.

In the gradation of the dominance of the organised labour and the quantum of privileges accruable to them, Kerala would perhaps be holding the top-most position. A number of indicators point to this aspect. Evidently, the workers have no moral claim to a wage increase higher than the increase in the level of productivity. Thampy's study reveals that the wage per worker in the small scale industrial sector of Kerala has increased by nearly three and a half times while productivity has increased only by less than two times during the period 1970-71 to 1982-83. On the other hand, in the country as a whole, the increase has been three times for both wages and productivity. At the same time, the average wage per worker in Kerala stood at Rs 4,528 in 1982-83 against the all-India average of Rs 3,990 [Thampy, 1990]. In Kerala, even the agricultural labourers are getting a higher rate of remuneration than their counterparts anywhere in India [GOI, 1994].

The organised labour could become a privileged class in the state mainly because of the support from the political parties. Kerala is, perhaps, the only state where all the political parties, however tiny each one might be, have their own labour unions. All the political parties make use of the organised trade unions and service organisations affiliated to them for their narrow political purposes.

The organised labour, in turn, could effectively manipulate their link with the political parties for securing more benefits. Even in instances where establishments were operating under heavy losses, the unions could manage to secure upward revision of wages on various occasions. Kerala State Road Transport Corporation, for example, has been incurring losses for many years. However, the organised labour could get enhanced rate

of remuneration. Similarly, Kerala State Water Authority has also been incurring loss for many years. However, the employees are getting remuneration even higher than the rates applicable to the employees of other departments of the government. Actually, what happens is that whenever a dispute erupts all the political parties extend support to the workers on account of the fear that they would lose their hold on them if they do not rally behind them on such occasions. The support extended by all the parties to the transport strike in 1994 is a glaring instance where the organised unions could get support from all political parties. Through such connections, the organised labour manages to become not only a highly privileged class but also the dominant sector in the state.

REVIVAL OF THE PRE-INDUSTRIAL WORK CULTURE UNDER INDUSTRIAL SYSTEM

Workers are duty bound to perform work assigned to them as they receive remuneration due to them for the work rendered by them. In the past, the conditions of workers were really miserable. As already stated labour unions were formed to safeguard their interests and the workers have been highly successful in securing better conditions of service and attractive rates of remuneration. Agitations and strikes were the usual weapons resorted to by them for wresting benefits and better conditions. However, with the progressive improvement in their service conditions, the incidence of strikes has declined over the years in almost all parts of world. In India, on the other hand, there is practically no change in the incidence of strikes resorted to by trade unions.

According to a study made by Y.R.K. Reddy, the average number of man-days lost on account of strikes in India per 1,000 employees was 5407 for a period during 1980-87. The number of days lost per 1,000 employees was higher than that of India only in Peru, a South American country. However, the man-days lost per striking employee was only 9.2 in Peru against the Indian average of 42.57. Among the developing countries, the magnitude of strike as reflected in the average number of man-days lost per 1,000 workers was high only in Philippines. In all the other developing countries like Bangladesh, Sri Lanka, Mexico or Thailand, the magnitude of strike was very low [Reddy, 1993]. Significantly, all these developing countries possess a strong work culture.

Since monetary remuneration of the organised workers has gone up very high compared to the low level of income accruing to the other classes, the large incidence of strikes cannot be explained in terms of economic grievances. The rationality behind the high incidence of strikes seems to be similar to the one which operates behind the cultural tradition of India, particularly relating to work. What prevailed in India was, as stated earlier, a leisurely or even indifferent attitude on the part of the dominant classes towards work. They could do so because the system then prevailing provided for a steady flow of income, even though they were not bound to do any work. Similarly, the organised labour in India is entitled for attractive rates of remuneration, whether the enterprises are making a profit or not or whether the workers are committed or indifferent to duty. The CMIE report concurs in this with the following observation: 'In a certain sense, the public sector (along with the private corporate sector) thus constitutes a powerful exploitative chunk of the Indian economy' [CMIE, 1991(a)]. The very large incidence of strikes which take place can be construed, on the one hand, as a clear manifestation of the absence of dedication and discipline expected of the organised labour and, on the other, as an attempt designed to maintain their dominant position. An examination of the purposes for which strikes are resorted to corroborates this point further [Table 2].

Among the various causes for strike, those undertaken solely for wages are only 25.21 per cent. Bonus together with retrenchment which

accounts for 8.45 per cent of the total can also be construed as falling within the category of wages and allowances. Even then, they account for hardly 34 per cent. Against this, indiscipline and violence which is definitely against discipline account for 15.72 per cent. Some of the reasons, like personnel, and leave and hours of work, are also designed to maintain a lenient attitude towards work. The category 'others' includes items like distribution of supplies, canteen facilities, security arrangements, working conditions, canteen housing, attendance, anti-labour policies, non-implementation of settlements, union matters, etc. Definitely, many of them are conducive to maintaining a soft attitude towards work. The studies conducted by Ramaswamy and Ramaswamy confirm this point further. They divide the strikes into those taking place on account of economic causes and those for non-economic causes. According to them, not even half the number of strikes are undertaken for economic reasons. In certain regions, like West Bengal, non-economic causes account for more than seventy per cent [Ramaswamy and Ramaswamy, 1981, Pp. 221-22]. Perpetuation of a work culture with indiscipline and indifference to work would be promoted when strikes of such nature are resorted to.

Table 2. Purpose-wise Classification of Strikes in India since 1987

Purpose of Strikes	No. of Strikes					Average for Five Years	Percentage
	1987	1988	1989	1990	1991		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Wages and Allowances	484	473	425	442	435	451.8	25.21
Bonus	135	117	108	72	70	100.4	5.60
Personnel	236	229	300	236	270	254.2	14.11
Retrenchment	64	59	39	54	39	51.0	2.85
Leave and Hours of Work	22	18	21	23	18	20.4	1.40
Indiscipline and Violence	246	268	275	285	335	281.8	15.72
Others	569	535	558	659	605	585.2	32.65
Not-known	43	46	60	54	38	48.2	2.65
Total	1,799	1,745	1,786	1,825	1,810	1,792.0	100.00

Source: *Labour Yearbook,* various years.

High rate of absenteeism can be reckoned as would be another manifestation of a leisurely or indifferent attitude towards work. Absenteeism means failure of the worker to report for work when he is scheduled to work.

A worker is entitled for 20-25 days of paid leave in an year. Even if allowance is made for 25 days of leave, the rate of absenteeism cannot exceed 7 per cent.[1] However, the rate has been consistently more than 12 per cent since 1971. Absenteeism in excess of 7 per cent can certainly be due to the lack of any strong commitment to work. Mention may be made in this connection that the rate of absenteeism is very low in Great Britain. The hold of a work culture with an indifferent attitude towards work is very strong indeed in India.

Festivals, marriages, want of transport facilities, etc., are stated as the main causes for absenteeism. When an employee absents himself from duty, on account of festivals, the implication is that the cultural tradition plays a definite role in nurturing absenteeism. Similarly, during hot summer seasons, workers tend to abstain from work. Apparently, environmental conditions also figure as another factor in promoting absenteeism.

Apart from resorting to strike or to absenteeism, workers in India indulge in various other

kinds of indiscipline and negligence of duty like loitering within factory premises, chitchatting during duty hours, or resorting to new forms of protest like slow work, work to rule, etc. In addition to the aforesaid actions like negligence, the white-collar employees on their part reach the office premises late or leave early. Factory hands may even sleep during night shifts. Jai B. P. Sinha has reported of an instance in which 51 factory hands were found sleeping during night shift in a public sector fertiliser plant. The attempt of the factory management at a disciplinary action was thwarted by a factory-wide strike in which all the workers participated [Sinha, 1990, p. 75].

The Kerala Pattern of Work Culture

Among the states in India, the grip of a work culture characterised by strikes and absenteeism appears to be more deep rooted in Kerala than in any other state. Indiscipline in combination with the lack of commitment to work also seems to be widespread. Table 3 gives the number of persons involved in strikes and the number of man-days lost thereof since 1971.

Table 3: Magnitude of the Incidence of Strikes in India and Kerala

Year	India		Kerala	
	No. of Persons on Strike	No. of Mandays Lost	No. of Persons on Strike	No. of Mandays Lost
(1)	(2)	(3)	(4)	(5)
1971	1,615,140	16,456,360	202080 (12.51)	3,132,492 (18.93)
1972	1,736,737	20,543,016	203,062 (11.69)	3,215,568 (15.65)
1973	1,863,340	17,704,215	150,296 (8.06)	1,811,274 (10.23)
1974	1,640,019	28,404,568	254,061,(15.49)	3,571,013 (12.35)
1975	843,393	20,348,012	15,909 (0.17)	459,647 (2.75)
1976	647,009	12,380,897	3,762 (0.58)	62,064 (0.50)
1977	1,537,533	22,694,676	152,431 (9.91)	2,082,908 (9.17)
1978	1,216,523	25,363,292	649,607 (5.34)	1,995,988 (7.86)
1979	1,679,389	40,680,995	154,757 (9.21)	3,625,775 (8.41)
1980	1,317,260	19,763,220	73,990 (5.61)	1,227,332 (5.70)
1981	1,127,173	33,552,416	44,447 (3.94)	2,187,769 (6.10)
1982	1,469,029	74,614,764	69,694 (4.74)	2,348,429 (2.65)
1983	1,460,465	4,685,800	30,320 (2.01)	157,500 (3.36)
1984	1,949,029	56,075,000	176,240 (9.04)	203,600 (3.63)
1985	1,078,801	29,239,000	34,279 (3.17)	1,061,000 (3.12)
1986	1,649,882	32,748,000	130,967 (9.93)	2,327,000 (7.10)
1987	1,767,877	35,358,000	43,706 (2.47)	2,163,000 (6.11)
1988	1,191,033	33,947,000	30,269 (2.54)	1,666,250 (4.90)
1989	1,364,254	32,663,377	73,151 (5.36)	1,338,124 (4.07)
1990	1,307,863	24,086,170	9,458 (0.72)	387,606 (1.6)
1991	1,342,022	26,428,072	10,530 (0.81)	561,005 (2.1)

Note: Figures in the bracket indicate percentage to the all India total.
Source: *Labour Yearbook*, various years.

The total number of industrial workers in Kerala accounts for slightly more than 3 per cent of the all India total. Except for 1975 and 1976 1982, 1990 and 1991, the percentage of man-days lost in the state was more than 3 per cent, indicating that the magnitude of strike was proportionately higher in Kerala. The two years, viz., 1975 and 1976, when the percentage was proportionately lower relatively to the number of workers, were the years of emergency. It suggests that Keralites would be a highly disciplined class of people under conditions of compulsion like an emergency. On the other hand, Keralites seem to be an easy-going class by nature. It is reported that Keralites have been displaying a strong commitment to work in areas outside the state. It

is a moot point as to why Keralites display better discipline in places away from their home state. Significantly, the incidence of strikes as reflected by the number of persons involved in strike and the man-days lost due to strike have been declining as years go as the data for 1982, 1990 and 1991 point out. Presumably, the gradual emergence of a strong commitment to work and better work discipline cannot be ruled out in course of time.

A person is bound to work for a period of about 300 days in an year according to the work load calculations and conditions of service in India. Variations from this figure take place on account of the number of public holidays, the period of strike, the rate of absenteeism, etc. Actually the average number of man-days worked in an year can be a better norm for evaluating the commitment to work as well as nature of the work culture of a country. In highly developed countries, the trend is for a fall in the number of days workers are required to work. Such a development cannot be expected in a developing country like India.

Table 4. Average Number of Man-days Worked by an Industrial Worker in Various States in India

Name of the State	Average Number of Man-days Worked					Average for the Five Years
	1986-87	1987-88	1988-89	1989-90	1990-91	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Andhra Pradesh	298.34	291.88	291.15	298.34	294.02	294.74
Assam	290.21	290.00	297.01	301.53	294.79	294.78
Bihar	328.20	323.64	328.97	331.39	320.66	328.11
Gujarat	306.43	300.99	299.48	301.15	302.53	302.11
Haryana	305.66	289.33	302.99	299.94	296.12	298.80
Himachal Pradesh	359.39	349.20	316.46	314.43	346.37	337.17
Jammu & Kashmir	333.35	358.96	304.33	319.60	315.36	326.32
Kamataka	317.01	314.36	314.96	307.19	310.08	312.72
Kerala	274.82	265.00	273.34	274.82	256.59	268.91
Madhya Pradesh	324.66	320.69	315.60	326.05	321.98	321.79
Maharashtra	323.86	322.00	321.98	327.46	325.96	324.25
Orissa	338.75	333.53	340.44	340.29	339.39	338.52
Punjab	313.49	310.86	311.58	311.87	310.31	311.62
Rajasthan	323.01	319.74	324.79	327.69	324.42	329.93
Tamil Nadu	308.53	303.36	310.65	311.33	308.94	308.76
Uttar Pradesh	298.10	292.73	305.93	291.96	298.66	297.47
West Bengal	309.98	313.55	311.25	314.72	316.95	313.29
All India	311.58	307.60	309.99	310.25	309.09	309.70

Source: Central Statistical Organisation (CSO), *Annual Survey of Industries*, various issues.

Table 4 gives data on average number of man-days worked by industrial workers in states in India. The average number of man-days of work done by a worker in Kerala was consistently the lowest throughout the period under reference. Even in West Bengal, a state noted for widespread industrial strikes, the average number of work days per worker was higher than that of Kerala. In fact, the average man-days of work per worker was only 268 in Kerala against the all India average of 309 days. It works out to only 86.42 per cent of the all India average. *Ipso facto*, in the gradation of the work culture of a 'soft' nature as reflected by the average man-days of work per workers, Kerala would be holding the top-most grade.

The absence of a strong commitment to work is not confined to the industrial workers alone. The Japanese economist, Hayami, who visited

Kerala was surprised to find a large number of educated youths who preferred to remain idle rather than to take up work in agriculture. Such a strange behaviour appears to be a continuation of the work culture of the past [Hayami, 1986, p. 238]. In the past, the tradition among the upper class people was not to allow their children to soil their hands in land. The following observation of a well-informed authority clearly amplifies the same: 'Manual labour is still looked upon as derogatory and a well-to-do high caste man labouring upon his own compound or his own field or allowing either his son or relatives to do the same would be looked upon with contempt. High caste men always employ low caste people for any and every work, agricultural or domestic' [Iyer, 1918, p. 149]. One need not be surprised if the educated youth who form the true successors to the well-to-do class of the past entertain a similar attitude of indifference to manual labour.

IMPACT OF WORK CULTURE ON INDUSTRIAL DEVELOPMENT OF KERALA

Work culture is as important as any other factor in influencing the pace of industrial development of any country. The case histories of the newly industrialized countries (NICs), like the Republic of Korea or Taiwan, illustrate the crucial role of work culture in accelerating the process of industrialisation. To a large extent, Japan's achievement is also due to the role of work culture. Song-Ung Kim summarises the contribution of work culture in the industrialisation processes of the Asian NICs with the following words: 'The chief aspect of recent economic growth in the Asian NICs is not entrepreneurship but work ethics and attitude of workers with cultural characteristics of collective orientation' [Kim, 1988].

On the other hand, if militancy and indifference to work are being adopted by labour, industrial development would be retarded. What happened in West Bengal points to such an eventuality. Among the states in India, West Bengal was a highly industrialised state, second only to Maharashtra immediately after Independence. However, since the sixties, labour militancy became conspicuous in West Bengal where such violent forms of agitation like the *Gherao* were introduced. No wonder, certain amount of deceleration has set in in all aspects relating to industrial development in West Bengal.

The attitude towards work in Kerala is altogether different from that of Korea or Japan. In the place of group orientation, what one finds in Kerala is stubborn individuality and indifference to disciplined behaviour among the Keralites. 'The Malayalee whose individual characteristics', says M.K.K. Nair, 'are often typified by the coconut palm, has no respect for others. Naturally as a result of his misplaced ego and unwillingness to submit himself to any discipline, political economic and social leadership development became impossible in Kerala' [Nair, 1964, p. 38]. As already stated, the organised labour in Kerala on their part could emerge as a dominant class and at the same time they have retained an indifferent attitude towards work.

Such developments would not have contributed to the growth of industries. Actually, the industrial development in Kerala has been fairly satisfactory during the pre-Independence period. The volume of paid up capital in the joint stock companies in the erstwhile Travancore state was as much as 2.63 per cent of the then undivided India in 1947 [GOI, 1950]. Since then, there was only sluggish growth of industries. The volume of capital investment in the factory sector of Kerala as a percentage to the all India total was only 1.85 in 1992-93. During the period 1986-87 to 1992-93, the volume of fixed capital formation in the state as a percentage to the all India total accounted for 1.48.[2] Such indicators of sluggish growth should be regarded as a serious consequence of the militant behaviour and indifference to duty on the part of dominant workers. The Kerala pattern is closer to that of West Bengal.

However, the industrial backwardness or sluggish growth of industries as such cannot be attributed to any single cause. Actually, a number of causes of which one of them can be more powerful than others would be operating below the surface. There can be the reverse working of what Myrdal calls, 'circular causation', by which one or two crucial factors exert enough retarding force on others so that none of them would be able to move ahead. Can work culture be regarded as such a crucial retarding factor, in so far as Kerala is concerned?

In order to ascertain whether labour militancy in combination with the work culture can be regarded as a crucial factor in retarding the industrial development of Kerala, a limited survey was conducted by the author among the entrepreneurs in Ernakulam and Quilon during 1993. The entrepreneurs themselves were asked during the survey to grade from their own experience a number of causes responsible for the slow pace of industrial development as first, second, third and so on. The probable causes included in the schedule were shortage of capital, lack of skilled labour, low labour productivity, militancy of workers, competition, lack of technological know-how, limited market, high cost of raw materials, state interference, lack of power resources, shortage of entrepreneurs, slow growth of technical education, unhealthy industrial milieu, and others. The ranking of each cause up to the third preference of the respondents has been as given in Table 5.

Table 5. Gradation of the Causes for Industrial Backwardness of Kerala

Sr. No.	Important Causes	Percentage of Respondents Indicating		
		Preference I	Preference II	Preference III
(1)	(2)	(3)	(4)	(5)
1.	Lack of Capital	34.28	10.00	--
2.	Militancy of Labour	25.71	12.85	10.00
3.	Low Productivity of Labour	24.28	5.71	4.28
4.	Competition	2.85	4.28	4.28
5.	High Cost of Ray Material	4.28	21.42	28.57
6.	Lack of Power	2.85	5.71	11.42
7.	State Interference	1.42	10.00	7.14
8.	Shortage of Entrepreneurs	1.42	8.57	5.71
9.	Unhealthy Industrial Milieu	1.42	1.42	1.42
10.	Lack of Skilled Labour	--	1.42	--
11.	Lack of Technical Know-how	--	2.85	10.00
12.	Limited Market	--	7.14	7.14
13.	Slow Growth of Technical Education	--	--	41.29
14.	Others	--	--	--
15.	Those who did not express any opinion	1.42	2.25	5.70
	Total	100.00	100.00	100.00

All these factors are involved in some way or other in the industrial development of any country. The exact role of each one depends on the local conditions and the pattern of industrial development. Metal industry, for example, cannot grow in a region where metallic minerals are in short supply. Similarly electronic industry requires more of skilled labour. Naturally some of them assume more importance than others from place to place or industry to industry. In so far as Kerala is concerned, the entrepreneurs indicated their preference in respect of almost all causes included in the schedule. However, with 34 per cent of the respondents indicating their first preference, lack of capital, topped the list.

As a second preference, fairly large percentage of entrepreneurs indicated shortage of capital as a second choice. Practically nobody preferred it

as a third choice. The second ranking cause was labour militancy. Labour militancy ranked second as both the first and second preferences and third as third preference. Low labour productivity occupied the third rank as first preference. It was not a significant factor as the second or third preference. About 85 per cent of the respondents indicated their first choice for one of these three causes. Significantly, lack of capital and low labour productivity are related to work culture, either directly or indirectly.

The remaining 15 per cent of the respondents indicated their first choice for one of the remaining 11 causes. Of them, high cost of the raw materials was the more important cause with 4.38 per cent of the entrepreneurs indicating it as their first choice. Among the remaining causes, only shortage of entrepreneurs and unhealthy industrial milieu can be regarded as those related to work culture. Only very few entrepreneurs expressed their preferences for either of them as a first or second or third choice.

Though labour militancy has often been regarded as the most important cause, it could secure the first choice of only 26 per cent of the respondents. Then, how can it be regarded as the crucial cause in retarding the industrial development of Kerala? In this connection, it is worth mentioning certain other aspects relating to labour militancy and labour conflicts. As seen earlier, labour troubles have been very acute during the sixties and seventies. Labour disputes are becoming less frequent during recent years and, as one author has termed, 'labour has reached its matured mankind' [Subramanian, 1990]. Industrial development should have been very slow during the period when labour militancy has been very strong. The findings of a research study corroborates this aspect. The contention of the study is that 'labour unrest has been a major impediment in the diversification of Kerala's industrial base' [Albin, 1988, Pp. 132-34]. The study elaborates the point with the following observation: 'This conclusion is reinforced when we also recall that in the fifties and sixties when opportunity for diversification existed, the conditions of labour unrest were particularly severe in Kerala, especially so when compared to regions like Karnataka and Andhra Pradesh which were able to diversify' [Albin, 1988, Pp. 132-34].

Though labour unrest has been less frequent, the adverse legacy created by labour militancy seems to be haunting the entrepreneurs. The Shakspearean *aphorism*, 'the evil that men do lives after them .....', appears to be relevant in so far as labour militancy is concerned. Entrepreneurs have been reluctant to invest in industries in Kerala apparently because of their apprehension of labour militancy. The volume of foreign investment approvals for India for the period January 1993 to April 1995, for instance, was Rs 286,194.50 million. Out of this, the share of Kerala was only a sum of Rs 370.54 million. It formed a paltry 0.29 per cent of the total. To quote M.K.K. Nair again, 'Unbridled licence among labour activity formed by fire eating leaders who had no sense of responsibility had created a fear of insecurity among entrepreneurs' [Nair, 1964].

Labour troubles have been instrumental in bringing certain unfavourable trend in the pattern of industrial development also. Most of the industries that have grown over the years in Kerala have been small scale units. Small scale units are preferred, for they can effectively circumvent labour disputes as these units require minimum number of workers. However, small scale industries possess very little linkage effect.

The two other important causes which accounted for the slow industrial development of Kerala are shortage of capital and low labour productivity. Of the two, shortage of capital is a crucial constraining factor in the industrial development of any Third World country. As seen earlier, Kerala lags far behind in so far as capital formation is concerned. Though funds suitable for investment are not lacking in Kerala, they are not being invested in industrial enterprises. It may be mentioned in this connection that bank deposit,

one of the important sources for raising capital, for example, has been consistently higher in Kerala on a per capita basis than in the country as a whole since 1978.[3] Potential entrepreneurs seem to be reluctant to invest in industrial ventures mainly because of the unfavourable milieu created by an unfriendly ideology. Instead, an entrepreneurial migration from Kerala is discernible in recent years. Labour unrest formed an important push factor for the entrepreneurial migration according to the findings of a study made by Oommen [Oommen, 1981].

Low productivity of labour, the other important cause for the slow industrial development can be due to various factors. The failure of the management to make timely renovation in the plants and equipments can be one of the reasons for low productivity. When the labour adopts a hostile attitude it would be natural for the management to take an indifferent stand in this regard. The militant posture of labour can by itself be a cause for the poor performance of the managerial activities. Instances are numerous where the managerial authority has been questioned by the organised labour.[4] Needless to say, productivity can be very low on account of the militancy of labour and indifference to commitment to work.

CONCLUSION

The organised labour which could count on political and ideological backing has emerged as a dominant class in Kerala. The scenario discernible in Kerala since Independence is the display of militant behavioural pattern on the part of labour with very little regard for commitment to duty. However, the strikes and other militant forms of behaviour which the organised labour frequently resorts to have to be regarded, on the one hand, as attempts to retain the status of the dominant position and, on the other, as manifestations of the survival of the work culture of the past which legitimised an indifferent attitude towards work on the part of the dominant classes. Thus, the cultural tradition of Kerala relating to work continues to be manifested in she behavioural pattern of the organised labour. The net result is the sluggish growth of industries in Kerala since Independence. A new work culture conducive to industrial development has yet to emerge in Kerala. Nevertheless, the latest trend in the state is for a decline in the incidence of strikes. It may, perhaps, be a prelude to the emergence of a new work culture.

NOTES

1. 'For the purpose of collection of data on absenteeism under the survey, the term 'absence' was defined as failure of a worker to report to work when he was scheduled to work. A worker was considered to have been scheduled to work when the employer has work available for him and the worker was aware of it. Authorised absence was also treated as absence while presence for even part of a day or slight was treated as presence for the whole day or shift. Absence on account of strike, lock out or lay off was not taken into account' [*Labour Yearbook*, 1974, p. 18]. From the definition so given it is to be implied that absent from duty on account of leave should be regarded as absenteeism, though he is permitted and entitled to do so. In a study on absenteeism made by Rudraswamy in 1986, a similar stance appears to have been taken as to be inferred from the following conclusion 'Out of 35.4 million man-days, 5.1 million man-days were lost through absenteeism - divided equally among authorised leave 4.4 per cent, unauthorised leave 5.5 per cent, absence due to sickness 4.5 per cent - total 14.4 per cent in 1984' [Rudraswamy, 1986, p. 34]. Further, in other writings also, absenteeism upto 8 per cent is treated as normal.

2. The volume of invested capital in the factory sector in Kerala for the year 1992-93 amounted to Rs 5,148.15 crore against an all India total of Rs 277,728.58 crore. As a ratio of all India total, it formed 1.85 per cent only. The volume of fixed capital formation, which has taken place both in India and Kerala since 1986-87, has been as follows:

(Rs in crore)

Year	Volume of Fixed Capital India	Formation Kerala
(1)	(2)	(3)
1986-87	6,504.61	153.52
1987-88	8,119.91	97.09
1988-89	8,037.03	113.90
1989-90	11,502.48	162.62
1990-91	14,229.65	266.60
1991-92	19,269.34	189.99
1992-93	21,618.25	339.67
Total	89,281.27	1,323.39(1.48)

Note: Figure in the bracket indicates percentage to the all India total.

Source:CSO, *Annual Survey of Industries*, various issues, Government of India, New Delhi.

3. Details of State-wise Bank Deposits are as follows:

Per capita Bank Deposits in Various States during Recent Years

Sr. No.	Name of the State	Per Capita Bank Deposits in (Rs)					% of Bank Credit to Deposit 1994
(1)	(2)	1978 (3)	1980 (4)	1985 (5)	1989 (6)	1994 (7)	(8)
1.	Andhra Pradesh	294	428.5	911.51	1,490	235	73.03
2.	Assam	172	227.01	911.51	835	1,272	38.04
3.	Bihar	189	276	547	1,016	1,352	33.20
4.	Gujarat	705	961	1,568	2,564	4,369	46.61
5.	Jammu & Kashmir	603	818	1,388	2,300	3,276	42.79
6.	Karnataka	458	660	1,146	1,907	3,230	67.75
7.	Kerala	488	682	1,347	2,221	4,743	44.94
8.	Madhya Pradesh	190	281	583	1,086	1,549	53.32
9.	Maharashtra	1,048	1,380	2,609	4,302	8,373	40.32
10.	Orissa	120	196	390	725	1,187	54.12
11.	Punjab	944	1,441	2,698	4,593	6,971	40.43
12.	Haryana	426	651	1,208	2,250	3,359	46.70
13.	Rajasthan	219	327	635	1,133	1,820	45.96
14.	Tamil Nadu	438	612	1,112	1,940	3,669	91.45
15.	Uttar Pradesh	270	405	770	1,352	2,007	35.01
16.	West Bengal	710	993	1,647	2,658	3,866	54.36
17.	Others	NA	NA	NA	NA	NA	NA
	All India	484	675	1,255	2,148	3,553	59.87

Note: Reserve Bank of India, *Statistical Tables Relating to Banks of India,* various years.

4. According to the findings of a study on the headload workers of Trichur, the 'managerial authority of the shop owning merchants was thoroughly questioned by various high handed activities of the labour', see P.S. Vijayasankar, 1986, *Urban Casual Labour Market in Kerala: A Study of Headload Workers of Trichur* (M.Phil Dissertation, Centre for Development Studies, Trivandrum.

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DOCUMENTATION

The purpose of this section is to make available to the readers official documents such as reports of committees, commissions, working groups, task forces, etc., appointed by various ministries, departments, and agencies of central and state governments which are not readily accessible either because they are old, or because of the usual problems of acquiring governmental publications, or because they were printed but not published, or because they were not printed and remained in mimeographed form. It will be difficult and probably not worthwhile to publish the documents entirely. We shall publish only such parts of them as we think will interest our readers. The readers are requested to send their suggestions regarding official documents or parts thereof for inclusion in this section.

In the present section we publish:

1. *Report of the Local Finance Enquiry Committee*, 1949, (Chairman: P.K. Wattal), Ministry of Health, Government of India, New Delhi, 1951, Chapter II.

REPORT OF THE LOCAL FINANCE ENQUIRY COMMITTEE

CHAPTER II

HISTORY OF LOCAL FINANCE

22. Municipal government flourished in cities in ancient India but, in the sense in which it is understood today, it was first introduced in the town of Madras in the days of the East India Company. In 1687, the Court of Directors, acting on authority delegated to them by King James II of Great Britain, ordered that a corporation, composed of British and Indian members, should be formed for purposes of local taxation. Funds were needed for the carrying on of administration and it was felt that it would be easier to collect taxes if Indians were associated in some manner with their imposition. This corporation was formed on the model of similar institutions then existing in England. It was empowered to levy taxes for the building of guildhall and a jail and a school house; for 'such further ornaments and edifices as shall be thought convenient for the honour, interest, ornaments, security and defence' of the Corporation and inhabitants; and for the payment of the salaries of the municipal officers, including a schoolmaster. The experiment had a brief and unsuccessful trial. The people strenuously resisted the imposition of anything in the nature of a direct tax. The town hall, schools and sewers, which were to have been the first work of the new Corporation, could not be undertaken and the Mayor had to ask for permission to levy an octroi duty on certain articles of consumption in order that he might provide the necessary funds for cleaning the streets. A charter of 1726 superseded the Corporation by a Mayor's Court, which was more a judicial than an administrative body. Similar institutions were introduced in, Bombay and Calcutta in 1726, but it was not until 1793 that the municipal administrations were placed on a statutory basis by the Charter Act of that year. This Act empowered the Governor-General to appoint Justices of the Peace for the towns of Madras, Bombay and Calcutta. These Justice of the Peace were authorised to levy taxes on houses and lands to meet the costs of scavenging, police and maintenance of the roads. A uniform system of fixing the house tax at 5 per cent of the annual rental value was introduced for the three Presidency towns. This method of assessment was borrowed from the English municipal system prevalent at the time. Though the rates have varied, the basis of assessment remains the same to this day, namely, the annual [rental] value.

23. The introduction of municipal institutions in mofussil towns began with the Bengal Act of 1842. This Act was applicable only to Bengal and was passed to enable 'the inhabitants of any place of public resort or residence to make better provision for purposes connected with public health and convenience'. It, however, proved inoperative since it was based upon the voluntary principle and its introduction in any town required the application of two-thirds of the householders. The taxation enforceable under it was of a direct character and for this reason also the law nowhere met with popular acceptance. It was introduced in one town, and there the inhabitants, when called on to pay the tax, not only refused but prosecuted the collector for trespass when he attempted to levy it. The authorities were by this time convinced of the futility of direct taxation for local purposes. Accordingly, in 1850 a new Act was passed, which was applicable to the whole of India. This Act also was permissive in nature, but it was more workable than its predecessor and, unlike it, made provision for the levy of indirect taxes, to which the people of the country were accustomed from time immemorial. It was largely used in several towns in the North-Western Provinces and Bombay, while in Madras and Bengal it had practically no effect. In Bombay, the success of the Act was due to the fact that the taxes collected under it found their prototype in those levied by the Mahratta Government under the designation of town duties and mohturfa*. It was not utilised in Madras, where voluntary

* A general tax, which was also in a sense a house tax, was levied under the Mahrattas under the name of *mohturpha* [paragraph 421, Indian Taxation Committee Report].

associations for sanitary and other municipal purposes took the place of regularly constituted municipalities. In Bengal, the Town Police Act of 1856 permitted the levy of taxation for conservancy purposes.

24. The next stage in the growth of municipalities owes its inauguration to the Report of the Royal Army Sanitary Commission published in 1863, which, though primarily dealing with army affairs, drew prominent attention to the filthy condition of the towns. In the six years following the publication of this report, a series of Acts were passed providing for a wider extension of municipal administration and a number of municipalities were constituted in every province. The Bengal, North-Western Provinces and Punjab Acts made the election of members of municipal councils permissive, but, except in the Punjab and the Central Provinces, they were in fact all nominated.

25. In the meanwhile, a parallel development of local institutions in rural areas was taking place. Local funds had been established for local improvements for some time, but the levy of rates for local purposes was not authorised by statute in any part of India until 1865 when an Act authorising the imposition of a cess of one anna in the rupee on land and *sayer* (miscellaneous) revenue, and a tax on shops in Sind was passed. A similar Act was passed in Madras in 1866 authorising the Government to levy a road cess at $3\frac{1}{4}$ per cent on the annual rent of land. Bombay followed suit with Act III of 1869, providing for the creation of a local fund committee in each district, with the Collector of the district as president. These Committees were empowered to levy a cess of one anna in the rupee of land revenue and received certain other sources of revenue, and were to provide for the requirements of the district in regard to local public health, education and convenience. As a measure of local self-government these Acts did not go far, but they were of service in improving the sanitary condition of the areas concerned.

26. **Lord Mayo's Resolution of 1870.** Local self-government as a conscious process of administrative devolution and political education dates from the financial reforms of Lord Mayo's Government. The need for financial decentralisation as an aid to economy and efficiency of administration provided the occasion for a departure in policy. By resolution No. 3,334 dated the 14th December, 1870, the Government of India made over to provincial governments certain departments of administration of which education, medical services and roads deserve particular mention, as they still constitute the principal activities of local bodies. The provincial governments were given a grant smaller than the actual expenditure on these departments and were required to meet the balance by local taxation. The beginnings of a system of local finance are thus to be found in the new scheme of provincial finance. As will be seen during the course of this review, many of the present day problems of local finance *vis-a-vis* provincial finance are similar in character to those which the provinces had to face in their dealings with the Government of India.

27. The resolution of Lord Mayo's Government went on to say

> 'Local interest, supervision, and care are necessary to success in the management of funds devoted to education, sanitation, medical relief, and local public works. The operation of this Resolution in its full meaning and integrity will afford opportunities for the development of self-government, for strengthening municipal institutions, and for the association of Natives and Europeans to a greater extent than heretofore in the administration of affairs'.

28. To carry out this policy new municipal Acts were passed in all the Provinces. In Madras, the country was divided into local fund circles, and consultative boards nominated by the Government under the presidency of the Collector of the district were constituted to administer the affairs of these circles. The Bengal District Road Cess Act of 1871 was the first step in the direction of local self-government in rural Bengal. It provided for the levy of a rate on real property for the improvement of communications and for the establishment of local bodies, the members of which might either be nominated or elected by the rate-payers. Similar Acts were passed in the North-Western Provinces (now Uttar Pradesh)[?] and the Punjab.

29. **Lord Ripon's Resolution of 1882.** Matters stood thus when the Government of Lord Ripon issued their famous Resolution dated 18th May, 1882. Reviewing the progress made in local self-government since 1870, the Government of India pointed out that a large income from local rates and cesses had been secured and in some provinces the management of this income had been freely entrusted to local bodies. Municipalities had also increased in number and usefulness. But there was still, it was remarked, a greater inequality of progress in different parts of the country than varying local circumstances seemed to warrant. In many places services admirably adapted for local management were reserved in hands of the provincial administration, while everywhere heavy charges were levied on municipalities in connection with the police over which they had no executive control. A fresh stop forward was, therefore, considered to be both desirable and necessary.

30. Lord Ripon's Government desired that provincial governments should apply to their financial relations with local bodies the principle of financial decentralisation which Lord Mayo had introduced and which had worked satisfactorily between the Government of India and the provinces. The provincial governments were invited to undertake a careful scrutiny of provincial, local and municipal accounts, with a view to ascertain:

(1) what items of receipt and charge could be transferred from 'Provincial' to 'Local' heads for administration by Committees comprising nod-official and, wherever possible, elected members;

(2) what re-distribution of items was desirable, in order to lay on local and municipal bodies those which were best understood and appreciated by the people.

It was added that incidentally to this scrutiny provincial governments would probably notice and might carefully consider

(3) ways of equalising local and municipal taxation throughout the Empire, checking severe or unsuitable imposts and favouring forms most in accordance with popular opinion or sentiment.

31. It was pointed out that it was not the intention of the Government of India that the proposed transfer of control of expenditure of a specially local character to local bodies should involve any addition to existing local burdens; and it was therefore shown to be necessary to arrange for a simultaneous transfer of receipts sufficient to meet any net balance of additional expenditure which in any instance might arise. The receipts to be thus transferred should, it was suggested, be such as to afford a prospect that, by careful administration, with all the advantages due to local sympathy, experience and watchfulness, they would be susceptible of reasonable increase. In cases where larger assignments of funds were required, the receipts from cattle pounds, or a share of the assessed taxes collected within the jurisdiction of a local body, were indicated as suitable sources of revenue to be made over.

32. In consequence of the issue of this Resolution, Acts were passed in the provinces between 1883 and 1885 which greatly altered the constitution, powers and functions of municipal bodies. Arrangements were also made to increase municipal resources and financial responsibility. Municipal revenues were relieved of the charges for the maintenance of the town police* in most provinces, on the understanding that they were to incur an equivalent expenditure on education, medical relief and local public works. At the same time, some items of provincial revenue, suited to and capable of development under local management, were transferred from the provincial account, with a proportionate amount of provincial expenditure, for local objects.

33. **Functions of Municipalities in Lord Ripon's Time.** The primary functions of municipalities under the Acts passed during this period were:-

(1) the construction, upkeep and lighting of streets and roads, and the provision and maintenance of public municipal buildings;
(2) public health, including medical relief, vaccination, sanitation, drainage and water-supply, and measures against epidemics;
(3) education.

34. **Financial Resources of Municipalities in Lord Ripon's Time.** The principal sources of revenue were:-

(1) octroi principally in Northern India, Bombay and the Central Provinces (now Madhya Pradesh);
(2) taxes on houses and lands in Madras, Bombay, Bengal, Burma and the Central Provinces (now Madhya Pradesh);
(3) a tax on professions and trades in Madras and the United Provinces (now Uttar Pradesh);
(4) road tolls in Madras, Bombay and Assam;
(5) taxes on carts and vehicles;
(6) rates and fees for services rendered in the shape of conservancy, water supply, markets and schools.

35. **Functions and Financial Resources of Rural Boards in Lord Ripon's Time.** The services entrusted to rural boards were similar to those made over to municipalities, the principal ones being communications, education and sanitation and, occasionally famine relief.

The main income of these boards was derived from a cess on land, which was collected by Government agency along with the land revenue, the proceeds being subsequently adjusted to the credit of the boards. In some provinces, however, a portion of the cess was utilised for provincial purposes.

The functions and financial resources of local bodies continue to this day to be very much the same as those in Lord Ripon's time.

36. **Government of India Resolution of 1896.** The progress made in municipal administration since Lord Ripon's time was reviewed by the Government of India in Home Department Resolution dated 24th October, 1896. Municipal bodies were subject to the control of the Government in so far that no new tax could be

* In accordance with the principles adopted by the Government of India in Resolution No. 2,245 dated 31st August 1864 that the expense of police for town populations should be defrayed by local funds, municipalities were required to defray the cost of all police employed on duties, the performance which was necessitated solely by the existence of the town. These were designated 'watch and ward' in contradistinction to those of 'Law and Order'. This policy continued till the year 1881 when fresh orders were issued and published in Finance Department Notification No. 3,622 dated 13th October 1881. The purport of these orders was to relieve municipal bodies altogether of the charge for police, contingent on their undertaking an equal charge for education, medical relief and local public works. The Government of the North-Western Provinces and Oudh did not, however, at the time act on these orders and considered that municipalities should at any rate pay for 'watch and ward'. In the Punjab also police charges continued to be borne by municipalities for a long time.

imposed, no loan raised, no work costing more than a prescribed some undertaken, and no serious departure from the sanctioned budget for the year made without the previous sanction of the Government; and no rules or bye-laws could be enforced without similar sanction and full publication. These restrictions, as will be seen later, exist more or less to this day.

37. **Municipal Income.** The income from mofussil municipal taxation throughout India during the years 1886-87 and 1894-95 increased from a little over a crore to about a crore and a half of rupees. The total income from all sources increased from Rs 1,59,53,858 to Rs 2,48,92,308. The increase in the one case was 35.1 per cent and in the other 56 per cent. In 1876-77 the income from taxation was Rs 97,12,153 and from all sources Rs 1,23,72,210. The ratio of increase was, therefore, very much more rapid since the development of municipal institutions under Lord Ripon's legislation.

The incidence of taxation per head of municipal population increased from Rs 0-14-1 to Rs 1-1-5. The rate was highest in the Punjab, where it amounted to Rs 1-6-6; in Bombay Rs 1-5-6; and in Assam Rs 1-2-11. Among the major provinces the rate was lowest in Bengal, where it amounted to only Rs 0-13-7, and in Madras, where it was Rs 0-13-10 (table not inserted).

As regards the principal sources of municipal income, the percentages by provinces for the year 1894-95 are given in the table (not inserted)

38. It will be seen from [this] table that the main features of municipal revenue were:

(a) The very large proportion of municipal income derived from octroi in the Bombay Presidency (52:4 per cent), the North-Western Provinces and Oudh (81.6 per cent), the Punjab (93 per cent), and the Central Provinces (71.7 per cent), while elsewhere octroi did not form an item of municipal revenue.

(b) The large proportion of income derived in Madras (46.9 per cent), Bengal (35.3 per cent), Coorg (56.1 Per cent) and Assam (47.4 per cent) from taxes on houses and lands.

(c) Only in Madras (16.8 per cent), Coorg (40.7 per cent), and the Hyderabad Assigned Districts or Berar (49.8 per cent) did the tax on professions and trades form an appreciable part of the revenue.

(d) The large proportion of the income derived from tolls on roads and ferries in Madras (23.9 per cent) and Assam (20 per cent).

(e) The large contributions by Government to the municipal income in Madras (18.5 per cent) and Assam (19.3 per cent).

39. **Municipal Expenditure.** As regards municipal expenditure, [the main features] for the year 1894-95 were the follows: (table not inserted).

It will be seen from the ... (this) table that the main features of municipal expenditure at the time were:

(a) Under 'general administration' the expenditure was more or less uniform throughout India, averaging about 9 or 10 per cent of the income;

(b) police charges, under the name of 'public safety' were still borne by municipalities, except in the North-Western Provinces (13.1 per cent) and the Punjab (16.3 per cent); in others it varied between 4 or 5 per cent;

(c) a large proportion of the annual expenditure, varying from 20 to 30 per cent, was concerned with projects of water supply and drainage;

(d) the expenditure on conservancy was substantial, varying from 13.6 per cant in the Punjab, and 18.4 per cent in Bombay to 28 per cent in Assam and the Hyderabad Assigned Districts (Berar);
(e) the expenditure on roads was fairly large, varying from 10 per cent in the Punjab, to 17 per cent in Madras and 20.8 per cent in Assam.
(f) the expenditure on education was not very high varying from 3 per cent in North-Western Provinces and Oudh and 3.6 per cent in Bengal to 12.7 per cent in Central Provinces, 13.2 per cent in Madras. 14.7 per cent in Bombay and 15.3 per cent in the Punjab.

40. **Government of India Resolution of 1857.** The progress made by local boards in rural areas was separately reviewed in a resolution dated 20th August 1897. Though in all the more advanced provinces district boards had been constituted by then, their financial powers were not uniform. In Madras the boards had the power of proposing local taxation, and in Bengal they were empowered to decide at what rate, within the statutory maximum, the road cess might be levied in each district. But for the most part the district boards did not possess power of taxation. They administered funds, or the yield of specific imposts made over to them for expenditure on roads, schools, hospitals, and sanitation, within their jurisdiction.

41. **Income of Rural Boards.** The percentages by provinces for the year 1895-96 are given below: (table not inserted).

The main features relating to the income of the rural bodies were as under:

The total income increased during the seven years 1889-90 and 1895-96 from Rs 2,67,83,682 to only Rs 2.93,38,306 or by 11 per cent. These figures bring to light the comparatively unexpansive nature of the sources of revenue open to local bodies.

Among the main heads of income, the most important item is provincial rates or the local fund cess. In Madras the maximum was 2 annas per rupee of the assessment, but in 1895-96 the actual rate at which it was collected was, except in three districts, one anna in the rupee of assessment. In Bengal the income under this head represented the balance of the road cess after deducting the cost of collection and revaluations. In the Punjab rural boards generally received four-fifths of the local rate, the rest being utilised by the provincial government for its own purposes.

42. All the other items of income were comparatively insignificant. The incidence of taxation per head of population was Rs 0-1-5 in 1889.90, and remained at that figure in 1895-96. The incidence of income per head of population showed a small rise from Rs 0-2-5 in 1889-90 to Rs 0-2-6 in 1895-96.

The incidence of taxation and of total income per capita by provinces for the years 1889-90 and 1895-96 are given below: (table not inserted).

43. **Expenditure of Rural Boards.** The following table shows the proportion of expenditure in 1895-96 under each head in different provinces: (not inserted).

The review by the Government of India brought out the following main features:
(1) Expenditure under education increased in every province. The aggregate expenditure amounted in 1895-96 to Rs 63,44,723 as compared with Rs 51,01,466 in 1889-90. Compared to the size of the population included within the jurisdiction of local boards, these amounts must seem very small.
(2) The expenditure under 'medical' was generally much smaller than on education, less than half, though it increased from Rs 22,10,929 in

1889-90 to Rs 27,88,780 in 1895-96. The largest expenditure was on civil works. It aggregated Rs 1,58,29,536 in 1895-96 as compared with Rs 1,41,05,028 in 1889-90. This expenditure was mostly on roads and sanitary improvement. None of the other items call for any remarks.

44. **The Decentralisation Commission.** In 1907-08 the entire subject of local self-government was considered by the Royal Commission on Decentralisation. During the course of the evidence it was clearly brought out that the resources of local bodies were not adequate to the proper execution of the duties assigned to them. For instance, Sir Herbert Risley, then Home Secretary to the Government of India, said:

> 'I think it must be admitted that the resources of district boards and district municipalities are not sufficient to enable them to work up to modern standards of local administration. In municipalities this is most conspicuously the case in respect of schemes of water supply and drainage, the advantages of which, especially of the former, are now pretty generally realised. Similarly, in some rural areas in Bengal the old sources of water supply have fallen into disrepair and the district boards are approached with demands far beyond their financial resources. In other parts of the same province the silting up of old channels and changes of levels are believed to cause malarial fever, and large schemes of drainage are advocated which the local bodies are unable to carry out'.

45. The evidence of Sir James Meston, then Finance Secretary to the Government of India, was equally clear on the point:

'Q. 44989: With regard to the division of the financial burden between local funds and provincial funds, has not the tendency been in recent days to impose too many responsibilities of [on] Local Boards without giving them sufficient funds to meet them?

A. I quite agree; Local Boards in many provinces - I do not say all - have been very much curtailed in their financial independence I should like to see that matter reminded',

'Q. 44990 The evidence before us is that there is very little popular interest taken in Local Boards, one reason being that they were starved, and that they were called upon to do work without having the money to pay for it?

A. That is a reasonable grievance, but I do not think it is the only one'.

'Q. 44991 It is not the only one but it is said that there is not enough money for village demands because most of it is swallowed up by Government departments such as the Medical Department, the Veterinary Department, and the Education Department and so on?

A. Yes'.

'Q. 44992 Would you, as a matter of general policy, be inclined to meet that by relieving Local Boards of certain of their responsibilities or by giving them a larger assignment of revenue?

A. Personally speaking, I should like to see the Local Boards given much larger responsibilities and revenues to meet them'.

'Q. 44993 Local Governments give them grants for specific purposes as it is, but do not these grants vary from year to year in many cases?

A. Yes: local governments give them special grants for special works frequently and they also give them general assignments to supplement their defective revenue'.

'Q. 44994 Would you approve of giving these grants on a stable basis and making them lump assignments, on the analogy of the settlement made by the Government of India with the provincial Governments?

A. Precisely; I should like to see District Boards (speaking with personal experience of only one province - the United Provinces) placed on a semi-contractual relation with the provincial government, receiving either the rates or a definite share of the revenue, also the miscellaneous receipts which they at present enjoy, tolls, ferries and the like; and if necessary having their revenues supplemented by fixed assignments from provincial funds. I should like to see that arrangement made in the form, to begin with, of a quinquennial settlement'.

46. The main conclusions and recommendations of the Commission in relation to functions and finances of local bodies were as follows:

A-Village Organisation

The functions of village panchayats must be largely determined by local circumstances and experience. Generally, they might be entrusted with the following functions:

(a) Summary jurisdiction in petty civil and criminal cases;
(b) Incurring of expenditure on the cleansing of the village and minor village works;
(c) Construction and maintenance of village school houses and some local control in respect of school management;
(d) Management of small fuel and fodder reserves in selected panchayats.

The Commission considered it essential for the success of the panchayat system that it should not be concomitant with any new form of local taxation. Panchayats should receive a portion of the land cess levied for local board purposes in the village, special grants for particular objects of local importance, receipts from village cattle pounds and markets entrusted to their management, and small fees on civil suits filed before them. The application of the funds entrusted to them should be judged by general results and should not be subjected to rigid audit.

With the panchayat system thus developing, the Commission did not consider it necessary to retain artificial local agencies such as village unions and sanitary committees.

Such outside supervision of panchayat affairs, as was necessary must rest with the district officers. The panchayats should not be placed under the control of district or sub-district boards.

B-Rural Boards

(1) The Commission was of the opinion that sub-district boards should be universally established and that they should he the principal agencies in rural board administration.

(2) Ordinarily a sub-district board should be established for each taluka or tehsil but where sub-divisional boards have been working and/or may be made to work satisfactorily, the sub-division may remain jurisdictional area.

(3) The Commission did not propose the abolition of district boards or to make them mere councils of delegates from the sub-district boards for the settlement of matters of common interest. Nor did they desire to place sub-districts boards entirely under the control of the board for the whole district. They suggested a scheme under which the sub-district boards would have independent resources, separate spheres of duty and larger responsibilities within their sphere; while the district board, besides undertaking some district functions for which it seemed specially fitted, would possess coordinating and financial powers in respect of the district as a whole.

(4) Sub-district boards should have the charge of minor roads in the district, of primary and (where they desired it) middle vernacular education, of medical work, of vaccination, and of sanitary work in rural areas where this had not been entrusted to panchayats.

(5) The district board should keep up the main roads in the district, with the exception of trunk roads which should be a Government charge; and should maintain district services for work under the sub-district boards, in respect of roads, education, medical relief and sanitation.

(6) District boards which desired to maintain their own engineers should be allowed to do so and it should be left to the discretion of the local Government to employ such engineers to execute minor works for Government.

The restrictions on the sanction of ordinary works and sanitation estimates by rural boards should be abrogated, but they should have the right to call upon Government engineers and sanitary officers for assistance in regard to such matters.

(7) The Government should place rural boards on a sounder financial footing -

(a) by letting them have the whole of the land cess;

(b) by rateable distribution of the special grant of 25 per cent on the land cess now made;

(c) by increasing this grant when circumstances permitted;

(d) by taking over charges in respect of trunk roads, famine and plague relief, local veterinary work, and any charges now incurred by the boards in regard to police, registration of births and deaths, etc. Nor should rural boards be required to make any contribution in respect of provincial services for other items of provincial administration, or for assistance rendered to them by Government officers in the ordinary course of their duties.

(8) Where poor districts required special grants from Government, these should be made in lump sums or as percentages of expenditure incurred on specific services and they should be given under a quasi-permanent settlement.

(9) District board should not be allowed to increase the land cess beyond one anna in the rupee on the annual rental value and sub-district board, should not raise any separate land cess. Otherwise, rural boards should be able to levy rates and fees at their discretion within the limits laid down by law. Where no definite limits have been prescribed the sanction of the Commissioner of the Division should be required to changes in the rates.

(10) Sub-district boards should receive a fixed proportion, generally one-half of the land cess raised in their areas and certain sources of miscellaneous revenue. Additional resources would come from grants distributed by the district board.

(11) The principal items of revenue of the district board would be the rest of the land cess less the amount to be assigned to village panchayats, certain miscellaneous receipts, and grants from Government. Such monies as are not required for direct district board services should be distributed among the sub-district boards with reference to their varying needs.

(12) Rural boards should not be bound to spend specific proportions of their income on particular services. Sub-district boards should not have borrowing powers. District boards may borrow under present conditions.

(13) Rural boards, whether district or sub-district, should have full power to pass their own budgets. They should, however, maintain prescribed minimum balances, which should not

be drawn on without the sanction of the Commissioner of the Division in the case of district boards, and of the district board in the case of sub-district boards.

(14) The sanction of the Commissioner of the Division should be required in regard to the appointment, removal and salary of district board engineers, paid secretaries and health officers where these are entertained. Otherwise the only outside control over rural boards in establishment matters should be the promulgation by the Provincial Government of model bye-laws or schedules, laying down general rules in regard to such matters as leave, acting and travelling allowances, pension or provident funds and the maximum salary to be given to officials of various classes. Departure from these schedules should require the sanction of the provincial government, or of the Commissioner of the Division in salary matters.

C-Municipalities

(1) Municipalities should have the same full powers as suggested for rural boards in respect to the services assigned to them.

(2) They should undertake primary education and may - if they are able and willing to do so - devote money to middle vernacular schools. Otherwise, the Government should relieve them of any charges which they now have to incur in regard to secondary education, hospitals at district headquarters, famine relief, police, veterinary work, etc.

Nor should they contribute for services which are made provincial, or be made to devote specific proportions of their income to particular objects.* The Commission was of the view that municipalities should have, full discretion as to the application of their revenues to the services which they had to render to the public.

(3) While the Commission did not propose that municipalities should receive (a) regular subvention from Government, corresponding to the 25 per cent on land cess given to rural boards, they thought that municipalities should receive assistance in respect to specially large projects, such as those concerned with drainage or water supply; and in the case of the poorer municipalities some subvention for general purposes would probably be required. Grants of this latter description should, as in the case of rural boards, be of a practically permanent character.

It is interesting to note that the Commission were not in favour of regular grants-in aid to municipal funds, except for large projects mentioned above. This was on the ground that municipalities are more advanced and more wealthy than rural areas [boards?], and that in their case they recommended the withdrawal of existing restrictions on powers of taxation.

(4) In regard to taxation, the position at the time was that a municipality could not levy a tax or charge provided for in the municipal law, or vary the rate of incidence, without the sanction of the provincial government, as in Madras, or of the Commissioner of the Division, as was usually the case in Bombay.

The Commission recommended that municipalities should have full liberty to impose or alter taxation within the limits laid down by the municipal laws; but that were an Act did not prescribe a maximum rate, the sanction of an outside authority should be required to any increase in taxation. Such authority would ordinarily be the Commissioner, but in the case of cities it should be the provincial government. Mr.

*The Commission said that in the Punjab, municipalities had, like rural boards, been subjected to orders laying down specific percentages of their income which must be applied to particular services; and in the United Provinces municipal councils had to devote a certain proportion of their revenues to education.

R.C. Dutt, a member of the Commission, thought that the sanction of the local Government, or preferably of a special Local Government Board, should be necessary to any variation in municipal taxation, in order to prevent frequent changes in rates which would be harassing to the people. Similar outside control should be required (as was usually the case) where a municipality desired specially to exempt any person or class of persons from municipal taxation.

(5) Government control over municipal borrowing should continue, and any permanent alienation of municipal property, or lease of the same for periods of seven years and upwards, should require outside sanction.

(6) Subject to the maintenance of prescribed minimum balances, municipalities should have a free hand in respect of their budgets.

(7) The control of municipalities over their establishments should be of the same character as suggested for rural boards.

(8) In some of the larger cities it might be desirable to vest the executive administration in the hands of a full time nominated official, apart from the chairman of the municipal council. Such an officer would however, be subject to the control of the council as a whole, and of a standing committee thereof.

(9) The corporations of the Presidency towns should all have powers as large as those which the Bombay Municipality possessed.

(10) Where it was considered expedient that hospitals and educational Institutions in a Presidency town should be directly controlled by Government, the municipality should not be forced to contribute thereto.

47. **Mr. Gokhale's Resolution in the Indian Legislative Council.** While the report of the Decentralisation Commission was under consideration, a resolution was moved on 13th March, 1912 in the Indian Legislative Council by the Hon'ble Mr. Gopal Krishna Gokhale in the following terms:

> 'That this Council recommends to the Governor General in Council that a committee of officials and non-officials may be appointed to enquire into the adequacy or otherwise of the resources at the disposal of local bodies in the different provinces for the efficient performance of the duties which have been entrusted to them, and to suggest, if necessary, how the financial position of these bodies may be improved'.

Mr. Gokhale, in moving his resolution, said that though the Decentralisation Commission went at some length into the general question of local self-government, its enquiry into the adequacy or otherwise of the resources at the disposal of local bodies was extremely slight. He added that local self-government continued to be where it was carried by the late Marquis of Ripon. There were altogether 717 municipalities in the country, 197 district boards and about 517 sub-district boards. Taking the four leading Municipal Corporations of Bombay, Calcutta, Madras and Rangoon, their total revenue was Rs $2\frac{1}{2}$ crore. The average revenue of the remaining 713 municipalities was only about Rs 55,000 each. The incidence of taxation was highest in Rangoon, being Rs 11.61 per head; Bombay City came next with Rs 10 per head; Calcutta followed with Rs 8.5 and Madras came last with a little over Rs 3 per head. In the remaining mofussil areas, the average was about Rs 2 per head in Bombay, Punjab, Burma and the North West Frontier; in the Central Provinces it was Rs 1.75; in the United Provinces and Bengal it was a little over Rs 1.5 and in Madras it was only Rs 1.33. The municipalities had power of taxation within certain limits, with the previous

sanction of the local government. The rural boards had no power of taxation; they were limited to the one anna cess. In *rayatwari* areas, it was levied on the Government assessment, and in other areas, it was assessed on the annual rental value of land. The total revenue from taxation from provincial rates in rural areas was about Rs 2.33 crore and another Rs 2.5 crore was received from various sources, including a small grant from Government. This gave an incidence of less than 4 annas per head. The local boards, moreover, did not get the entire proceeds of this one anna cess in all the provinces. In the United Provinces, one-third was taken by Government for village *chowkidari* police and, in the Punjab, 20 per cent had to be paid to Government for general services. In Bengal, a portion went to Government for public works cess, and in the Central Provinces, only 5 per cent of the land revenue was levied as the one anna cess and went to local bodies. The resources of local bodies were pitifully unequal to a proper performance of the functions entrusted to them. Only about 3 per cent of the towns had got a filtered water supply and even a smaller proportion had got efficient drainage. In villages over the greater part of the country good potable water was a crying want. The total number of hospitals and dispensaries in the country was less than 2,700 and disease carried away annually large numbers of people, at least one-third of which mortality ought to be preventible with better sanitation and water supply. This resolution was looked upon with disfavour by the government of the day which had an official majority in the Council. Rather than see his resolution defeated, Mr. Gokhale withdrew it on receiving an assurance from the Finance Member of the Government of India that the views expressed at the meeting would receive due consideration when dealing with this question.

While withdrawing his resolution, Mr. Gokhale said that he was quite sure that some day or other the Government would have to make an inquiry into the subject. The Local Finance Enquiry Committee is the first all-India† Committees appointed to consider this subject, although there have been committees in several provinces which have gone into the question as affecting local bodies in their areas.

48. **Government of India Resolution of 1915.** The views of the Government of India on the proposals of the Decentralisation Commission were embodied in a resolution dated the 28th April, 1915.* In this resolution the Government of India referred to 'the smallness and inelasticity of local revenues' and 'the difficulty of devising further forms of taxation' as some of the factors which impeded the free and full development of local self-government.

49. The total income of 701 municipalities (excluding Presidency towns and Rangoon) at the close of 1912-13 was Rs 4,92,42,675 or an average of about Rs 70,245 a year. This compared favourably with the total income of Rs 2,76,61,215 for 753 municipalities in 1902-03.

50. **Municipal Income and Expenditure.** The following statements show the proportions under various heads of municipal income and expenditure, respectively, in the different provinces for the year 1912-13: (not inserted).

51. **Municipal Taxation.** The most important taxes in force in 1912-13 (as well as now) were octroi duties, levied principally in Bombay, the United Provinces (U.P.), the Punjab, the Central Provinces (C.P.) and the North-West Frontier

† The question of local taxation, which is an important part of local finance, was dealt with in the *Report of the Indian Taxation Enquiry Committee, 1924-25.*

* Government of India, Department of Education, Nos. 55-77 (Municipalities) dated the 28th April, 1915.

Province, and the tax on houses and lands which held (and still holds) the chief place in the other provinces as well as in Bombay City. A tax on professions and trades yielded a considerable revenue in the provinces of Madras, Bengal, U.P. and the C.P. A pilgrim tax, which is a form of terminal tax, was imposed in Banares, Calcutta, Hardwar, Ayudhia and Thaneshwar.

52. The Government of India did not accept in full the recommendation of the Decentralisation Commission that municipalities should have full liberty to impose or alter taxation within the limits laid down by the municipal laws, but agreed that the sanction of an outside authority to any increase in taxation should be required where the law did not prescribe a maximum rate. It was pointed out that maximum rates were prescribed in the Madras, Bengal and Burma Acts, and in the Punjab, U.P. and C.P. so far as regards the tax on buildings and lands, but none was laid down in Bombay. One objection was that if such a power were given, a municipality might reduce its taxation without due consideration to the needs of the administration and the security of loans. The Government of India, while recognising the force of such objections, were on the whole, in general sympathy with the Commission's recommendations. They thought, however, that power to vary any tax might be reserved by such provincial governments as were unable to accept in full the recommendation of the Commission, and that in the case of indebted municipalities the previous sanction of higher authority should be required to any alteration of taxation.

53. The municipal boards had by this time been relieved of all charges for the maintenance of police within municipal limits, as also from financial responsibility for famine relief. The principle was also generally accepted that, in the event of severe epidemics, they should receive assistance from Government.

54. **Municipal Control over Services.** The Commission recommended that if a municipal or rural board had to pay for a service it should control it, and that where it was expedient that the control should be largely in the hands of Government, the service should be a provincial one. The Government of India, while not prepared to accept the proposal in full, approved it in a somewhat modified form. They considered that charges should be remitted in cases where a local body contributed to Government for services inherent in the duty of supervision and control by Government officers, or for services which could not expediently be performed, except by Government agency.

55. **Control over Municipal Budgets.** Commenting on the minute control exercised in some provinces over municipal finance, the Decentralisation Commission recommended that municipalities should have a free hand with regard to their budgets; the only check required should be the maintenance of a minimum standing balance to be prescribed by the provincial government. They acknowledged that relaxed control might lead to mistakes and mismanagement, but they were of opinion that municipal bodies could attain adequate financial responsibility only by the exercise of such powers and by having to bear the consequences of their errors. Owing to divergence of opinion among provincial governments on this point, the Government of India issued no definite instructions, beyond saying that they regarded the recommendations of the Commission as expressing a policy to be steadily kept in view and gradually realised.

56. **Control over Sanction to Works.** The Decentralisation Commission were of the view that the restrictions on municipalities which required outside sanction for works estimated to cost more than a certain amount should be removed but that Government should scrutinise and sanction estimates of projects to be carried out from loan funds. On this point also the

Government of India issued no definite instructions, beyond saying that they were in favour of extended freedom for local bodies, subject, where necessary, to proper precautions against extravagant and ill-considered projects; the precise extent of relaxation of existing restrictions, they left to the provincial governments.

57. **Control over Municipal Establishment.** The Commission recommended that the degree of outside control over municipal establishment should be relaxed, that the appointment of municipal secretaries or other chief executive officers, of engineers and health officers, where these existed, should require the sanction of the provincial government in the case of cities, and of the Commissioner of the Division elsewhere, and that the same sanction should be required for any alteration in the emoluments of these posts, and for the appointment and dismissal of the occupants. As regards other appointments, the Commission proposed that the provincial governments should lay down for municipal boards general rules in respect to such matters as leave, acting and travelling allowances, pensions or provident funds and maximum salaries, and their sanction should be required for any deviation therefrom. The Government of India, while considering that government control over other posts might reasonably be relaxed, accepted the view that outside sanction should be required to the appointment or dismissal of secretaries, engineers and health officers.

58. **Finances of District Boards.** Coming to the financial condition of district boards, the Government of India observed that their funds were mainly derived from a cess levied on agricultural land over and above the land revenue, with which it was collected and not usually exceeded one anna in the rupee (6.25 per cent) on the annual rent value. Since 1905, this income had been specially supplemented by a Government contribution amounting to 25 per cent of the then existing income. Besides this, special grants were frequently made to district boards by provincial governments.

59. Up to 31st March 1908, the proceeds of the local fund cess were included in the general revenues and assignments from them made to the boards. From April 1908, the accounts of the district boards were excluded from the general provincial accounts, and their funds treated independently in the same way as municipal funds. The total number of district and sub-district boards in 1912-13 was 199 and 536, respectively, with an aggregate income of Rs 5,68,08,292. Prior to 1913, the district boards of several provinces did not receive the whole of the land cess. For example, the cess in Bengal and Bihar and Orissa was divided into two parts, namely, the road cess and the public works cess. The district boards only received the road cess while the public works cess belonged of right to the provincial Government, which returned, however, a portion in the shape of discretionary grants. In the other provinces, e.g., the U.P. the Punjab and the North-West Frontier Province (N.W.F.P.), considerable deductions were made by the provincial governments concerned from the cess for various purposes. In 1913 the Central Government made assignments to the provincial governments concerned, to enable them to hand over the entire net proceeds of the cess to the boards. The relief thus given amounted to Rs 82,33,000 a year and the provinces which benefited were Bengal, U.P., Bihar and Orissa, and to a smaller extent, the Punjab and the N.W.F.P. The income of district boards in Bengal, the U.P. and Bihar and Orissa increased mainly by this measure by 44, 43 and 55 per cent, respectively in the year 1913-14

60. **Income and Expenditure of District Boards.** Apart from the cess, the boards had other sources of income, such as cattle pound receipts, educational receipts, medical receipts, tolls from ferries and bridges, and contributions for specific

purposes from the provincial funds. The expenditure of the boards was chiefly for roads and bridges, hospitals, vaccination, conservancy, drainage, water supply, primary education, markets and rest houses. The following statement shows the proportions under various heads of income and expenditure of the district boards in the different provinces for the year 1912-13: (not inserted).

61. **Power to Raise Cesses.** On the recommendation of the Commission that district boards should not be empowered to raise the land cess beyond one anna in the rupee on the rental value, the Government of India did not consider it necessary to make any pronouncement, as under the conditions then obtaining, any proposal to raise the limit imposed by the law required the previous sanction of the Government of India.

62. **Control over District Board Budgets.** The Commission recommended that rural boards should be given full power to pass their budgets subject only to the maintenance of a prescribed minimum balance. This procedure was already in force in the province of Bombay. Other provincial governments were not prepared to accede to this complete removal of restrictions, although some of them proposed some relaxation in the existing rules. The Government of India were of the view that the restrictions on the powers of the boards should gradually be relaxed with due regard to local conditions and requirements. The fact that an official was almost invariably president of a rural board and that powers of inspection and control by certain officers of Government were provided under the Acts relating to rural boards should, ordinarily, they thought, be sufficient safeguards against gross inefficiency or mismanagement.

63. **Control over Sanctions to Works.** The Government of India were unable to agree to the proposal of the Commission that the restrictions on rural boards with regard to estimates for public works should be removed. They, however, accepted the view of the Commission that in districts, where there were sufficient works to justify the special appointment of a trained engineer, a district board which desired to entertain such an officer and could afford to pay him an adequate salary should be permitted to do so.

64. **Control of District Boards over Establishments.** In regard to control over establishments, the Government of India were of the same opinion as in the case of municipalities.

65. **Functions and Finances of Village Panchayats.** In regard to functions and finances of panchayats, the view of the Government of India were briefly as follows:

(1) Experiments should be made in selected villages or area larger than a village, where the people in general agreed.

(2) Legislation, where necessary, should be permissive and general. The powers and duties of panchayats, whether administrative or judicial, need not and, indeed, should not, be identical in every village.

(3) In areas, where it was considered desirable to confer judicial as well as administrative functions upon panchayats, the same body should exercise both functions.

(4) Existing village administrative committees, such as village sanitation and education committees, should be merged in the village panchayats where these were established.

(5) The jurisdiction of panchayats in judicial cases should ordinarily be permissive, but in order to provide inducement to litigants, reasonable facilities might be allowed to persons wishing to have their cases decided by panchayats. For instance, court fees, if levied, should be small,

technicalities in procedure should be avoided and, possibly, a speedier execution of decrees permitted.

(6) Powers of permissive taxation might be conferred on panchayats, where desired; subject to the control of the local Government or Administration, but the development of the panchayat system should not be prejudiced by an excessive association with taxation.

(7) The relations of panchayats on the administrative side with other administrative bodies should be clearly defined. If they were financed by district or sub-district boards, there could be no objection to some supervision by such boards.

66. **The Declaration of 20th August, 1917.** After that came the declaration of 20th August, 1917 regarding the future policy of constitutional advance in India. In commenting on this pronouncement, Lord Chelmsford explained in the Indian Legislative Council on 5th September 1917, that the first road along which advance could be made towards the progressive realisation of responsible government in India was in the domain of local self-government. To make local self-government really representative and responsible the Montagu-Chelmsford Report on Indian Constitutional Reforms, dated April 22, 1918 suggested the following formula:

> 'There should be, as for as possible, complete* popular control in local bodies, and the largest possible independence for them of outside control'.

67. **The Montagu-Chelmsford Report.** The recommendations of the Montagu-Chelmsford Report as regards the financial aspects of local self-government† were briefly as follows: In regard to municipalities, the Report accepted the recommendation of the Decentralisation Commission that municipalities should have full liberty to impose and alter taxation within the limits laid down by law, but that where the law prescribed no maximum rate, the sanction of an outside authority should be required to any increase. In the case of indebted municipalities, the sanction of higher authority should still be obtained before altering a tax. The same power should be given to rural boards by allowing them to levy rates and fees within the limits of the existing Acts. Wherever a board paid for a service it should control such service; and where it was expedient that control should be largely centred in the hands of Government, the service should be provincialised. If, for example, a board provided for civil works or medical relief, it ought, subject to such general principles as the Government might prescribe, to have real control over the funds which it provided and not be subject to the constant dictation, in matters of detail, of government departments. Similarly, provincial governments should give boards a free hand with their budgets subject to the maintenance of minimum standing balance, with the necessary reservations in the case of indebtedness or against gross default. The government should discard the system of requiring local bodies to devote fixed proportions of their revenues to particular objects of expenditure and should rely on retaining powers of intervention from outside in cases of gross neglect or disregard. Local bodies should also be given control over their establishments, except in regard to certain special officers as recommended by the Decentralisation Commission. The accepted policy should be to allow the boards to profit by their own mistakes and to interfere only in cases of gross mismanagement.

68. In regard to village panchayats, the Report said that the prospect of their successful development must depend very largely on local con-

* Paragraph 188 of the *Report on Indian Constitutional Reforms*, 1918.
† Paragraphs 192 to 198 of *Report on Indian Constitutional Reforms*, 1918.

ditions, and that the functions and powers to be allotted to them must vary accordingly. But where the system proved a success, they might be endowed with civil and criminal jurisdiction in petty cases, some administrative powers as regards sanitation and education, and permissive powers of imposing a local rate. They expressed the hope that, wherever possible, an effective beginning should be made.

69. **Government of India Resolution of May, 1918.** In their resolution dated 16th May, 1918, the Government of India again reviewed the question of local self-government in the light of the declaration of 20th August 1917. They were of the view that in order to give effect to the new policy, local bodies should be as representative as possible of the people whose affairs they were called on to administer, their authority in the matters entrusted to them should be real and not nominal, and they should not be subject to unnecessary control, but should learn by making mistakes and profiting by them. The views contained in the Resolution of 1915 were liberalised accordingly to the following extent:

(1) As regards powers of taxation of municipal boards, the Government of India in their Resolution of 1915 expressed general sympathy with the Decentralisation Commission's recommendations. They thought, however, that power to vary any tax might be reserved by such provincial governments as were unable to accept in full the recommendations of the Commission, and that in the case of indebted municipalities, the previous sanction of higher authority should be required to any alteration of taxation. The suggested proviso that provincial governments should have power to vary any tax practically rendered the general principle nugatory, as it enabled provincial governments to decline to act upon it. The Government of India, on reconsideration, were of the view that this proviso should be given up in the case of boards which contain substantial elected majorities. As regards the further proviso with regard to indebted municipalities, the Government of India were of the view that it was undoubtedly sound. Where Government had lent money to a municipality or guaranteed repayment of its loans, the sanction of Government should obviously be required to any alteration in taxation which might reduce the municipality's resources. Subject to this proviso, the Government of India considered it most important that municipal boards should be allowed to vary taxation in the manner proposed by the Commission.

(2) As regards powers of taxation of district boards, the Decentralisation Commission held that district boards should not be empowered to raise the land cess beyond the then existing limits. The Government of India in their Resolution of 1915 did not consider it necessary to make any pronouncement on the subject. Under the general principle indicated above in respect of municipalities the Government of India, on reconsideration, laid down a somewhat similar policy. Where no limit was imposed by law on the rate of the cess, a change in the rate at which the cess is levied, should need the sanction of outside authority but where a limit was imposed, a rural board should be at liberty to vary the rate at which the cess is levied within the limits imposed by law without the interference of outside authority.

(3) In the matter of control of services paid for the local bodies, the Decentralisation Commission proposed that, if a municipal or rural board had to pay for a service, it should control it; and that, where it was expedient that the control should be largely in the hands of Government, the service should be a provincial one. The Government of India, though not prepared to accept the proposal in full, declared in their Resolution of 1915

that they approved of it in a somewhat modified form. They considered that charges should be remitted in cases where a local body contributed to Government for services inherent in the duty of supervision and control by Government officers or services which could not expediently be performed except by Government agency. For example, Government might properly cease to charge for clerical establishments in the offices of supervision and control or for the collection of district cesses which it was clearly expedient to realise along with the Government revenue. The Government of India, on reconsideration, were of opinion that in this matter it would be well to go the whole way with the Commission, in accordance with the general principle that if local bodies have to raise funds for any particular object they should have the control of those funds. If a board is to provide, for instance, for civil works or medical relief, it ought, subject to such general principles as the Government may prescribe, to have real control over the funds thus provided, and should not be under the constant dictation of government departments in matters of detail.

(4) As regards the power over budgets of local bodies, the Decentralisation Commission recommended that municipalities should have a free hand with regard to their budgets. The only check required should, in their opinion, be the maintenance of a minimum standing balance to be prescribed by the provincial governments. They acknowledged that relaxation of control might lead to mismanagement but they were of opinion that municipal bodies cold attain adequate financial responsibility only by the exercise of such powers and by having to bear the consequences of their errors. Further check would be provided by the control which provincial governments would exercise over loans and by the power which should be reserved to compel a municipality to discharge its duties in cases of default. In dealing with these proposals in their Resolution of 1915 the Government of India, while introducing exceptions suggested by various provincial governments, declared that, though they would accept these reservations for the present, they nevertheless regarded the recommendations of the Commission as expressing a policy to be steadily kept in view and gradually realised. The Government of India, on reconsideration, expressed the desire that provincial governments should make every effort to attain the full realisation of the recommendations in question as soon as possible.

(5) A similar recommendation was made by the Decentralisation Commission in respect of rural boards, and the Government of India in their Resolution of 1915 considered that the restrictions on the powers of these boards with regard to the general principle of budget expenditure should be gradually relaxed with due regard to local conditions and requirements, the fact that an official would almost invariably be the chairman and that powers of inspection and control were retained by Government being sufficient safeguards against gross mismanagement. In this case, as in that of municipalities, the Government of India expressed the desire that the recommendations of the Commission should be realised as soon as possible, subject only, as in the case of municipalities, to control in the case of rural boards which were indebted to Government and in cases of gross default.

(6) As regards the specification of income and earmarking of grants, the Government of India endorsed the recommendations made in the Decentralisation Commission's Report that the system of requiring local bodies to devote fixed portions of their

revenues to particular objects of expenditure should be done away with as unduly limiting their freedom of action, subject, as indicated by the Commission, to outside intervention in the cases of grave neglect or disregard. If the Government gave a grant for a particular object, the money must, of course, be supplied thereto, but the Government of India endorsed the Commission's recommendation that grants-in-aid should normally take the form of a lump grant or a percentage contribution towards specific services rather than be more definitely earmarked. If again, funds were raised locally for particular objects, they must necessarily be applied to those objects; but otherwise, the general principle laid down by the Commission was one which the Government of India wished to see ordinarily observed.

(7) In regard to sanction for works, the Decentralisation Commission proposed that existing restrictions on municipalities, which required outside sanction for works estimated to cost more than a certain amount, should be removed, but that Government should scrutinize and sanction estimates of projects to be carried out from loan funds. In their Resolution of 1915 the Government of India observed that the majority of the provincial governments were prepared to relax the existing rules in the direction of giving more freedom to municipal boards, and the Government of India expressed themselves in favour of extended freedom, subject, where necessary, to proper precautions against extravagant and ill-considered projects.

With reference to a similar recommendation made by the Decentralisation Commission in respect of rural boards the Government of India in their Resolution of 1915 expressed the opinion that the grant to rural boards of full powers in the allotment of funds and in the passing of estimates could not for the present at least be conceded, but the extent of the necessary financial control might depend in the case of rural boards on the competence of the staff employed, and where this varied, it would not be desirable to lay down hard and fast rules for the whole of a province. The Government of India still adhered to the views expressed by them in 1915, but they desired to go somewhat beyond the general pronouncement then made and suggested that provincial governments, allowing for the necessarily different circumstances of different boards, should make a material advance in the direction of the proposal made by the Decentralisation Commission. They thought that it might be found convenient to arrange for this advance by a classification of bodies according to the character of their local technical staff, and to divide them into classes accordingly, as sanction was not required, or was required, in the case of works whose cost was calculated to exceeds certain specified amounts.

(8) In the matter of control over establishments of local bodies, it was also recommended by the Decentralisation Commission that the degree of outside control over municipal establishments should be relaxed, but that the appointments of municipal secretaries or other chief executive officers, of engineers and health officers, where these existed, should require the sanction of the provincial government in the case of cities and of the Commissioner elsewhere, and that the same sanction should be required for any alteration in the emoluments of these posts and for the appointment and dismissal of the occupants. As regards other appointments, the Commission proposed that the provincial government should lay down for municipal boards general rules in respect to such matters as leave, acting and travelling

allowances, pensions or provident funds and maximum salaries, and that their sanction should be required for any deviation therefrom. The system recommended by the Commission was already substantially in force in Bombay, and almost all the provincial governments expressed their willingness to relax outside control over the appointment of the staff employed by local bodies. The Government of India, on reconsideration, were of opinion that steps should be taken to carry out the general recommendations of the Commission in respect of municipalities; and that as regards rural boards, for which the Commission made similar recommendation, similar action should be taken. They considered, moreover, that the requirements of Government sanction to the appointment and dismissal of the special officers above mentioned might properly be accompanied by the right on the part of Government to require their dismissal in cases of proved incompetence.

70. So far as village panchayats were concerned, the Resolution of 1918 looked upon them not as mere mechanical adjuncts of local self-government but as associations designed to develop village corporate life on the basis of the intimacy existing between the inhabitants, who had not only common civic interests, but were also kept together by ties of tradition and of blood. The need for making an effective beginning in the field was also impressed on provincial governments. It was suggested

(a) that village officials should be associated with panchayats, other members being chosen by informal election by the villagers,

(b) that their function should be to look after village sanitation, village education and petty litigation, both civil and criminal,

(c) that it should be permissible, though not, as the Decentralisation Commission suggested, universally necessary, that the panchayat should receive some portion of the land cess raised in their village. The panchayat should also have voluntary powers of supplementary taxation, the proceeds of which would be devoted to the special purpose or purposes for which the tax was levied.

71. **The Simon Commission Report.** With the coming into force of the Government of India Act, 1919, local self-government became a transferred subject. From 1921, therefore, the implementation of the policy and principles formulated in the Resolution of May 1918 devolved on elected Ministers and the Government of India ceased to issue any official instructions to provincial governments. Under the Scheduled Taxes Rules, the taxes which could be imposed by local bodies were separated from those which could be imposed for provincial purposes. A detailed reference to these rules will be found in the chapter on powers of taxation (not inserted). A number of Acts relating to local self-government were passed soon after the inauguration of the Reforms. In November 1922 an Act was passed in the United Provinces (Act X of 1922) which conferred on district boards the power to impose taxes on circumstances and property and to increase the local rate. The general position relating to municipal finance when the Simon Commission dealt with the subject* is given in paragraph 345 of their Report, Vol. I, in the following terms:

'Municipalities are given a wide choice in the form of the taxes which they may levy. Octroi duties, terminal taxes, taxes on personal income, fixed property, professions and vehicles, have all been utilised, while for particular services, such as education and water supply, special taxes or cesses are imposed. The Government's control in financial matters is limited generally to cases

* The report is dated May 27, 1930.

in which the interests of the general public call for special protection. It has the right to alter a municipal budget, if it considers that due provision has not been made for loan charges and for the maintenance of a working balance, and it may intervene in the administration of a council by way of preventing or initiating action in matters affecting human life, health, safety or public tranquility. But these powers have been very infrequently exercised'.

72. The functions of district boards were very much the same as those of municipalities, after allowing for the different conditions of town and country, and the powers of control and intervention by the provincial governments were similar. The finances of rural authorities are dealt with in paragraph 348 of the Simon Commission Report, Vol. I, in the following terms:

'The main source of revenue of rural authorities is a tax or cess levied on the annual value of land and collected with the land tax, though this may be, and often is, supplemented by taxes on companies and professional men and by tolls on vehicles. A very large proportion of the revenue of these authorities, however, consists of subventions from the provincial governments. These are given not only as grants-in-aid for particular services, but not infrequently in the form of capital sums for the provision of works of construction'.

73. As regards village panchayats, their functions at the time the Simon Commission reported were:

(1) to look after such matters as walls and sanitation;
(2) to look after minor roads and management of schools and dispensaries, and
(3) in Madras, also village forests and irrigation works.

74. In some provinces, village panchayats were also given power to deal with petty civil and criminal cases. Despite great efforts to establish those village authorities, the Simon Commission observed that it had not proved possible to progress very rapidly. Development had gone further in the United Provinces, Bengal and Madras. Outside these provinces, the movement was completely in its infancy. The common obstacle was the refusal of the villagers to have anything to do with the constituting of a fresh taxing authority.

75. As against the grant of freedom stressed in the Government of India Resolution of 6th May 1918, the Simon Commission stressed the need for control by the provincial governments over local self-government authorities. They pointed out that in Great Britain the state of efficiency of local government was largely due to ever increasing pressure by the departments of the central government. 'By numerous administrative devices, by inspection, by audit, by the giving of grants-in-aid on conditions ensuring efficiency, and by insisting on standards of competence in the municipal staff, the Local Government Board and its successor, the Ministry of Health, have steadily raised the standard of administration in our local authorities....' It is significant that where, as in Madras, the authority at the head-quarters of the province has made use of a system of specifically earmarked grants-in-aid to keep a controlling hand on district board administration, the fall in efficiency has been far less.

76. In relation to the financial difficulties of local bodies, the remarks of the Simon Commission have great force even to this day and are worth quoting:

'It is a commonplace of administration in India that financial resources are generally quite inadequate to meet needs and this is specially true of local self-government. Undoubtedly, one of the reasons for the failure to develop a trained municipal personnel is the poverty of the municipalities and the district boards. But it is not only actual poverty which cramps their

resources but the reluctance of the elected members to impose local taxes. This is a feature by no means confined to India; indeed the willingness of a community to impose high taxation on itself for common needs is proof of a very advanced civic consciouses. In rural India, the method of financing district boards is, as we have seen, by an addition to the land tax. It is naturally difficult to get bodies composed of land-holders to increase the burden on themselves, and the tendency is to refrain from adding increased cesses and to demand larger subsidies from the provincial government. The system of grants-in-aid has done much in our own country to stimulate the development of particular services, but such grants are generally made conditional on the imposition of adequate taxation and the acceptance of a considerable measure of central control by the local authorities themselves. In India, the giving of grants, often unconditionally, to local authorities has gone so far as to divorce control of policy from financial responsibility. In Bombay, government grants amounted to nearly 60 per cent of the revenue of district boards.

While the rural authorities have the advantage of the machinery of revenue for the collection of their basic source of income, cess on land, municipalities adopt a variety of expedients for raising revenue. The most disturbing feature, however, is the failure to collect the direct taxes imposed. In Great Britain, a municipality expects to collect up to 98 or 99 per cent of the rates imposed by it, and a drop in collection to 95 per cent would be subject of very close enquiry. But in municipalities in India, since the Reforms, uncollected arrears have been mounting up to very large sums. This feature is referred to by almost every provincial government in reviewing the work of the municipalities, and it is clear that there is great laxity in this respect. Another very general criticism is directed to the prevalence of embezzlement by employees. This is clearly to some extent the result of the failure to pay salaries sufficiently high to secure trust-worthy officials. But it is also due to carelessness, want of system and inefficient supervision. Gradually speaking, the management of the finances of local authorities has deteriorated since the Reforms, and this laxity is not adequately corrected by such powers of audit as the provincial governments possess'.

77. **The Government of India Act, 1935 and After.** With the inauguration of provincial autonomy in April 1937, local self-government received a further impetus and several Acts were passed by the Provincial Legislatures practically in every province with the object of widening the powers and functions of local bodies. With the achievement of independence, this process is still going on. The stress now is more on building from the bottom upwards by the establishment of village panchayats and endowing them with real powers.

78. Article 40 of the Constitution of India says that the State should take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In every State that we visited, we found that village panchayat Acts had already been passed or new bills were under active consideration. It is understood that there are nearly 80,000 village panchayats functioning in the country today, 35,000 or a little less than half, are functioning in U.P. alone. The U.P. Government describe this scheme as a bold experiment in the realm of local self-government. And so, it really is. Much wider powers and duties have been assigned to these small institutions than were contemplated in the past. Elections to Gaon Sabhas were held in February 1949 and the U.P. Government provided them with necessary funds for the first six months to give them a start. There is in U.P. a big administrative organisation for inspection and supervision of these panchayats,

for which a provision of Rs 36,19,500 was made in the budget for the year 1950-51. An account of financial resources of village panchayats is given in a separate chapter of this report (not inserted).

79. So far as the financial resources of municipalities and district boards are concerned no enlargement was made during this period and the taxes which local bodies levied after the coming into force of the Government of India Act, 1935 were more or less the same as in the days of Lord Ripon. On the other hand, with a widening of functions there was a restriction of financial powers. The demarcation of taxation between provincial and local which prevailed during the entire period of the Montagu-Chelmsford reforms was done away with. Certain taxes such as the terminal tax, the taxes on trades, callings and professions and the tax on circumstances and property were subjected to new restrictions. Under the Government of India Act 1919, terminal taxes* on rail-borne goods and passengers were included in the provincial list. But with the grant of autonomy they were transferred to the central list. After April 1937, terminal taxes on goods and passengers could only be levied and collected by the Central Government, though the proceeds thereof were assignable to provinces. Those municipal boards which were already levying the terminal and pilgrim taxes before April 1937 were allowed, by virtue of the saving provided in section 143(2) of the Government of India Act, to continue to levy either or both, as the case may be, until a provision to the contrary was made by the Central Legislature. They could not, however, increase the existing rates of terminal tax on any article, or add a new item to an existing schedule, with the result that the revenue from such taxes remained static over a series of years. Applications from local bodies for the levy of terminal tax and pilgrim tax were, as a rule, refused by the Government of India, with the result that municipalities began to replace terminal taxes by octroi duties.

80. As regards taxes on trades, callings and professions, there was no restriction under the Acts of the various provincial legislatures on the powers of local bodies as to the amount of tax leviable by them, but by an amendment to the Government of India Act, 1935 their levy at an amount in excess of Rs 50 per annum from any single assessee was prohibited by section 142-A of the Government of India Act read with the Professions Tax Limitation Act, 1941, which was passed by the Central Legislature. Under the latter, the profession tax levied by the Calcutta Corporation, the Circumstances and Property Tax levied by certain municipalities in the U.P., the Profession Tax levied by the municipalities in C.P. and Berar and the tax on trades, professions and callings under sub-section 1 of section 123 of the Bengal Municipal Act were exempted. Otherwise, all profession taxes were subject to the limit of Rs 50 per annum for any single assessee. This caused specially heavy losses to local bodies in Madras which were levying profession tax up to a maximum of Rs 1,000 in the Madras Corporation and Rs 550 per annum elsewhere. The Madras Government had to pay compensation of Rs 12 lakh per annum to local bodies affected by this change. Local bodies in other provinces had simply to reduce their income and received no compensation from their provincial governments.

81. So far as the powers of taxation were concerned, the provincial governments did not, as a rule, grant wider powers as recommended by the Decentralisation Commission and endorsed by the Government of India in their resolution of 16th May, 1918. Generally, every fresh proposal for taxation, for reduction or abolition of an existing tax continued to be subject to the previous sanction of the provincial government. Not only this but many of the provincial governments,

* Terminal taxes on passengers are commonly known as pilgrim taxes.

finding perhaps that local bodies were unwilling to exercise such powers of taxation as they possessed, obtained through the legislature special powers to direct imposition of taxation in emergencies in the interest of public health and safety or to prevent grave detriment to the public interest. As practically every local body was dependent on grants-in-aid, the system was further strengthened and with this widening of the system of grants-in-aid greater scrutiny over the budgets of expenditure became inevitable. Provincial governments sometimes used this power of giving grants-in-aid to compel local bodies to do certain things or to abstain from doing certain others, under the threat of with-holding grants-in-aid on failure to comply with their directions. In this manner they obtained control both over income and expenditure policies of the local bodies, which they did not possess prior to 1st April 1937. This tendency was augmented by the heavy rise in prices after World War II, when local bodies found it impossible to balance their budgets. They were forced to raise the scales of pay of their staff or grant dearness allowances to them and such increase of expenditure they could not meet without financial assistance from the provincial governments. The position, therefore, today is that in matters of finance, the control of the provincial governments over local bodies is very substantial.

82. **Incidence of Taxation and Total Income Per Capita.** The incidence of local taxation and total income per head of population for all local bodies for the year 1946-47 is given in the statement below: (not inserted).

It will be seen from this statement that the incidence of taxation for all local bodies taken together was as low as Rs 1-0-11 per head of population. When we consider the income from all sources, the incidence is only slightly larger, *viz.*, Rs 1-13-1.

From a report recently issued by the Economic Advisor to the Government of India on the National Income of the Indian Union Provinces in 1946-47, it appears that the total net national income was Rs 5,580 crore. The total estimated population was 244.4 million. This gives a per capita income of Rs 228. The incidence of local taxation is, therefore, less than half per cent of the per capita national income.

(A) CITY CORPORATIONS

Incidence of Taxation and Income. The incidence of taxation and total income per capita in the three Corporations of Madras, Bombay and Calcutta from 1894-95 to 1947-48 is given below: (not inserted).

It will be seen that the incidence of taxation is highest in Bombay City, next comes Calcutta and after that Madras. The incidence of taxation has increased five times during the period from 1894-95 to 1947-48 in Madras, nearly six time in Bombay, and over two times in Calcutta. When we look to the total income, the incidence is in the following order:

Bombay,
Madras,
Calcutta.

Calcutta which occupied the second place in regard to incidence of taxation occupies the third place in regard to incidence of total income. This means that other sources of income are more highly developed in the Madras Corporation than in the Calcutta Corporation. The Bombay Corporation retains the first place both in regard to incidence of total income as well as of taxation.

The incidence of taxation in the City Corporations is naturally higher than in other municipalities (as will be seen from the paragraph below) and consequently the standard of amenities provided is also much higher.

(B) OTHER MUNICIPALITIES

The incidence of taxation in other municipalities per head of population in 1946-47 was Rs 4-11-10.*

Figures for previous years are given below: (not inserted).

The incidence shows an upward tendency. Between the years 1900-01 and 1918-19, the incidence increased four times. The rate of increase has since slackened and has not kept pace with the large increase in prices between the years 1938 and 1949.

The incidence of total income per head of population for other municipalities is given in the statement below: (not inserted).

It will be seen that the all-India incidence of total income in municipalities (other than Corporations) per head of population is Rs 6-14-7. As the incidence of taxation per capita is Rs 4-11-10, this means that two-thirds of the total income is derived from taxation and one-third from other sources, such as properties, commercial undertakings, Government grants, etc. The proportion of two-thirds from taxation cannot be considered to be low, taking all the circumstances of the Indian population into account.

The incidence of municipal taxation in the major states of India for the period 1884-85 to 1946-47 is given in the statement below: (not inserted).

It will be seen from the above (this) statement that the growth of municipal taxation has been as under:

(1) Madras, with an incidence of annas twelve per head of population in 1884-85, which was lower than Bombay, Punjab and Madhya Pradesh, has improved its position very considerably and attained an incidence of Rs 6-15-10 in 1946-47.

(2) Bombay, which had the highest incidence of Rs 1-3-5 per head of population in 1884-85, attained an incidence of Rs 5-15-6 in 1946-47.

(3) West Bengal, with an incidence of annas 12 in 1884-85, the same as Madras, had in 1946-47 an incidence of only Rs 3-7-8, which is lower than most other provinces.

(4) Uttar Pradesh, with an incidence of 0-10-1 in 1884-85, the lowest of all provinces for the year, shot up to Rs 6-1-4 in 1946-47.

(5) Punjab more than trebled its incidence from Rs 1-1-8 in 1884-85 to 3-10-6 in 1946-47.

(6) Bihar had an incidence of Rs 1-8-9 in 1918-19. In 1946-47 this increased to Rs 2-12-0, or slightly less than double. It must be considered to be among the lightly taxed provinces of the country.

(7) Orissa, a comparatively newer and less developed province, had an incidence of Rs 2-2-0 per head in 1940-41, which increased slightly to Rs 2-6-6 in 1946-47. It must be graded with Bihar, among the lightly taxed provinces.

(8) Madhya Pradesh had an incidence of Rs 1-1-0 in 1884-85, which at the time was high. It has maintained its position with an incidence of Rs 6-1-3 in 1946-47, which is second only to Madras.

* Figures relate to India as after partition.

(9) Assam, in 1884-85, it had an incidence of 0-11-3. In 1946-47, this figure rose to Rs 3-9-9 which is slightly below Punjab.

(C) DISTRICT BOARDS

The total number of district boards in India (partitioned) was 176 in 1947, and their population was 20,45,22,250. The total income from taxation of these boards was Rs 5,22,28,921 which gives an incidence of Rs 0-4-1, per head of population.

The incidence of total income per head of population was Rs 0-12-2 or about three times larger. This means that the income of district boards from other sources, chiefly government grants, is about twice the income from taxation.

The incidence of taxation of district boards from 1890 onwards is given below: (not inserted).

It will be seen from the above (these) figures that the incidence of district board taxation is only four annas per head of population as against Rs 4-11-10 for municipalities, or about one-sixteenth of the latter. The main tax income of district boards is the land cess. As it is in several provinces connected with the land revenue, which itself remains static for periods of thirty to forty years, it is not capable of expansion, except when the rate itself is increased. The district boards with a population of 204 million have an income of only Rs 15,55,00,000 while district municipalities with a population of 21 million or about one-tenth of the rural population, have an income of Rs 15,18,00,000 or very much the same as for all the district boards. When the services, which the municipalities are able to render with their present scale of income is (are) considered totally inadequate to meet modern requirements, it will be readily understood that the conveniences provided by rural boards for their population must be far more inadequate. Some idea of the prevailing condition in rural areas in regard to the provision of civic amenities is given later.

The part which Government grants play in district board finance will be apparent from the figures for each major State given below:

State	Year	Percentage of Total Income
Madras	1889-90	5.13
	1925-26	30.64
	1946-47	30.33
Bombay	1889-90	10.18
	1925-26	58.72
	1944-45	62.25
Bengal	1889-90	17.51
	1925-29	58.72
	1946-47	55.18
Uttar Pradesh	1889-90	32.13
	1925-26	41.95
	1946-47	59.32
Punjab	1889-90	0.50
	1925-26	39.11
	1946-47	55.46
Bihar	1946-47	46.44
Orissa	1646-47	68.006
Madhya Pradesh	1889-90	11.00
	1925-26	44.20
	1946-47	87.33
Assam	1889-90	41.25
	1925-26	57.89
	1946-47	52.21

It will be seen that grants-in-aid have increased considerably in recent years and this gives Government considerable control in the shaping of policy.

The incidence of taxation per head of population of district boards in the major States of India will be gathered from the statement given below: (not inserted).

83. **Inadequacy of Financial Resources of Local Bodies.** From the above (these) figures of incidence of taxation and total income per capita, it will be obvious how inadequate are the financial resources at the disposal of local bodies. What services can a district board with an income of annas twelve per head provide for its population? To a certain extent this complaint of inadequacy of financial resources of local bodies is met with even in countries of the West. But there is all the difference in the world between inadequacy as it exists in this country and inadequacy as it exists in Western countries. In the latter when they talk of inadequacy of financial resources they mean inadequacy in respect of public conveniences and luxuries. In this country, however, when we talk of inadequacy of financial resources we mean inadequacy in regard to the barest necessities of corporate life, such as roads, clean water supply, sanitation and medical relief.

84. **Elementary Education.** In undivided India, there were 6,55,892 villages at the Census of 1941. The total population of these villages was 33,93,01,902. For this large population, the total number of primary schools in 1947-48 was 1,14,602. This means, roughly, that there was one school for six villages, or, in other words, five out of six villages were without any primary school.

85. **Roads.** A very large number of our villages are not connected by road with any urban centre or railway station. Most of the existing village roads are fair weather roads, which, when the monsoon arrives, are turned into mud, slush, pools of dirty water and become unusable. There are few permanent bridges and culverts and consequently each nullah becomes an insurmountable obstacle in the rainy season. We are paying heavily for not having enough good roads in our rural areas. The backward state of our agriculture and rural population is partly attributable to poor communications.

86. **Water Supply.** Coming to water supply, which is a basic requirement of human life and an essential function of local bodies, the position is even worse. The Bhore Committee pointed out that the percentage of population, urban and rural, served with protected water supply is 6.6 in Madras, 7.3 in Bengal and 4.1 in Uttar Pradesh. In Orissa there are only two towns in which protected water supply has been provided. In the Punjab (Undivided) the percentage of population served with protected water supply was 57.5 in urban areas. In the rural areas of this province, the proportion was only 0.8 per cent.* The position has not much improved since the Bhore Committee reported. The information available regarding water supply facilities in villages is very incomplete, but such as it is, it reveals a highly unsatisfactory state of affairs. In Uttar Pradesh, the Director of Public Health reports that the improvement of water supply in rural areas is a responsibility of district boards but for lack of funds very little has been done.

As regards the Punjab the table given below in respect of some of the districts shows how deplorable the position is in the following districts:

District	No. of Villages without Clean Water Supply	Population
Hissar	282	148,029
Rohtak	724	820,044
Karnal	22	17,796
Ambala	1,604	582,183
Kangra	35	89,301
Ferozepore	31	27,686
Gurdaspur	23	8,950

* Extract from the *Report of the Health Survey and Development Committee,* Volume II, paragraphs 23 and 24.

The cost of water supply is great and can generally be financed only out of loans. The initiative lies with the local bodies concerned. Government makes a grant-in-aid which varies from 33 to 50 per cent. But local bodies are in a position to find their share of the capital cost.

In Bombay the State Government, under a five year post-war programme (1947-52), has undertaken to provide wells entirely at Government cost in villages with inadequate drinking water supply facilities. Two thousand wells have already been completed under the scheme and two thousand six hundred are in the course of construction and are expected to he completed during the current year and the next financial year. We are informed that the average cost to Government per well is roughly Rs 5,000.

87. **Sanitation.** The development of the sewerage system in India has been very slow, even Slower than the provision of protected water supply. Even in those towns which are provided with sewers, it by no means follows that all the latrines are connected to the sewers. In most States the number of public latrines in municipal areas is too small for the needs of the population.

At the time the Bhore Committee reported, the number of sewered towns was as follows:-

Madras	3
Uttar Pradesh	5
Bengal (undivided)	8
Madhya Pradesh	1
Bihar	2

The total population living in areas normally served by sewers was only 7 million out of a total population of 300 million. There were indeed many cities of 100,000 population without this elementary amenity and even where the underground system existed it often served only limited sections of the population.

88. The collection and disposal of excreta is a service obtaining in municipal towns only, but by no means in all of them. In a number of even the larger cities, this service is at present of a low standard, Night soil is removed in baskets and deposited along with other rubbish in enclosures situated in public places. These enclosures are cleared later and the night soil transported in special carts for the purpose. Sometimes these carts are in bad repair and leak on the road. The actual disposal of nightsoil is generally by trenching which in few municipalities receives adequate supervision.

89. In rural areas, with the exception of a few demonstration centres set up by Public Health Departments in certain States, it may be said as a broad generalisation that no system of collection and disposal of excreta exists. In certain Panchayat and Union Board areas, a small number of latrines of a primitive type have been provided.

90. The collection and disposal of household refuse in most urban areas is unsatisfactory. The service is sometimes handed over to contractors who are mostly concerned with making profit and not rendering efficient service in the interests of the health of the community. In rural areas, no attempt has on the whole been made for the collection and disposal of household refuse. Similarly, with regard to disposal of industrial wastes very little attention is given. Unsatisfactory disposal of such wastes affects directly in many cases the amenities of the neighbourhood. All these shortcomings are largely due to inadequacy of financial resources.

91. **Medical Relief.** The inadequacy of medical relief in borne out by the statement given below. The average population served in each province, as given in the Bhore Committee report, during 1942 by one medical institution (hospitals and dispensaries considered together) is shown below:

Province	Average Population Served by a Medical Institution in 1942	
	Rural	Urban
1. Punjab (undivided)	30,925	15,188
2. Assam	44,562	172,962
3. Bengal (undivided)	37,996	19,730
4. Madras	42,672	28,496
5. Orissa	52,548	15,276
6. Bombay	34,927	17,127
7. Bihar	62,744	18,630
8. C.P. & Berar	66,008	11,379
9. Uttar Pradesh	105,626	17,668

It is obvious that no medical institution can serve such large population dispersed over a number of villages and towns and the number of medical institutions cannot be increased without increasing the financial resources of local bodies. The above table also brings out the disparity between the facilities provided to the rural population, as compared with urban, in the matter of medical relief.

92. During the course of evidence taken by the Committee, witness after witness gave expression to this grievance. It is not a new grievance but has continued over since local bodies were brought into being. Sir Herbert Risley's evidence before the Decentralisation Commission itself is forty years old and the position continues, more or less, as it was at that time. State Governments also have given expression to this feeling. The Bombay Government, for instance, makes the following remarks:

> 'The financial position of most of the municipalities in this province is not satisfactory and there is a general complaint that the municipalities do not make adequate provision for water supply, roads, sanitation, medical relief, etc. It is a fact that for want of funds the municipalities are unable to spend as much as they should on obligatory items of expenditure, like medical relief, construction and maintenance of roads, street lighting, sanitation and water supply'.

93. In West Bengal water and lighting ore provided only by about, one-third of the total number of municipalities, due to lack of financial resources. The municipalities have no money for financing their health centres, no medicines for running their dispensaries and no money for repairing the roads.

94. The Government of Bihar is equally emphatic on this point, *vide* extract from their note given below:

> 'It is an admitted fact that the present financial resources of district boards in this province are too meagre for maintenance of the services, with which they are entrusted, at a standard of efficiency expected by the people. The needs of the people of rural areas who form the bulk of the population of the province have not received the attention they deserve in matters of education, sanitation medical relief and communications, although the provincial government have been making fairly substantial grants-in-aid to district boards for each of these services. The inference clearly is that much more money than has been available to the district boards is necessary for expansion of these services which are of vital national importance. The present abnormal rise in the prices of building and other materials and in the wages of labourers, coupled with the demand for better pay and allowances by all classes of employees, has added to the financial burden of these local bodies with the result

that there has been no scope for any appreciable expansion in their activities. On the other hand, there has been deterioration in the maintenance of communications because the district boards cannot afford to meet the tremendous increase in the cost of maintenance of roads. The grants-in-aid, available from the provincial revenues have not been sufficient to meet the requirements of the boards.

We feel therefore that some bold measures are necessary to rehabilitate the finances of the boards, if any appreciable improvement is to be effected in the condition of their services'.

95. The condition of district boards in Uttar Pradesh is equally deplorable. A recent conference of district board chairmen in that State passed unanimously a resolution to the effect that their finances had reached such a stage that it was not possible for them to take even one step forward. The incidence of income per capita in 1945-46 for district boards in U.P. was 0-9-2 as against municipalities with a per capita income of Rs 8-6-0 in 1945-46 and Rs 9-2-10 in 1946-47. District boards with ten times the population to serve have less income than municipalities, in spite of their receiving proportionately much larger grants from the State government.

96. In almost every State, there is a tendency to transfer functions from district boards to the State Governments in the field of elementary education, public health and communications. All these nation-building activities cost increasing sums of money every year. But the resources at the disposal of the local bodies are of a stationary character and, consequently in sheer despair, they agree to surrender their functions. Most of the district boards chairman who appeared before us said that they were quite willing and ready to resume these functions, if only they were placed in possession of adequate funds.

97. We are of the opinion that wholesale transfer of functions from local bodies to State Governments is a retrograde step and should be avoided. Whatever be the criterion for demarcation of functions between the State Government and the local bodies, the desperate financial plight of the latter should not be made a ground for reducing them to practical impotence. As some witnesses pointed out to us that by such transfer the government does not make any saving, as funds out of government revenues have to be provided for the service taken over, why then not make an adequate grant-in-aid to the local body and let the service remain with it, as it should be.

98. It is hoped that in the new set-up local bodies will be used more and more as instruments of national policy and there will be a steady enlargement of their functions. In order that they may serve this purpose, they should be put in an effective position to do so. To take away their functions is not the proper remedy. The proper remedy is to provide them with adequate resources so that they may play their part in the execution of national policy.

99. We have in the preceding paragraphs invited attention to the chronic want of funds at the disposal of local bodies, but we should be failing in our duty if we omitted to draw attention to the other side of the picture, namely, the reluctance of local bodies generally to make use of their existing financial powers and resources to the fullest extent and to impose taxation, even when the need for such a step was clearly admitted. There has been failure to assess taxes with impartiality and to collect them promptly. Financial maladministration has led to supersession of many municipalities, including some of the biggest in the country. It is also true that with the appointment of administrators, financial irregularities have decreased and assessment and collection figures have mounted up. Audit reports throw flood of light on slackness of administration and slackness in assessment and collection.

We deal with these matters in the following pages (not inserted) and it is our hope that the recommendations we have made may lead to some improvement in the existing state of affairs. But we are satisfied that the stopping of all such loopholes, irregularities and human weaknesses, though very necessary, will not be enough. The local bodies will still need larger resources and it is on this task that attention will have to be concentrated in the coming years.

REVIEW ARTICLE*

TRANSITION TO SUSTAINABLE ECONOMIES

Anupam Saraph

Sustenance and Sustainability

Environment is that from which we draw sustenance. For all human settlements the questions of sustenance have been central. The issue of sustainability is, however, newer. The uncoordinated rates of growth of human activity make it increasingly difficult to sustain a settlement.

M.K. Gandhi was, perhaps, the earliest in this century to voice a path for sustainability: self-reliant villages. With local resource use, the feedback of resource quantity and quality would be direct and immediate. The resource scarcity or surplus would not be through a price signal, full of noise. The noise of politics, the noise of markets, the noise of wars, the noise of money flows. The information of stocks or their quality would not need to traverse through cities regulating trade, scheduling logistics based on complex profit computations. The impacts of distant wars, strikes, famines and lobbies would not shock the sustenance of the community. The community would regulate its resource use. The result: resilience and sustainability.

The pressures of global resource use and the advocates of growth succeeded in making even Gandhi's India fail to use his simple prescription for local sustainability: self-reliance. In the global village where the rapid globalisation is promoted by coalitions of short-term interests, recognising sustainability, let alone a transition to it, is a formidable task.

Problems for Making Transitions

In their pioneering study for the Club of Rome, the Meadows [Meadows, Meadows, Randers Behrens, 1972] created a global sensation by permanently damaging the notion of eternal growth. In doing so, they created the first quantifier of sustainability.

An economy (or environment) would be sustainable only if its activity could continue indefinitely. Growth, the Club of Rome study pointed out, cannot be sustained. Development alone can be. They demonstrated with elegance the consequence of compounding growth: overshoot and eventual collapse. The very antithesis of sustainability.

The limit to growth arise out of the dynamics resulting from the rapid (compounding) increase in resource consumption. The consequent conditions of resource scarcity cause pressures, resulting in a rapid collapse of the community that till now had been growing exponentially.

The pioneering work of the Meadows also points out that an exponential resource use would increase the pollution exponentially. The resultant pollution pressures can also cause a collapse of the till now exponentially growing population.

The key insight: any transition to sustainability needs to focus on decreasing resource use rates. This means *SLOWING DOWN.*

Following up from the insights of the Meadows and recognising that all (economic) activity requires energy, Malcolm Slesser developed a means to compute the dynamics of negentropy (exergy)[1] generation in an economy [Slesser, et al., 1985]. The method, called Eco-cooridation (ECCO), has been applied to understand issues on a sectoral basis in more than twenty different regions of the world.

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* Ayres Robert (Ed.), *Eco-restructuring: Implications for Sustainable Development*, United Nations University Press, Tokyo and Vistaar Publication, New Delhi, 1998, Pp. vi+417, Price Rs 495/-.

All economic activity is centred towards the use of energy to generate negentropy, Slesser's methods resulted in key insights: The rate at which an economy can make energy available is *RATE LIMITING* for economic growth. *COORDINATED* rates of activity in different sectors of the economy are critical to ensuring sustainability.

A corollary to Slesser's work is articulated elegantly by Besieot [cited in Bossel, 1999]: Options for making transitions to sustainability depend not just on responses (of technologies, for example) but on the rate at which the economy can respond in comparison to the time available to respond, (respite time). The numerous models of Slesser enable to explore options for making transitions to sustainability in the increasingly complex economy. There have also been by various institutions across the world to explore the consequences of different technologies in different sectors for different regions [Slesser and Saraph, 1991; Slesser and Crane, 1997].

These insights give us the following preconditions for sustainability:

* Resource use must not grow in compounding fashion.
* Pollution must not increase in a compounding fashion.
* Energy must not be used up to accelerate energy demand through the creation of energy intensive products or services.
* Changes must be brought out so as to keep the response time faster than the respite time.

Eco-restructuring

The book being reviewed, *Eco-restructuring: Implications for Sustainable Development,* is a collection of papers, most of which were presented at the United Nations University (UNU) Eco-restructuring Conference. The UNU's long-term research programme for transitions to an ecologically sustainable economy is referred to as eco-restructuring.

Eco-restructuring is defined by one of the authors, Faye Duchin, as 'an attempt to promote social well-being by designing and implementing technologies in a way that disrupts the biogeochemical systems of the planet as little as possible' (p. 260). As expected from this definition, the focus of the articles is on 'eco-friendly' technologies for resource use and enhancing sectoral efficiencies.

The book, according to Robert Ayres, addresses the broad question of how to shift from a techno-economic trajectory based on exploiting natural resources - soil, water, biodiversity, climate - to one that can lead to a future society that conserves these resources (p. 5). In his introductory chapter, he summarises three technical elements to a programme leading to long term sustainability:

* Reduce, and eventually eliminate, inherently dissipative uses of non-biodegradable materials, especially toxic ones (such as heavy metals). This involves process change and what has come to be known as 'clean technology'.
* Design products for easier disassembly and re-use, and for reduced environmental impact, known as 'design for environment' (DFE).
* Develop much more efficient technologies for recycling consumption waste materials, so as to eliminate the need to extract 'virgin' materials that only make the problem worse in time (p. 39).

Ayres identifies the problem of internalising the externalities as a socio-economic problem that is externalised in this book. This is the problem of the consequences of a product in terms of lifecycle energy consumption. Pollution, not

being regarded the responsibility of the producer, does not find its way into the computation of expenses.

The foundation of the sustainability movement outlined above forms the context for reviewing the book and the eco-restructuring research programme as documented in the book.

Premises of Eco-restructuring

The book is based on two premises:

* That economic growth must continue.
* The nature of that growth must change radically in order to satisfy the basic requirements of long-run sustainability. This change implies that the rate of extraction of non-renewables cannot increase significantly beyond its present levels. It also implies that the rate of emissions of chemically active wastes into the environment must be decreased even more drastically and even sooner.

Continued economic growth inevitably keeps us on the overshoot trajectory that Meadows have already cautioned us about. The premise that growth must continue seems to rest on a sub-premise that 'there is, ..., *no* theoretical maximum to the quantity of final services - i.e., economic welfare in the traditional sense - that can be produced within the market framework from a given physical resource input .... It follows, too, that, there is *no* physical limit (expect that imposed by the second law of thermodynamics) to the theoretical potential for energy conservation and materials recycling' (p.36). This optimism seems to rest partly on the potential for energy conservation and the recent decline in the energy/GNP ratio in the case of industrialised countries. This lowering of energy per unit of GNP has been attributed to the shift from heavy industry to hi-tech and service industries, the assumption being that the shift fully substitutes the services and products required by the economy for its sustenance.

Meadows' insights have already indicated that there is no substitute for reducing resource use so that the problems of compounding growth do not lead us to a collapse. The goal of growth and sustainability are incompatible. Slesser has indicated that the rate at which energy can be delivered to an economy is itself limiting. The dynamics of conservation, i.e., the substitution of old equipment with conserving equipment can be done at a finite rate if the services and products delivered by the economy were to be affected minimally. This serves to increase the response time making it invariably beyond the respite time.

The book does not offer means to explore if the prescription will work, given that dynamics is critical to sustainability. It does not seem to take note of the insights that have pointed out the incompatibility of the growth option for sustainability. In fact, the first part that deals with technologies for reducing resource use does not attempt, like Slesser's work, to compute the rate at which the technology can be introduced without affecting the sustainability objective.

The second premise, that growth must change radically to non-renewables and technologies reducing or eliminating wastes, makes a case for substitution. As was pointed above, while substitution may be a fine argument, can it happen within the respite time? None of the authors ask or answer the critical issue of the ability of the economy to make substitution responses. In the absence of such computation, we may have a cure that will never be able to work.

The book does not offer a prescription or even a conjecture as to what may be the right substitutions or how they may happen.

Industrial Ecology

To accomplish the structural change of reducing waste and pollution by converting them into raw materials, a new class of economic activities - the equivalent of decay organisms in an ecosystem, called industrial ecology - is expected by the authors to replace the extractive and waste disposal activities of the current system. The linear raw material-process-product chains characteristic of the current system, according to the authors, must ultimately (within the next century or so) be converted into closed cycles analogous to the nutrient cycles of the biosphere.

It may, however, be argued that there are no linear processes; only ones where the cycle-time is exceedingly large. It may also be noted that there are no established standards to ensure the closure of material flows or for ensuring their non-disruptive impact on the ecosystem.

Biotechnologies are likely to serve as the most natural means of creating closed cycles. In making a case for biotechnology, however, Anton Moser does not try to search for linear metabolism that could be made cyclic through Biotechnologies. Rather, he tries to make a case for the efficiency and economics of Biotechnologies over chemical technologies as follows:

* 'biocatalysts are highly active, specific, and selective; their regeneration is easier than in the case of chemical catalysts; there are no environmental problems as with heavy metals;
* reaction conditions are mild (temperature, pressure, and also concentrations);
* internal energy is supplied by energy enriched compounds, e.g. Adenosine Triphosphate (ATP), which are formed during the metabolism;
* impure, diluted, and inactive raw materials can be used, owing to the high specificity and selectivity of the Biocatalysts;
* bio-products are biodegradable in natural cycles' (p. 81).

Giving numerous examples, Moser is keen to substitute chemical technologies in pharmacy and medicine, food production and processing to waste disposal. Unfortunately, there is no comparison in terms of how linear metabolism is in any case converted by Biotechnologies into cyclic metabolism. Nor is there either an environmental impact assessment of any of the proposed technologies nor of their ability towards sustainability.

Moser suggests four principles to decide whether a technology is pro or contra nature:

* Non-invasiveness
* Embeddedness
* Sufficiency
* Efficiency

Applying only the principle of non-invasiveness to biotechnology he cites the following as success stories of genetically engineered organisms:

* Immunity from bollworm, caterpillars, corn borers, hornworms in cotton.
* Protection against tobacco, mosaic virus, rice tungro virus, cucumber mosaic virus in rice, tomato and cucumber.
* Tolerance for non-selective roundup herbicides in sugar beet, maize, cotton, tobacco, potato.
* Stimulation of nodule like structures in roots of rice and wheat.
* Drought resistance in wheat, corn, soyabean, etc.
* Gene modification in baker's yeast.
* Deletion of gene for ice nucleation protein in potato and strawberry.
* Antisense gene to block enzyme formation involved in softening/ripening tomato.
* Seedling roots soaked in a solution of modified bacteria in stone fruits, nuts and roses.
* Modified *Bacillus thuringiensis* for various crops in place of insecticides (p. 91).

Moser offers no suggestion about the environmental impact of these genetically engineered organisms (GEOs). It may be recalled that the insect resistant terminator genes associated with the cotton plants have drawn worldwide controversy. Traitor technologies, those that require the use of insecticides, pesticides or fertilisers from the seed company for the plant to survive, have also been in the midst of the storm. Lever and Cadbury have reportedly recalled their genetically modified food and are seriously cutting down (closing?) their programmes on genetically modified organisms. It is ironical that a book on eco-restructuring does not recognise the bio-geo-chemical pathways that may be disturbed by altering cycle-times, changing throughputs or even modifying the process, as a consequence of this brave new technology. Somehow, the GEO leaves the feeling of human arrogance of the superiority as an evolutionary selector of organisms and their traits.

In fairness to Moser, he cites the following criteria to regard a microorganism environmentally safe:

* Non pathogenic to plants and animals.
* Unable to reproduce in the open environment (including by delayed reproduction of survival forms as spores).
* Unable to alter equilibrium irreversibly between environmental microbial populations.
* Unable to transfer genetic traits that would be noxious in other species.

Moser's criterion does not include the impact on bio-chemical cycles, population dynamics and ecological succession.

Restructuring Material Use

Pradeep Rohatgi, Kalpana Rohatgi and Robert Ayres propose two generic approaches to reducing waste emissions:

* End-of-pipe treatment.
* Reduce use of materials.

The end-of-pipe treatment attempts to shift waste from place where they do harm to where they are less likely to do so. While regulation has encouraged recovery and treatment from one medium, it finds them reappearing in another. For example, the burning of solid wastes may generate air pollution. The air pollutants can be redeposited on land via rainfall to be carried into rivers and groundwater by surface runoff and percolation. They point out that the only way to reach a sustainable state is to find ways of using materials more efficiently in the first place, i.e., to evolve closed materials cycles.

They propose the following strategies to increase materials productivity:

* De-materialisation.
* Substitution of scarce or hazardous material by another material.
* Repair, re-use, re-manufacturing and recycling.
* Waste mining.

The authors consider these strategies to be either policy driven (e.g., The introduction of Composite Average Fuel Economy (CAFE) Standards for automobiles in the USA) or technology driven (e.g., the micro-miniaturisation of the electronics industry).

Citing a materials classification from Lynch makes little suggestion about the potential for creating closed cycles. There does not seem to be a classification based on the materials functionality or attributes to search for or suggest substitutability or cross use.

The use of materials for a need, and alternate, non-material ways of satisfying the need are not suggested. There are no estimates of the possible rates at which or the extent to which the four strategies could increase material productivity.

Restructuring Energy and Material Use

While world population has grown at 1.1 per cent per year, the world energy use has been growing at 2.1 per cent per year. The world economy has grown at 3.2 per cent per year.

In an extremely well covered chapter, Hans-Holger Rogner points out that the restructuring of energy systems by means of adopting industrial ecology features would not be sufficient unless linked with eco-restructuring of the commercial and industrial sectors. Rogner points out that the energy system consists of *sources* (biomass, coal, deuterium, hydro, geothermal, natural gas, oil, sunlight, uranium, wind, etc.) which by means of *extraction treatment* (coal mining, oil rigging, separation, beneficiation, harvesting, cleaning, liquefaction, fabrication, hydro dam, etc.) using *conversion technologies* (hydro station, thermal power plants, nuclear generating station, photo-voltaic cell, refinery, gasification, liquefaction, etc.) resulted in energy *currencies* (electricity, steam, gasoline, methanol, natural gas, hydrogen, etc.) and *distributed* (electricity grid, gas grid, pipeline, tanker, truck, dewar, railway, etc.) for *service technologies* (automobile, aircraft, light bulbs, computer, telephone, microwave oven, furnace, air conditioner, etc.) to deliver what people want: *services* (transportation, communication, food, keeping warm/cold, health care, security, information, etc. (p. 153)).

Rogner points out the enormous loss of exergy in delivering primary *energy* through final energy to useful energy to energy services. Suggesting that the largest scope for energy conservation was in the interface between energy sector and the service technology, he is quick to point out the exception: electricity. In the case of electricity the greatest efficiency improvements would be through the generating process. Making a point that the current infrastructure of housing, transportation and industrial production is very much responsible for the current inefficiencies of the energy system, Rogner points out that energy demand management or integrated resource planning needs to be undertaken with a full source to service perspective.

Rogner actually goes out to suggest a target energy system, one to which the transition should be. Based on the premise that local air-quality issues, in the short run, and global greenhouse gas emissions, in the longer run, mandate the restructuring of the energy system to eliminate the use of fossil energy sourced carbon, he proposes a sustainable energy system centred on the relationship between solar energy, hydrogen, oxygen and carbon. The deep future energy system of Rogner uses non-fossil solar and nuclear sources, also uses zero emission conversion technologies, has hydrogen and electricity as currencies, is distributed over a grid, supplies to service technologies which are efficient, clean, long lifetime and with low material intensity, providing services that sustain the needs of a growing world population.

What may well be interesting to add to this work are Slesser's observations through numerous models that the dynamics of this deep energy future may well leave scars on the material services we can enjoy while we make the transition. It may also be fitting to ask the question of the services themselves: how many new services do we add to our lifestyles across the world, as we build more energy-intense societies?

Robert Williams shifts the focus from global energy use to fuel de-carbonisation, pointing out that stabilising the atmosphere at less than a doubling of the atmospheric concentration of carbon dioxide (CO_2) as a major challenge. Williams evaluates various options of flue gas de-carbonisation in comparison with options of fuel de-carbonisation.

Lifecycle emissions for methanol produced from coal would be no more than that for gasoline or for methanol produced from natural gas, while lifecycle emissions for hydrogen produced from either natural gas or coal with sequestering would only be half of the emissions of gasoline. A dollar-per-gigajoules ($/GJ) comparison points out gasoline as the most effective fuel. The least expensive hydrogen is still 60 per cent more expensive to the consumer.

It is worth noting that Slesser's models have discovered that sequesterisation options have a net CO_2 gain and not a CO_2 loss for the atmosphere. For every GJ expended to pump the CO_2 to the deep sea, more additional CO_2 is generated than pumped away.

Paolo Frankl describes the technologies for harnessing the sun's energy: photovoltaics.[2] Frankl describes applications from 0.01W to 1MW (service to supply end). While he points out that service and remote users are likely to take to solar energy today, grid connected solar use for peak or bulk power will be much into future.

Many proponents of the technologies that made up the green revolution do not yet understand the Frankenstein that the green revolution unleashed. Not only has there been a strange absence of a time frame for assessing the impact but also criteria for assessing the impact have been limited to unknown or diverse geographical boundaries (creating more externalities) and to narrow indicators.

This part in the book creates the same uneasy feeling: What is the time frame for assessing the eco-technologies? Why is there no common geographical bound to evaluate the technologies: from factory to the globe? Why is there an absence of uniform criteria for assessing the different technologies? What are the integrated steps for eco-restructuring resource use? How will its success be monitored? Does the eco-restructuring programme have a model of the world where strategies may be tested before restructuring is proposed? How is eco-restructuring expected to happen?

Slesser's methods cited above have already evaluated many technologies in answer to these questions and could, perhaps, prove to be the best to complement the restructuring approach by evaluating each technology and technology combinations over identical time frames.

Restructuring Sectors and Sectoral Balance

Faye Duchin presents a scenario of material consumption in four groupings of regions of the world. Through her results she provides the motivation for a more radical agenda for eco-restructuring.

Duchin points out the options for material reduction: source reduction and recycling. Source reduction can be achieved by lowering consumption which requires significant changes in lifestyles. Recycling requires using single rather than composite materials and a uniform waste stream of predictable volume.

Heinrich Wohlmeyer asks whether humanity is in the tragic trap. Mainstream agriculture is recognised as unsustainable. It creates soil erosion, deterioration of soil structure, exhaustion of soil nutrients, salinisation, overuse of water resources, desertification, deforestation, reduction of biodiversity, pest and disease build-up and pollution.

Five to seven million hectare of arable land is being lost every year to soil degradation. 24 billion ton of topsoil is lost globally every year. Wohlmeyer indicates that there is evidence for high labour, high nutrient turnover, balanced

mixed cropping system out-performing low labour mechanised agriculture production systems.

Wohlmeyer identifies the following essential governing principles of the biosphere:

* Enhancing ecological stability -
  * networking decentralised systems, and
  * maximum variety (maximum options).
* Minimising entropy -
  * energy and material-using cascades, and
  * closed material cycles.
* Reducing entropy -
  * Solar orientation of the biosphere (p. 298).

While writing about restructuring of tropical land-use systems Gilberto Gallopin focuses on the agricultural sustainability. He advocates efficiency by reducing inputs and reducing wastes. He suggests substitution by using environmentally healthier inputs. He advocates redesign of cropping and farming systems. Any discussion on the restructuring of the rapidly growing urban land-use in tropical regions is prominent by its absence in this chapter.

In a chapter on the restructuring of transport, logistics, trade, and industrial space use, Paul Weaver points out that 'transport energy' accounts for more than one quarter of world-wide commercial energy consumption. With a growth rate of 2.7 per cent per year, it is the fastest growing energy end-use category. Passenger travel accounts for 60 per cent of the transport energy use while the balance 40 per cent is accounted for by freight transportation.

Weaver raises and attempts to answer the following questions:

* What factors and trends have been important in the past and are likely to be important in the future of freight transport volumes and patterns?
* What is the current level and structure of freight transport?
* How much scope is their to reduce freight volumes?
* How might this scope be taken up?
* How would the space use, logistics, transport, and trade patterns of a sustainable society differ from today's (p. 343)?

Weaver points out that although freight volumes measured in tonne-kilometres are decreasing, transport volume per capita is increasing (p. 351).

Weaver concludes that sustainable societies are likely to involve:

* Less physical movement.
* Less emphasis on physical transportation infrastructures.
* Substitution of information and capital flows for physical goods movement.
* Greater mixing of land uses.
* Less specialisation and concentration of production.
* Smaller scale installations and use of flexible technologies to emphasise economies of scale.
* Decentralisation of production.
* Greater reliance on local resources.
* Greater serving of local markets.
* New networking arrangements among contractors.
* More sensitivity in matching activities and locations so as not to overreach local environmental capacities.

While Weaver's conclusions draw us closer to Gandhi's original path to sustainability and self-reliance, Weaver does not offer steps to make the global economy a local economy. Weaver offers no insights into proportions of material moving for processing, for storage, for packaging, for sale, for consumption, for disposal, for recycling or other reasons. Nor does he offer insights into people moving for work, for study, for entertainment, for migration or for different reasons. From a regulatory standpoint eco-restructuring of

transportation has more to do with land-use and community lifestyles than industrial manufacturing and markets.

Mechanisms to internalise externalities to reflect the true cost of a product (for example, International Federation of Institutes of Advanced Studies' (IFIAS) energy analysis [IFIAS, 1974]) have not been explored to negate the globalisation advantage. So long as price tags use money (a perception of local purchasing power) and not a global cost (energy), global trade will always generate unsustainable societies for both the producer region and consumer region. Unfortunately, Weaver does not deal with these issues.

Mikoto Usui titles his chapter 'National and international policy instruments and institutions for eco-restructuring'. Usui's presentation starts with an issue related to international environmental institutions: treaty making. He also discusses issues related to designing and packaging of policy instruments for tackling environmental problems. He offers an assessement of the North-South income redistributional implications of joint implementation.

Whereas stressing that economists' advice is to get the price right and political scientists are concerned with how to get the institutional incentives right, Usui offers no clear examples of how incentives could be made right beyond correcting for unfair prices.

Sectoral balances are not really addressed as the title of the second part of the book suggests.

This part of the book, like the previous part, leaves disconnected parts of different jigsaws together. The individual authors do not seem to contribute to a common agenda, a common programme or, at least, to a common framework. Whatever the reason for this major lapse, it leaves the reader lost as to the large, if not the whole, picture the book may want to paint.

Conclusions

On the plus side, the book creates an interest in the need for a management agenda for attaining sustainability. It creates awareness of the absence of a clear management strategy for moving to the mission of making human activity (or settlement) more sustainable. Books like these indeed are filling a need for a debate on ways to make a transition to sustainable development.

The book is a collection of alternate resource use technologies. Even as an encyclopaedia or directory of green technologies, it falls short in describing the input, process and output of each technology nor does it consider the economics, externalities associated with each technology. It does not uniformly capture the substitutability, penetration, response costs, and the dynamics of impact of the technology on sustainability.

A technology fix can never be a path to sustainability. It can only be a temporary reaction to other technology whose damage has been known or experienced.

In its case for restructuring, it fails to account for the very insights that have led to our understanding of limits to growth.

Information Systems, the critical element in a restructuring exercise, is ignored completely. None of the authors focuses on the need to radically redesign the indicators and information system that drive the actions and reactions of individual communities, regions, nations or the globe. Designing mechanisms that generate feedback about local resource quality and quantity do not even figure on the eco-restructuring agenda [Saraph, 1994].

Explicit tests, criteria or models to standardise or confirm that the technology conforms to closure of material movements in an ecologically sustainable way are neither suggested nor provided.

The challenge of making it from where we are to a sustainable society requires fresh, original and radical inputs. The book is disappointing. It does not offer either a fresh, novel, path breaking, original or radical restructuring options that are likely to move us to a more sustainable community or globe.

The book does not suggest research directions or lay foundations or framework for a scientifically rigorous eco-restructuring. While politically correct arguments sustain the struggle to sustain, they do not sustain the society or economy.

Policy-makers are unlikely to find the arguments for eco-restructuring, the criteria for evaluating the options for eco-restructuring and the options for eco-restructuring easily in this book. Technologists are likely to dismiss the account as narrow or inadequate. The green crusader is unlikely to be able to translate the knowledge encompassed in this book into an agenda for eco-restructuring for sustainability. The sustainability scientist, designer or manager will continue to find it an incomplete jigsaw with missing and mixed pieces.

NOTES

1. For definition, see p. 37 and footnote 10 on p. 49 of the book reviewed.
2. For definition, see p. 223 of the book reviewed.

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BOOK REVIEWS

Debroy, Bibek, *The Indian Perspective on GATT*, Response Books, New Delhi, 1996, Pp. 275, Price: Rs 325.00.

I

The World Trade Organisation (WTO), successor organisation to the General Agreement on Tariffs and Trade (GATT) came into being in 1995 at the end of the long and exhausting negotiations of the Uruguay Round. During the negotiating process of the Uruguay Round and discussions on the Dunkel Draft reactions like, India to gain little from GATT, Grim Prospects for the Third World in the Uruguay Round, Dunkel Draft Surrender Unacceptable, Complete Denial of Developing Countries' Interests, were not uncommon in India. Even after the formation of the WTO, a good deal of debate went on as to how India stood to gain little from joining the WTO. This book, therefore, examines in great detail the provisions of the WTO and tries to take a balanced view. It looks at the opportunities provided by them as well as the threats posed. It takes account of India's strengths which can be used to benefit from them and weaknesses which come in the way of these benefits. On this basis, it seeks to make out a case that overall, India has not got a bad deal out of the WTO agreement. The anxiety of China to get into the WTO is a clear indication that the benefits outweigh the disadvantages. Therefore, what is needed in India is not a dysfunctional debate on the costs and benefits of the WTO but a proactive policy, which uses India's strengths and minimises her weaknesses to derive the maximum benefit for her trade and development.

The book is divided into eleven chapters which examine the provisions, *inter alia*, with regard to: market access, textiles and clothing, agriculture, trade-related investment measures (TRIMS), services, trade related intellectual property rights (TRIPS) and patents and pharmaceuticals. Since it would not be possible to discuss all these in a short review it is intended to cover only a few areas which have attracted a great deal of attention.

II

Since the aim of these negotiations is trade liberalisation, it is of the utmost importance to find out to what extent tariff and non-tariff barriers to trade have been removed and to what extent the trade of developing countries, and in particular India, is likely to increase as a result. Broadly speaking, above average tariff cuts will take place in developed countries in metals, electric machinery, pulp paper and furniture, non-electric machinery, chemicals and other manufactured goods which account for 71 per cent of total imports of industrial products by developed countries. Below average tariff cuts will be made in four major products - textiles and clothing, leather, rubber, footwear and travel goods, fish and fish products and transport equipment. Within these average rates there will be considerable product variation. For example, even after these cuts 28 per cent of imports of textiles and clothing by developed countries will continue to face tariff rates of over 15 per cent.

The tariff cuts, though apparently substantial, do not amount to much because industrial tariffs in developed countries were already low. However, these cuts represent enhanced market access but the extent to which India can benefit will depend upon the competition from other developing countries, which is not insubstantial.

Developing countries as a group have agreed to reduce tariffs on about a third of their industrial imports. No offers of reduction have been made on 42 per cent of their industrial imports. India has agreed to reduce tariffs by 40 per cent from 54 per cent to 32.4 per cent. This duty reduction is to be effected over a period of six years.

Improved market access also requires the removal of non tariff barriers (NTB) which often tend to be more severe for developing country exports. For example, 18.4 per cent of non-fuel exports from developing countries faced NTBs in Organisation for Economic Cooperation and Development (OECD) countries in 1992 as compared to 10.4 per cent of similar exports from

developed countries. There is a substantial decline in the coverage ratio (i.e. percentage of total imports that face NTBs) as a result of the Uruguay Round. In India's case the coverage ratio will drop from 29.4 per cent to 5.1 per cent.

The benefit from such improvement in market access will accrue only to efficient producers of goods and services because of competition. India does not appear to be an efficient producer, given the fact that its share in world exports is steadily declining. So, it is of the utmost importance that we concentrate on improving the supply side of exportables and eliminate a number of impediments, such as poor infrastructure, improper taxation, inadequate finance and antiquated procedures. If this is not done, we will not be able to benefit from the opportunities provided by improved market access.

III

The agreement on Agriculture in the Uruguay Round seeks to liberalise world trade in agriculture and free it from governmental measures that distort trade and lead to inefficiency. It seeks primarily to secure concessions and commitments to increase market access and to reduce domestic support and export subsidies so that trade increases. For instance, in Western Europe domestic cultivators are paid prices much higher than world prices and the surpluses that are generated are exported with the help of export subsidies. Both these affect world trade and distort both, production and trade.

This is sought to be corrected through a stipulation that the extent of Aggregate Measurement of Support (AMS) beyond a benchmark is brought down in an agreed specific manner, i.e., by 20 per cent, over a period of six years beginning in 1995. However, developing countries have to reduce AMS by 13.3 per cent. The benchmark for AMS is 5 per cent of the total value of agricultural production for developed countries but 10 per cent for developing countries.

AMS is calculated on a product specific basis for each basic agricultural product receiving market price support, non-exempt direct payments or any other subsidy not exempted from the reduction commitment. These measures include domestic price support policies, tariffs, quotas, export enhancement programmes. They also cover provision of inputs below cost or at prices lower than what are charged to other consumers, i.e., subsidised electricity, credit, fertilisers, etc. Direct cash payments to cultivators are also included in AMS. However, services of a general nature which benefit the rural community such as research, training and extension services, pest control, marketing and promotional services are excluded. So also public stockholding for food security purposes and domestic food aid are exempt. Thus the fear that the Public Distribution System (PDS) will be adversely affected is unfounded; it needs to be more specific and more transparent, which is being suggested here as well.

Domestic support in developed countries is estimated to be around 150 billion US dollars whereas the figure for developing countries is estimated to be around 19 billion US dollars. This programme will thus improve access to developed country markets. The picture seems very favourable to India. The benchmark figure for subsidisation for India is a positive figure of Rs 11,300 crore while the aggregate measure of support is a negative value of Rs 19,681 crore. India has thus a leeway of Rs. 31,161 crore to make up.

Market access for agricultural commodities will also improve due to reductions in tariffs, export subsidies and quantitative restrictions. It is estimated that additional exports of 270 billion US dollars will materialise beyond the year 2005, and this liberalisation will raise agricultural prices by about 10 per cent. This should make India's exports even more competitive.

Indian exports of rice, bananas, grapes, onions, tomatoes and processed vegetables like mushrooms are extremely competitive, others like wheat, mangoes and potatoes are moderately so. But her ability to gain more from this increased access depends on the elimination of supply side constraints and introduction of reforms in the domestic agricultural economy.

IV

The Trade Related Investment Measures (TRIMS) agreement of the Uruguay Round seeks to bring about multilateral disciplines on investment practices that distort trade flows. It is laid down in this agreement that no member shall apply any TRIMS which will not provide a foreign provider of a good the same treatment that is given to a domestic provider and which is inconsistent with the general obligation to eliminate all quantitative restrictions. Such measures have to be phased out, after WTO comes into force, in two years by developed countries and five years by developing countries. Least developed countries have seven years to do so. This transition period can be extended, on special request, for developing and least developed countries only.

An illustrative list of such measures contains the following: (i) requirement of purchase or use by an enterprise of products of domestic origin or domestic source, whether in terms of specified products, or in terms of volume or value of products or in terms of volume or value of its local production; and (ii) requirement of an enterprise's purchases or use of imported products to be limited to an amount related to the volume or value of local products that it exports. TRIMS which are inconsistent with removal of quantitative restrictions are: (i) requirement that importation by an enterprise of products used in local production be related to value or volume of local production that it exports; and (ii) restricting foreign exchange needed for local production to foreign exchange inflows attributable to that enterprise or to exports of particular products in terms of value or volume of local production. Those primarily prohibited are thus local content requirements or export commitments.

The prohibited TRIMS directly affect India because of its earlier policies of industrial development and export promotion. In its submissions earlier, India had argued that these measures will have trade creating effects because of development and therefore outweigh the trade restrictive or trade distorting effects. This contention had not been accepted. In any case, India herself has begun to dismantle these procedures through liberalisation and should not have any problems in this regard.

These measures do not necessarily have to be phased out however, if a country has balance of payments problems. The procedures have to be transparent and there will be greater pressure to phase them out.

V

The Uruguay Round has introduced provisions in an important area, like the Trade Related Intellectual Property Rights (TRIPS). This has evoked a great deal of opposition from developing countries because they feel that the norms of protection of intellectual property rights have been thrust upon them, though they are not ready for them.

The concept of property has changed with the changes in social and economic organisation. In an agricultural society immovables, particularly land, was a major form of property. With industrialisation and the development of capital markets non-physical objects came to be recognised as property. Intellectual property is the latest addition as industrial organisation has evolved.

The demand for better intellectual properly protection has come from the developed countries because with such protection royalty incomes

from exports will go up, grey imports into developing countries will go down as well as expenditure on detection and prevention of unauthorised use of technology. It is also argued that such protection is beneficial to developing countries as well because it may encourage, Research and Development (R&D) activity in the developing countries while at the same time channelling developed country R&D to problems of importance to developing countries. Technology flow may increase as the threat of piracy recedes and its price also may come down in the absence of misuse. While this may happen in the long run, in the short run rising costs of technology may neutralise the benefits for developing countries. The low per capita income of the developing countries means that expenditure on R&D and human capital formation is low and, therefore, the threshold of technological capability is not high enough to benefit from such protection. Hence, the opposition of developing countries to TRIPS springs from the dispute about the time frame.

The Agreement on TRIPS lays down standards for specific intellectual property rights and covers copyright and related rights, trade marks, geographical indications, industrial designs, patents, layout designs of integrated circuits and protection of undisclosed information. There are provisions regarding enforcement and settlement of disputes and institutional arrangements. After a detailed examination of the provisions, the author comes to the following conclusion: 'There is a popular impression that through the Uruguay Round Agreement, India has had to grant an enormous lot in the area of trade-related intellectual property rights. There is also an impression that India has no tradition or legislation protecting intellectual property ..... The quotes and examples from the Indian legislation should have made it clear that India does have a tradition of protecting intellectual property and the required legislation exists. The difference between the existing Indian legislation and that required by the TRIPS agreement is also not terribly significant. In fact, in some instances, the existing Indian legislation is more stringent than what is required by the TRIPS agreement' (p. 154).

VI

The greatest amount of controversy in this country has taken place with regard to patents and pharmaceuticals. This controversy has two dimensions. There is the question of protecting plant varieties and microorganisms. Secondly, there is the question of amending the patent legislation and the resultant impact on the pharmaceutical sector. The first one covers a lot of grey area because there is a concern about granting patent protection to life forms as this does not seem ethical. A recent judgement of the US Supreme Court makes the animate versus inanimate question not relevant because it decided that patentability depended upon whether it was a discovery or an invention.

A second concern is about the domination of the seed trade by multinationals. Patents would mean higher seed prices due to monopolies and a restricted flow of germplasm. Also new varieties will not be readily available and indigenous capability of adapting to local conditions will be affected because permission from the patent holder will be needed.

The author argues that these fears are based on an underestimation of Indian strength in seed research and gives examples of Indian wheat and rice varieties which have proved popular in Sudan, Nepal, Bangladesh, Mexico, China and South East Asia. The varying agroclimatic zones, the expertise in developing new varieties of food crops and the scientific infrastructure should offer India a comparative advantage, and better protection would enable her to get better prices for her seeds. Also, as foreign hybrids and plant varieties are not commonly used in India the prospect of India having to pay more does not seem real.

There is also a threat to biodiversity because of pirating the gene pool. Patents are given for inventions and not discoveries but the distinction between the two gets blurred in biotechnology. As a result, patents for *neem* and turmeric have been obtained in the US. Efforts are being made, after the Rio Summit in 1992, to regulate illegal flow of genetic material. The Convention accords sovereign rights to nations over their genetic material and biological resources. Better documentation and proper legislation can protect the germplasm of a developing country like India.

VII

The provisions regarding patents is likely to create some problems for the Indian drug industry. They provide for product and process protection whereas Indian patent laws only allow process protection, thus enabling Indian companies to produce patented drugs cheaply by using different processes. Thus the WTO provisions would lead to higher drug prices. The author argues that part of the cheapness of Indian drugs is due to plain piracy or due to saving on the enormous cost of developing new drugs. If Indian firms were to undertake R&D, prices of Indian drugs also would go up. In any case, the prices of many drugs would not go up because the patents have expired. In the list of 250 essential drugs published by the World Health Organisation (WHO), less than 10 per cent are protected by worldwide patents. Besides, patents do not last long because the very monopoly encourages competition to develop substitutes.

In the post Uruguay scenario, Indian drug companies will have to restructure themselves to survive in the absence of protection and pay more attention to R&D. Original research can be done by firms which are not of the size of multinationals because it is not as expensive as developing a new drug. Once a new molecule has been developed, further development can be done in collaboration with one of the larger firms with resources. Also, in the new scenario, Indian drug companies can export bulk drugs of which there is an excess supply in India, provided they improve their standards of manufacture to international levels. Thus, according to the author, the fear that the WTO patent regime will drive the Indian drug industry to the wall and will greatly hurt the Indian consumer seems to be an overreaction.

VIII

This lucidly written book is a useful contribution to the understanding of WTO and to evaluating the controversies around it. Much of the debate in India on WTO has been based on the mindset of the so-called Nehruvian development policy. Debroy rightly argues that this is inappropriate in the present liberalisation context and draws attention to India's strengths in various areas which will enable her to thrive in a post-Uruguay Round scenario. However, his warning that this also requires corrective and developmental action mainly on the supply side of the trading system, if we are to really flourish and not just bump along, needs to be paid serious attention.

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Chew, Sing C. and Robert A. Denemark (Eds.), *The Underdevelopment of Development, Essays in Honour of Andre Gunder Frank*, Sage Publications, London, 1996, Pp. xv+427, Price: Rs 595/-.

This is a festschrift in honour of the well-known thinker, Andre Gunder Frank. He is one of the eminent lights in the school of writers known as *dependentstas*, mainly South American, though Frank is a North American. This school of thought originated as a reaction to the orthodox or dominant view of development in modern times. The view is that development

(particularly economic) is essentially the study of modernity round the archetypal development experience of an ideal-type Western industrial state. It does not however explain, according to the *dependentstas,* the distribution of underdevelopment, the lack of autocentric development in the third world or the persistent impoverishment of vast regions of the globe. It was also focussed exclusively on economic development conceived as autonomous and internal.

The *dependentstas,* around the 1960s, developed a powerful critique of the orthodox view of development. They pointed out that (1) social, political and economic phenomena are intimately related and cannot be analysed independently of one another. (2) The role of pervasive effects of colonialism in many underdeveloped areas of the world cannot be ignored in this context. A global context was necessary. (3) It assumed that Europe alone had a developmental past while all other lands were underdeveloped in the historical past. This was a major impediment in understanding the problems of the underdeveloped world. (4) The system was exploitative resulting from the process of capital accumulation on a world scale. (5) A direct relationship has evolved between the 'externally' generated exploitation and the social, political and economic structures within the weaker areas themselves. In Frank's words, we witness 'the development of underdevelopment'.

For Frank 'world development is a consequence of the rise and fall of regions played out through ceaseless accumulation underlined by long cycles of expansion and contraction over some five thousand years of human history. Western supremacy in the world system is thus only a temporary condition, perhaps a little more than one hundred years old. The history of the system started much earlier than what we are led to believe and had its origins in Asia. These insights undermine Eurocentrism and call forth an (eco)humanocentric approach towards understanding and explaining global transformations' (Pp. xii-xiii).

Of great interest is an autobiographical historical essay by Frank in which he reviews his own thoughts. 'With three decades of hindsight, Gunder is even more explicit in his insistence that we understand real development, not as a stage or state, but as a process encompassing economic, social, and technological changes by which human welfare is improved (we hope, not at the expense of nature) and embellished with political, cultural, and perhaps spiritual dimensions' (p. xii).

The essays in this volume in and around the main themes of Frank are extremely informative and thought-provoking, especially to those who can only think of growth in terms of per capita income. The book is welcome.

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Singer, Hans, Neelambar Hatti and Rameshwar Tandon (Eds.), *Export-led Versus Balanced Growth in the 1990s, New World Order Series Vol. 13,* B.R. Publishing Corporation, Delhi, 1998, Pp. xiv+663, Price Rs 1,000/- or $ 120.

This is a collection of papers published in various places and times dealing with, what has come to be described as, the Prebisch-Singer hypothesis around the 1950s. The thesis argued that several factors inspired to produce a secular decline in terms of trade between less developed and developed countries. Some of the causes were (1) factor productivity growth in the manufacturing sector; (2) asymmetric market structures with competition in the primary commodities markets and oligopoly in the manufacturing sector; and (3) higher income elasticities for manufacturing goods. This will continue to be the cause of an ever-widening gap in their per capita incomes. To counter this, the Less Developed

Countries (LDCs) should industrialise by way of import substitution together with the formation of regional trading groups and claiming international assistance.

The central idea was subsequently broadened under Prebisch's guidance in the direction of the distinction between centre and periphery countries and by Singer in the direction of technological control, leading to the idea of "inappropriate" technologies in the LDCs with harmful employment and income distribution effects' (p. 2).

The empirical basis of the thesis continue to be debated. Shifting from barter terms of trade to Employment-corrected double factoral terms of trade, a qualified version has reaffirmed the thesis. 'A shift from barter to factoral terms of trade was in any case implied in the broadening of the debate into hierarchy and technology and a shift away from the characteristics of commodities to those of countries' (p. 3).

Though the critics of the thesis concentrated their fire on the prescription of import substituting industrialisation, the Prebisch-Singer thesis in fact devoted much more attention to the need for international compensatory income transfers (soft aid) as a natural conclusion from the thesis.

The East Asian Tigers' economic miracle (a seven day wonder) led critics of the thesis to argue that not import substitution but export orientation arising from enlightenment caused this miracle. Yet the shift can equally be satisfactorily presented as a rational and natural sequential development in the progress of industrialisation. Export-led growth has since turned into debt-led growth, and who will now question that the terms of trade of the LDCs, after allowing for debt service, are highly unlikely to get back even to the pre-1971 level?

The editors conclude: '... the periphery countries have been able to develop new products, processes and services recently, but not the capacity to develop them. We can also mention that the exacerbation of distribution struggle and the necessity of markets and its powerlessness to resolve income distribution problems and incapacity of the LDCs to assimilate technical progress' (p. 14). It needs only to be added, one is tempted to say, that if the LDCs do develop the capacity then they can be made to sign the Comprehensive Test Ban Treaty (CTBT)!

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Gupta Sangeeta R. (Ed.), *Emerging Voices, South Asian American Women Redefine Self, Family, and Community*, Sage Publications, New Delhi, 1999, Pp. 260, Price Rs 395/- (cloth), Rs. 225/- (paper).

Last few decades have been marked by exodus of young intellectuals, men and women to America. The phenomenon is very familiar and closely experienced by the middle class societies in many states of India. Initially, there was a lot of concern expressed from various points of views, which include issues of patriotism and brain drain, since very few from the second wave of migrants thought of returning to the mother country. On the other hand, there was a complaint from the migrant young people who went in the 1960s that prices were rising so much that even though they wanted to come back, they could not afford to purchase a flat of their own with the saving they could do abroad and could not afford to have comfortable life style with the salary they could get here in India. That generation felt a real dilemma, trying to crystallise proper justification of their decision to migrate. There was some guilt, and some longing for the cultural roots in India. One used to notice that that generation of migrants

generally felt lost, belonging to neither this society nor that society. The issue of social ecology such as old parents left behind with nobody to look after them also raised concerns that got reflected in plays and movies of that period.

However, the children of this generation are brought up in America and, whatever problems of double identity their parents might have suffered, the children are poised to transcend this schizophrenia and find a place of their own in the multi-cultural, multi-ethnic American mainstream society.

During the last decade, the situation has changed. Intellectual migration has been a way of life for many middle class families and is generally encouraged. The media has exposed the middle classes here to the culture of the West and thus, with permeation of that culture into the life here, the latest migrants do not find themselves burdened with a fear of transgression into a totally alien culture. Also, with education and reform movements, the Indian culture itself has been in transition. The two cultures have not remained so distinct any more, but some kind of continuity is seen to be emerging.

The process of globalisation has provided justification for this generation that expertise knows no boundaries and should grab opportunities in the international markets. The American universities too provide large opportunities for learning. On the other hand these migrant students have provided cheaper labour in their laboratories. The point is that this current generation constituting both those who went for jobs and those who went as students with the intention of settling down there, is all poised to join the American mainstream society.

In the light of our discussion in India regarding the issue of migration of Indian intellectuals and thus consequent loss to the nation and to their families, it is interesting to know the other side of the same coin, i.e., the issue of immigration and acculturation into the new society. It becomes more interesting against the background that many of us and the migrants themselves have believed that our stronghold is the family value, the bastion of our culture and identity which would help us apply filters so that, while the immigrants would be able to take advantage of the economic opportunities of the American society, they would keep at bay the values (which are crass, according to them) such as individualism, self-determination, sexual freedom and choice. Does it happen? And at whose cost? The papers in the book help us explore the answers to these questions.

Sangeeta Gupta, the editor of this volume has given the history of South Asian immigrants in the US since 1914, i.e., the colonial period, when the Indians and Pakistanis went there as erstwhile British citizens. However, she has concentrated on the experiences of women who migrated as a part of second and third waves, i.e., since 1965, and their female children who grew up in America.

Against this background, the papers in this collection are trying to capture the various voices, mainly of women, spanning different generational, religious and regional points of views to reflect their struggles to get identity which is distinct, neither symbiotically related to their parents, nor that of the mainstream white American woman, but a bicultural, or may be a cross-fertilised, one. The tension in this struggle emerges, due to the values inside home and outside, which are conflicting.

The editor says in the introduction that basically discussing identity formation, adaptation and acculturation within the South Asian family, and specifically as these issues apply to women, has struck a chord with many individuals, and she

got overwhelming response in terms of submission of articles. It was decided not to go for an academic work alone but have multi-disciplinary, multi-generational and multi-perspective volume and, I think, there lies the strength of this volume that it is rich in experiential narratives as well as in analysis.

The book is planned from the woman's perspective because the editor feels that so far all the scholarly works on Asian-Indian immigration have not dealt with social history and whatever few have touched this issue have focused on the 'Great Men of History' premise, thereby writing women out of history. Moreover, whenever they are mentioned in these works they are mentioned from the eyes of men, i.e., according to their relationship to men.

Gupta feels that the history of South Asian male immigration cannot consist simply of the experiences of the male immigrants. It must also include the social, political and economic constraints which prevented women from immigrating with men, and the period of prolonged forced separation they experienced and what effect it had on their lives. Did immigration and the resettling process affect women's self esteem, identity formation, or their familial relationships? Also, Gupta is aware that there is no 'one' experience for women. South Asian women who immigrated in the 1920s, 1940s, 1960s and 1980s all have different experiences even within the context of being women immigrants from the same geographical area, for the areas they left and the country they came to were and are in a state of flux and change. Gupta has included also the experiences of women from different religions, because she is aware that there is no 'one' culture, but, at the same time, she finds that there are enough similarities so that many women feel a bond of varying depth with other South Asian women.

Redefining Community: Culture Recast by Immigrant Men to Acquire Political Identity

The book is divided into three parts: the first one focussing on 'Redefining Self', the second one on 'Redefining Family' and the third one on 'Redefining Community'. The papers under each category are mixed, some academic and analytical and some in narrational forms, based on experiences. The solitary paper in the module called *Redefining Community* is found most significant because it provides wider political and patriarchal context for the experiences of struggles of women to acquire identity in the immigrant country Without that paper, the book would have remained incomplete.

The most interesting analysis is that the search for new identity for both the first generation migrant woman and their female children does face problems not only due to the conflicting values insides and outside the family in the new environment but they encounter barriers also because of the efforts Indian migrant men are pursuing to gain a political foothold in the host country, in order to recast the identity of the whole community in one monolithic mould. One of the components of these efforts is to redefine the family value in an ancient patriarchal mould and thus try to diffuse any cleavages, or differences among men and women within family. The example given is that at the time of Diwali festival, the women's group was not allowed to set up a stall where they could disseminate information regarding the support services to familial distress. This point is very well elaborated in the paper by Anannya Bhattacharjee, entitled, 'The Habit of Ex-nomination: Nation, Woman and the Indian Immigrant Bourgeoisie'. The situation of this kind, an immigrant minority community with a possibility of throwing up economic weight to influence the political processes in America and trying to secure a minority identity of a different type, distinguishing itself from other minorities representing poor classes, is very well analysed in this paper.

It has been noticed that in some other countries, such as West Indies or Dutch Guiana where the Indians went as indentured labour in the late nineteenth or early twentieth century and lost the contact with their motherland, the process of ossification of culture has set in. The reason is that they have not been able to keep in touch with the changes taking place within the mainland. They tried to uphold an image of an Indian woman which emanated from that anachronistic understanding of the history and culture of India. On the other hand, it is apparent from this article here that the efforts of the Indian community in America are going on in parallel to what is happening in India. The fundamentalist parties are trying to mould an identity of an Indian culture into a monolithic institution, where all multicultural practices are erased. Indianness is getting associated with Hinduism, also with one God, and patrilocal and patriarchal family where male is the breadwinner. Sanctity of the family within Hinduism is particularly asserted in contrast to the American society which is known for its individualism, self determination and particularly for freedom to women. Thus, the struggle of the Indian American women is contextualised here against this background.

Redefining Self

Another significant paper which analyses clearly the contrast between two cultures is found in the module called *Redefining Self.* It is entitled, 'Adolescent Development for South Asian American Girls' (p. 37). The author, Kauser Ahmed, provides vivid analysis of how two cultures, the American mainstream and the South Asia culture differ on their core values and thus shape persons, specially the girls, in a quite divergent manner. Adolescence is considered as it is as a difficult period in all the cultures since it prepares the young persons in a significant way to define 'self' in relation to others. The author writes, 'The hallmark of adolescence in American culture, for both boys and girls, has traditionally been defined as the process of separation from parents and family towards achieving a sense of individuality. American adolescents use this period of development to experiment with changing vocational aspirations, socialise with new peer groups and explore romantic relationships' (p. 40). She also points out that 'while parents of American adolescents may wish to guide them in the choices that they make, it is with the understanding that ultimately their adolescents have increasing responsibility, not to the parents or the family, but for themselves' (p. 40).

In contrast, in traditional South Asian households, the shift from childhood to adulthood is not about the business of separation or individuation. Rather it is about the clarification of one's many roles within the family and the acceptance of greater responsibility for one's place within the structure. In an immigrant situation South Asian parents hope that their offsprings can function in the American culture as they themselves do, that is, by adopting appropriately American behaviours and attitudes within the workplace, but retaining a core sense of themselves as South Asian. The dilemma arises when their daughters, especially growing to adulthood in this culture, find that the demands to act American without incorporating any American values and ideals are neither realistic not feasible.

The author has expressed deep understanding of the American culture and its definition of self in relationships with other, which explains why their relationships are either too deep or they break down completely, which has become a point of curiosity as well as self-righteousness for the Indians. She writes, 'American relationships are, in the ideal, mutually contracted and mutually designed to meet the needs of both individuals. They operate on the assumption that the relationship is an extension of the partners but does not define either person, and for that reason, each is free to terminate the relationship if it does not satisfy his or her needs. For South Asian women,

relationships are set within the context of the hierarchical social structure and are defined by its rules' (p. 42). The author further points out the contrast that roles defined by the family, such as the role of daughter or wife, are closely scripted and call for very specific behaviours and responsibilities on the part of each individual, and that these would not vary regardless of the unique attributes of the individuals inhabiting the role or the specific nature of the relationship.

The author has given examples of three components of the adolescent self: self-concept and self-expression, attractiveness, and academic achievement. The author writes that during adolescence, girls in the mainstream America explore new, alternative relationships outside the family. Such experiences, particularly the exploration of dating relationships, are perceived to be integral to the process of becoming an adult. By contrast, South Asian American girls typically are not encouraged to establish strong relationships outside the family and are actively discouraged from pursuing any interactions that could be constructed as romantic. The author states that the development of ties between individuals who are not sanctioned by her family are perceived as a threat to the integrity of the family unit. Further, she adds that South Asian American girls find negotiations of relationships between their parents and the outside world to be one of the most difficult aspects of their bicultural lives. In trying to compartmentalise their experiences of being South Asian and American, young women sometimes live two different and separate lives and engage in relationships that are kept hidden from their families. She reports that the girls who do not attempt to manage both worlds describe living with constant guilt and a sense of fracture in their lives. Lubna Chaudhry's paper, 'Fragments of a Hybrid's Discourse', describes many stories narrating this experience. She has a background of enthnographic work with the Pakistani Muslim immigrant women.

In the case of relationship to body and the demand of being attractive, Kauser Ahmed observes that while physical attributes of women reflect the objectification of women in both cultures, the South Asian girls are taught that their bodies are inherently dangerous and must be contained and concealed, whereas American culture stresses the importance of promoting one's attractiveness. To establish a healthy relationship with one's body is a difficult task for these South Asian American adolescent girls who are under pressure from two extreme poles.

In the case of academic achievement, the author feels that since the South Asian immigrant culture valorises the scholastic achievement for both genders, the school environment gives them better confidence and allows them to create space for themselves, and be assertive to speak for themselves.

The author writes that, despite the turmoil experienced during this transition, many young South Asian American women express pride in their heritage and a desire to retain connections to the religious and cultural traditions within their community. Only concern they have is that more openness and constructive communication they must have with their parents about dating and marriage.

In the same module there is a paper entitled, 'A Generation in Transition: Gender Ideology of Graduate Students from India at an American University'. Inclusion of this paper is significant since it provides context of the 'changing gender identities in current India' (p. 61) that are expressed by the female students who have come to America for pursuing their further studies. It also exposes the self-righteousness and double standards of the Indian male students who have just arrived in America. The author observes that they keep on criticising the American society for its individualistic tendencies, however, in the

interviews none of them expressed any concern for their own political and social responsibilities or the service to others.

Redefining Family

In the second module on *Redefining Family*, Sangeeta Gupta's article contributes to our understanding of the status of marriages among the immigrant South Asian community. Her paper is entitled, 'Forged by Fire: Indian-American Women Reflect on Their Marriages, Divorces, and on Rebuilding Lives'. This paper probes the traditional gender role through series of casestudies of women who, as the author calls them, 'bought into the system' but later rebelled against it by redefining themselves as women with a right to live with dignity even if that meant existing outside their traditional roles as wives. She feels that her study will contribute to a dialogue within Indian-American communities regarding the subject of divorce. According to her, the divorce is considered as anomaly by both Asian-Indians and Indian-Americans and, as such, is an issue many would prefer to ignore. However, she says that the divorce rate is increasing in both the places and, hence, this topic cannot be avoided.

In the conclusion of this paper, the author writes that all the five women she interviewed had been brought up in the traditional cultural values of India, and that they were willing to be extremely submissive and subordinate in order to placate their spouses and in-laws. They had all been taught to acquiesce in their husband's wishes, and it is only after years of hardship that they were willing to consider an alternate solution. Along with the interviews, the author also reviewed the literature on many ethnic minorities in America, which made it evident that divorce is a life-altering experience for all these communities and one which requires a re-examination of self at a basic level.

Interestingly enough, the author found that the women in this study who were raised in India were less concerned about their post-divorce acceptance. Their extended families were also, for the most part, still in India and, therefore, did not interact with them on regular basis. She feels that these women do not think themselves as victims but feel that they have come out of their experiences stronger, wiser and more confident. Also, it is significant to note that these women believe that they had options, most notably the options, to successfully leave their husbands, because they lived outside India. The women felt that economic independence and a different societal perception of divorce in the mainstream America facilitated these choices, enabling them to rebuild their lives.

I think the aspect of redefining the family is expressed most strongly through these case studies. The conclusion comes out boldly since Gupta begins her paper by mentioning the rituals such as *Karava Chouth* that she had experienced with her mother. She feels that these rituals get exaggerated and made into a showcase of devotion of married women through the Hindi movies, which perpetuate the myth of submissive women even among the South Asian American community.

On whole, the book is very well written and has become a good source book for the already existing large community of South Asian Americans; it will also serve as a cultural guide to future migrants and their anxious parents in India.

Chhaya Datar,
Tata Institution of Social Sciences,
Mumbai.

Kurien John, *Property Rights, Resource Management and Governance: Crafting an Institutional Framework of Global Marine Fisheries*, CDS Publication Programme, Centre for Development Studies, Thiruvananthapuram.

In this monograph, an attempt is made to define afresh the term 'property': 'By property we allude not to the thing or object ... but primarily to a secure claim to a future stream of benefits arising from it. ... "property" is thus not the thing that is owned (what the commonly accepted understanding of the term is). "Property" is the term used to describe a legally and socially endorsed concentration of power over things and resources. One can therefore have 'property' in things supposedly 'owned' by someone else' (p. 7). However, nowhere in the book is it spelt out by what is meant by 'owned'.

In fact, one may argue, the above definition of property approximates the commonly used term 'ownership', defined in law as a position of dominance with the right to hold, use, sell, gift away or dispose of the thing owned, i.e., property. As a rule, two types of persons have a *legally* endorsed claim to benefits from the property (things, objects or resources): one who owns it - owner with a secure claim to a future stream of benefits arising from it, and hirer or tenant - one who acquires the right to enjoy its benefits for a consideration. The heirs or donees also enjoy the benefits but their right to do so is not as absolute as in the case of the first two, but depends on the owner whether to own or disown the heir, whether to donate away or conserve the property for the heir.

Further, both the monograph as well as law speak of illegal, unauthorised possessors who enjoy the benefits from a thing, object or resource. The monograph differentiates between claims and rights. It is asserted: 'By rights we imply the capacity of the claimants to the property, to call upon "the others" without such claims, to acknowledge their duty to honour the claim' (p. 7). In legal parlance, they are the rightful beneficiary of the property, even if it is in *possession* of someone else.

The next set of terms discussed in the monograph is concerned with regimes - particularly property rights regime (PRR). Regimes are 'humanly devised norms/constraints that shape and structure interactions. ... Over time, socially sanctioned mechanisms - rules, regulations, norm, laws, - gradually (evolve) to ensure the sustenance of the relationships' (p. 7) that must obviously develop out of such interactions. PRRs may be viewed as institutional arrangements that sustain the relationships pertaining to property rights. PRRs are not static but adaptable, not exclusive but overlapping. They evolve, not necessarily along any linear trajectory, but depending on a variety of factors that vary according to economic, social, technological, ecological and ideological considerations (p. 36). It is argued that there is a spectrum of regimes, generally for triadic property rights involving (a) the benefit/s from the resource, (b) the rightful claimant/s to the benefit/s, and (c) the others who dutifully honour the claimant's/claimants' right/s. This is the case of the private property rights. Likewise, there could be common or joint property rights, State (public) property rights, and no property rights but only privileges of access and possession. In the last case, there is no triadic relationship, because of the absence of 'the others'. It is a sort of unregulated common property rights regime, distinct from the one for regulated common property rights of a group of co-owners.

This monograph is concerned with the last type of rights regime, that is, the open access regime for the natural resources. However, it is differentiated from the unregulated common property rights regime (open access with no property rights regime) by defining it as the *community property rights regime*. It is claimed to be a special offshoot

of the regulated common property rights regime. It is defined as a regime belonging to claimants 'with a history and tradition of working together with a natural resource for survival and livelihood. Such a group of individuals make up an "ecosystem community". Their actions and choices are contextualised in the natural societal milieu by virtue of inter-generational occupational, associational or geographic identity. They form ... the "face-to-face community". They tend to consider the resource as trans-generational heritage, ... "belonging to the dead, the living and those yet to be born". This face-to-face community ... (is) qualified to participate in a community property rights regime at the micro-local level' (Pp. 9-10). From the macro-global perspective, this group has 'moral similarity' with such other participant communities as well as non-participant individuals. All of them share and cherish, as constitutive of their collective identity, some values and attitudes towards moral and political questions. At a pan-humanity level, the community property rights regime can be termed the 'common heritage of humanity property rights regime' (p. 10).

Against such backdrop of interpretations, PRRs are discussed in the monograph *vis-à-vis* the natural resource of marine fisheries. Since the 1950s, it has been a subject of concern for both economists as well as political authorities, because the management and governance of the marine ecosystem pose difficult challenges such as coordination of social objectives with ecosystems. The monograph finds unacceptable the earliest (1954) counsel in this regard: to replace the open access no PRR by either private or State PRR, so that sole ownership could achieve sound resource management and proper governance of the fisheries and, thereby, overcome the problems of overfishing and depletion. Nor is acceptable the revised version of this proposition: individual transferable quotas (ITQ).

The first and foremost of the reasons for rejecting the private PRR is: though private PRR may surmount the hurdles of conservation, because the concept of optimum sustainable yield may appeal to the private property rightsholders, in their own long-term interests, yet private PRR may not solve the problems of equity such as preferential rights to those living nearest to the resource. And '(o)f central concern in this study will be the primacy of "ecosystem people" of the fisheries sector - the small-scale fishworkers - whose secure future depends on the ability to re-establish a property relationship with the oceans and seas in which they seek their livelihood' (p. 4).

Second, unlike other natural resources, fish are located in a fluid milieu and are straddling, fugitive, and cannot be seen. Hence, property rights over an aquatic terrain may only amount to transient rights over all the fishery resources that pass through it. Such rights may lead to intensive harvesting of seasonally migrating fish and cause unsustainable depletion.

Hence, a nested institutional framework of property rights in a resource is recommended at all levels - global, national and institutional (macro, 'mezzo' and micro) (p. 30). It is expected to take care of the problems of governance of natural resources and bring in sustainable management.

GLOBAL/MACRO LEVEL

At the global/macro level, a triadic arrangement, titled the Common Heritage of Humanity PRR (CHHPRR), is advocated for the governance, control and management of oceanic living resources. It is the all-encompassing property rights regime at the apex for the oceans as a whole. Such a regime is prescribed for the high seas,[1] that is, the ocean space with open access to all States, whether coastal or land-locked. It accounts for two-thirds of the ocean space but only for 15 per cent of the living

resources (p. 31). It falls beyond the realm of Exclusive Economic Zones (EEZs) of nation States, that is, beyond 320 km from their shores, as per Table 1 on p. 12. However, this table poses some anomalies.

Nomenclature

Since Chapter 3, 'The Evolving Rights Over Ocean Space', traces the history of maritime international law from the fourteenth century uptodate, it is expected that precise terminology is used to denote well-settled concepts. However, this is not the case with Table 1 (p. 12). For example, take the term, 'continental shelf'. Table 1 as well as the related text maintain: 'About 65 per cent of the resource is found in just 6 per cent of the aquatic terrain located between the coastline and the edge of the continental shelf' (Pp. 12-13). What is referred here as 'continental shelf' is really a shelf of 200m depth, that is, a submarine continuation of the landmass extending under the sea up to a depth of 200m. It is ambiguous to approximate it with 'continental shelf'. For, the term 'continental shelf' is being used with specific connotations since the 1958 Convention on the Continental Shelf. Subsequently, under the Law of the Sea (LOS) Convention (1982-94), geological criteria both of a territorial and marine nature, have been utilised to define continental shelf and its margins.[2] This definition makes it clear that the breadth of the EEZ from the shore is either equal or less than that of the Continental Shelf. But Table 1 on p. 12 contradicts such inference.

Further, EEZ is 'an area beyond and adjacent to the territorial sea ...' (Part V, Article 55 of the LOS Convention, 1982-94). Article 57 specifies its breadth: 'The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured'. One nautical mile is 1,852 metres, hence 200 nautical miles come to 370.4 km and not 320 km, as given in Table 1. Of course, the territorial sea is mentioned neither in Table 1 nor in text, but a reference is made to 'shore', which could be the baselines from which the breadth of the territorial sea and of the EEZ are measured as per the provisions of the LOS Convention, 1982-94. For, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State (Part II, Section 2, Article 5).

Substance

The triadic institutional arrangement that is suggested for CHHPRR involves (a) the benefits from oceanic ecosystem and living resources, (b) the future generations being the rightful claimants to these benefits, and (c) the present generation being the others who are expected to honour the future claimants' rights. It is suggested that in 'upholding and developing the CHHPRR, ... those with the greatest "connectedness" with the oceans and its living resources, those numerous "face-to-face communities" should take the leadership. ... The working women and men in the coastal communities world over, as "beacons of the ocean", shoulder this great responsibility' (p. 33) of creating the CHHPRR for management, governance and conservation of the oceanic living resources. Optimism reigns high, particularly when it is pointed out that fishworkers' communities 'have made a small beginning on this count by coming together globally to form the World Forum of Fish Harvesters Fishworkers (WFF)' (sic) (p. 33).

The United Nations (UN) is to be entrusted the responsibility of forming and implementing such a regime in the interest of long term sustainability of global marine resources (p. 33). This proposition envisages an authority for marine living resources, on the lines of the International Seabed Authority provided for oceanic mineral resources under the LOS Convention (1982-94). However, the LOS Convention took twelve years - 1982 to

1994, after it was signed at the third United Nations Conference on the Law of the Sea (UNCLOS III), 1973-82 - to get ratified by adequate number of States in order to enter into force and be a part of the international law. As can be seen, UNCLOS III itself took nine years (twelve sessions) for a result to be reached. Moreover, it is mainly the developing countries that have ratified it (p. 26). Still, the UN is expected to set up such a regime and enforce it, that too in the current global scenario when the UN is facing financial difficulties ensuing from the slackening of the First World support.

Second, it is not that the LOS Convention (1982-94) does not have provisions for a regime for fishing on the high seas. Part VII of the Convention is devoted to the high seas. In addition, the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks convened in 1993 adopted on August 4, 1995 the Agreement for Implementing the Provisions of the LOS Convention (1982-94), relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. This Agreement is referred in the book under review as 'convention' (p. 28) (again a terminological *faux pas*). Nevertheless, it is pointed out that 'it can ... claim to be an important highlight in the history of international fishery legislations. It actually provides a good model for national legislations within EEZs' (p. 28).

Besides, in adopting measures for conservation and management, the Agreement of 1995 requires the following to be taken into consideration: interests of artisanal and subsistence fishers (Part II, Article 5(i)); the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur [Part III Article 11(e) and (f)]; and previously agreed measures established and applied in accordance with the Los Convention (1982-94) by a subregional or regional fisheries management organization or arrangement (Part II, Article 7.2(c)).

Third, the following adversities belie hopes of efficacious working of the triadic CHHPRR:
(1) The Preamble to the Agreement of 1995 recites 'that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; ... that there are problems of unregulated fishing, overcapitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States; ... (that there is) the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks'.
(2) Article 21.11 of Part VI of the Agreement of 1995 dealing with compliance and enforcement elucidated such serious violations as (a) fishing without a valid licence; (b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement; (c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement; (d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited; (e) using prohibited fishing gear; (f) falsifying or concealing the markings, identity or registration of a fishing vessel; (g) concealing, tampering with or disposing of evidence relating to an investigation; (h) multiple violations which together constitute a serious disregard of conservation and management

measures; or (i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

When even governments of the developing countries are in need of assistance to deal effectively with such problems as listed above, will the marginalised fishing communities, the so-called 'beacons of the ocean', be able to implement and enforce conservation and management measures through effective monitoring, control and surveillance, in order to ensure long-term sustainability? Creating a new property rights regime - international or national - for the 'sons of the soil', more appropriately here, 'children of the water' is not so much of a dilemma as of enforcing it.

MEZZO NATIONAL LEVEL

The State Property Rights Regime, recommended for a third of the global ocean space and four-fifths of oceanic living resources (p. 35), is correlated to Part V (Articles 55-75) of the LOS Convention (1982-94) which is devoted to EEZs. Article 56 and Article 58 specify for the coastal States and other States, respectively, their rights and duties in the EEZ, the former article also defining the sovereign jurisdiction of the coastal States. It is pertinently pointed out in the book under review that (a) the LOS Convention (1982-94) limits a State's sovereignty by subjecting its rights to duties such as that of conservation, of sharing, and of cooperation with other States in resource management, and (b) it transforms the concept of sovereignty 'by disaggregating the concept into a bundle of rights (sovereign rights, exclusive rights, jurisdiction)' (p. 35). It is further argued that '(t)he LOS Convention makes a state property rights regime (recommended here) the inevitable choice for management and governance of the EEZs' (p. 36), since the state property rights regime could also transcend the concept of sovereignty by viewing it 'more as functional sovereignty or sovereignty for sustainable use' (p. 35). It is believed to 'balance the multiple, and often conflicting, economic and social objectives pertaining to living resource use, ... (to) optimise the transaction costs of management of the resource, ..., (and to) lead to greater participation of resource users in management and governance' (p. 36).

However, the description provided in the monograph under review for the institutional arrangement, which is expected to operationalise the state property rights regime at the mezzo level, that is, in the EEZ, is cursory. It seems the provisions of Article 62 of the LOS Convention (1982-94) are overlooked. For, the Article lays down that where the coastal State does not have the capacity to harvest the entire allowable catch (in the EEZ), it shall give other States (all States, whether coastal or land-locked) the freedom of access to the surplus of the allowable catch. Of course, nationals of other States fishing in the EEZ are required to comply with the laws and regulations of the coastal State. How can an institutional arrangement comprising merely regional cooperation between contiguous states and a network of community property rights regime at the micro level enforce any laws or conservation measures against other coastal or distant water fishing states? Is it suggested that fishing communities from different countries would be deterred from poaching in each other's EEZs, just on account of their professed 'moral similarity'? Will the Canadian, the Scandinavian, Japanese or Australian fishworkers, formerly belonging to coastal fishing communities but now well-settled in mariculture enterprises in these developed countries, come together to form solidarity with the fisher folks of small, less developed oceanic islands? The evidence suggests to the contrary. As late as 14 June 1993, the International Court of Justice, had to deliver a judgment on the case concerning Maritime Delimitation in the Area between Greenland and Jan Mayen. One of the contending parties in this case is Norway, the very country symbolized in

the monograph (Pp. 37-39) as a country of 'interlinked "face-to-face communities" with a high degree of "moral similarity" ... involved in coastal fishing'!

In this case, the Court, by fourteen votes to one, fixes a delimitation line for the fishery zones in the area between Greenland and Jan Mayen. The Court does not take into account the fact that Greenland is a viable human society with a population of 55,000 which is heavily dependent on fisheries and with political autonomy whereas Jan Mayen has no population in the proper sense of the word. It was annexed by Norway in 1929 and has at present just the Norwegian weather stations. Nor does the Court take into consideration the difference between the relevant coasts of East Greenland (approximately 524 kilometres) and Jan Mayen (approximately 58 kilometres). The ratio is more than 9 to 1 in favour of Greenland whereas the ratio of allocated area is only 3 to 1. On the contrary, the Court insists that Jan Mayen must be regarded an island and not solely a rock; and that since, in principle, islands shall be governed by the same legal regime as 'other land territory', Jan Mayen must be taken into consideration in the delimitation of the maritime zones *vis-à-vis* Greenland, a continental size area. Further, the Court points out that a delimitation should not be influenced by the relative economic position of the two States in question, in such a way that the area regarded as appertaining to the less rich of the two States would be somewhat increased in order to compensate for its inferiority in economic resources.

No doubt, the law of maritime delimitation is revised by the LOS Convention (1982-94), in order to introduce the concept of distributive justice and, accordingly, the Court observes that to enable the achievement of an equitable result is the objective of every maritime delimitation based on law. And yet, the Court holds in this respect that since the reference to an 'equitable solution' is not expressive of a rule of law (as per Judge Oda), and since what is equitable appears to be as variable as the climate of The Hague (as per Judge Schwebel), the coast of Jan Mayen, no less than that of eastern Greenland, generates potential title to the maritime areas, i.e., in principle up to a limit of 200 miles from its baselines; and that to attribute to Norway merely the residual area left after giving full effect to the eastern coast of Greenland, would run wholly counter to the rights of Jan Mayen. As pointed out by Judge Fischer in his dissenting opinion, the fundamental difference between Greenland and Jan Mayen with respect to their demographic, socio-economic and political structures should have been taken into consideration. In other words, the Court refuses to pierce the veil and appreciate such facts as (a) it is not Jan Mayen but Norway, a comparatively better-off country, which is seeking to reap the benefits from the maritime area of overlapping claims; and (b) this in spite of fisheries no longer being the backbone of Norwegian economy, Norway is staking its claim to the area, maybe, because it might be anticipating in that area prospects of more (marine) mineral resources rather than living resources. 'The new harvest from the sea is oil and gas - and it pays much better than fishing' [Mountjoy, 1987, p. 487]

This case, thus, once again focuses on the many a slip that may exist between the cup of the natural resources and their rightful claimants.

MICRO LOCAL LEVEL

The monograph claims to offer 'a radical proposal' (p. 37) at the micro level, namely a Network of Community PRR, within the larger State PRR at the mezzo level. This concept was first voiced at the International Conference of Fishworkers and their Supporters in Rome in 1984. In the United Nations Conference on Environment and Development (UNCED) at Rio in 1992, 'the proposal for "reserving inshore fishing grounds for the use of small-scale fisheries" was rejected ... as several delegations

had difficulties in agreeing on a common limit' (p. 44). However, one of the General Principles (6.18) of the FAO Code of Conduct for Responsible Fisheries (1995) 'states that

> Recognizing the important contribution of artisanal and small-scale fisheries to employment, income and food security, States should protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction' (p 44).

The micro level arrangement for management and governance of coastal fisheries, that is, the Community PRR, is also triadic, the benefit stream comprising the marine living resources in the territorial sea of a nation, and community of coastal fishworkers being the rightful claimants; 'the "others" in the triad are all the competing fishery interests which operate in the country's EEZ' (p. 40), and which the State is expected to drive away or prohibit and assign exclusive economic zone to small-scale fish workers. Further, 'a community property rights regime by definition requires co-owners to engage in community consultation and participation to seek common approval of certain actions that they may thereafter mutually agree to undertake individually' (p. 42). Additional measures to make the Community PRR operative in the real sense are suggested, such as

1. all owners of fishing crafts are to be necessarily at sea on the crafts but it would not be necessary that all at sea should own assets,

2. legal right to take decisions regarding the first sale transaction of the harvested fish is to be vested in the community, and

3. greater social control over the export of fish and fishery products is to be provided.

The gains to be accrued from such decentralised, cooperative arrangement that are listed in the book are as follows:

(i) Transaction costs of management and governance may be less, since decentralised, cooperative management structures incur lower costs of implementation, in spite of requiring higher costs at the 'front end' (p. 46).

(ii) The ills of commercialisation prompted by international market forces and excessive capital investments in the form of 'capital stuffing' resulting in overfishing and depletion of stocks through the use of sophisticated technology to catch fish in shorter periods are warded off.

What is suggested as the Community PRR is not new at least to the rural areas of Maharashtra. The only difference is rights are vested in the community not over fisheries but over a piece of land for grazing the cattle owned by the community in the village. This tradition of common community pastures worked well for generations but, as the pressure of population increased and the winds of modernization reached the villages, the village commons have been grabbed by the mighty in the village for their personal use. The studies on tribal cooperatives also recount the same woeful story. In fact, the monograph itself refers to such problems by quoting from another source: ' ... there are severe intergroup conflicts which cannot be settled in a decentralised way ...' (p. 46). Again, how far dependence on state would be fruitful is a big question mark. The studies of non-governmental organisations (NGOs) receiving governmental support and of those not receiving such support show that the latter are more successful in their missions.[3]

Finally, why modern techniques of fishing are opposed in these PRRs is not clear. Ecological sustainability cannot be the reason because overfishing and depletion are the corollary of man's greed and not of modern techniques. In fact, modern scientific knowledge can accurately prevent harvesting during breeding seasons. Is it

suggested that the traditional fisher folks should continue with subsistence fishing for ever? The Agreement of 1995 for implementing the fishery-related provisions of the LOS Convention (1982-94) (discussed above), in fact, mandates to improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty.

NOTES

1. The Law of the Sea (LOS) Convention (1982-94) was signed at Montego Bay, Jamaica, on 10 December 1982, at the end of the third United Nations Conference on the Law of the Sea (UNCLOS III), 1973-82, and came into force from 16 November 1994.

Part VII of the LOS Convention (1982-94) defines the high seas, as all parts of the oceans that are not included in the exclusive economic zone (EEZ)*, in the territorial sea** or in the internal waters of a State. The high seas are open to all States, whether coastal or land-locked. Article 87.1(e) of Section 1 as well as Articles 116 to 120 of Section 2 of Part VII deal with freedom of fishing and the conditions to which it is subjected, respectively. These conditions are laid down in the interests of both, (a) conservation and management of the living resources of the high seas, and also (b) the rights and duties of coastal States. They pertain to such measures as allowable catch which can maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, cooperation among States, establishment of subregional or regional fisheries organizations, etc. Besides, there is a provision mandating the States to ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State (Article 119.3).

Part V, Article 55 of this Convention defines the EEZ as an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention. Article 57 specifies that the EEZ shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

**Part II, Section 1, Article 2.1 and Section 2, Article 3 of the Convention pertain to the territorial sea. Accordingly, the sovereignty of a coastal State extends beyond its land territory and internal waters to an adjacent belt of sea, described as the territorial sea. Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines.

2. Article 76 of Part VI of the Convention defines the continental shelf as follows:

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submerged areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

...

5. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, ... either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

...

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude.

8 Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto'.

3. For instance, Robinson, Eva Cheung, *Greening at Grassroots: Alternative Forestry Strategies in India*, Sage Publications, New Delhi, 1998; and Krishna, Anirudh, Norman Uphoff and Milton J. Esman (Eds.) *Reasons for Hope: Instructive Experiences in Rural Development*, and Uphoff, Norman, Milton J.. Esman and Anirudh Krishna, *Reasons for Success: Learning from Instructive Experiences in Rural Development*, Vistaar Publications, New Delhi, 1998.

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This is a very good collection of essays, covering all aspects of the term secularism, - historical, current-theoretical and current-practical. Several views have been expressed, one of them holding that secularism is an alien concept not suited to India (Pp. 15-16), another holding that secularism is a pearl of great value which we can ill afford to lose and an inescapable imperative for a pluralistic society like ours (p. 39), and so on. It is not as if different authors have different goals in view. Most of the people want the same thing, a harmonious co-existence between the various communities of India and adoption by the people of a modern outlook on life, for their own betterment. Even the proponents of *Hindutva* want the same thing. The debate on secularism gets confused because, as S.K. Sinha says, there is confusion regarding the real meaning of secularism (p. 19) and as Harshvardhan says, it is like a hat that has lost its shape because everybody wears it (p. 105). We must get away from the word and just define what we want in reality. As stated above, everybody wants harmonious relations between various communities coupled with material development on the basis of the new knowledge available to mankind. The question of religion comes into both these aspects. Harmony is disturbed because politics is organised along communal lines and material development is hampered because of the superstitions and taboos created by what is traditionally called religion. It is only because the common solution to these problems involves a little shifting away from religion that the word secularism has been used to describe that solution.

The history of the word secularism is therefore irrelevant for our discourse. India's age-old tradition of freedom for all religions, so well described by B. P. Sinha also does not help in the new situation created by the advent of two particularistic religions into India through the Turko-Afghan and British conquerors. According to one of those religions, orthodox Christianity, one's soul can be saved *only if* one puts trust in Jesus Christ; and according to orthodox Islam, one can be saved from God's wrath *only if* one obeys the injunctions of Koran which is held to be the final and definitive communication of God to mankind, through his *last (final)* prophet, Mohammad.

Even the particularism of these two religions would not have been a problem. The saving of an individual's soul need not be a social or political problem. This reviewer, when talking to his Muslim friends, always describes himself as a Kafir and tells them that there is no reason for them to be bothered if he prefers to be damned. Since this reviewer does not practise any religion, he tells the same thing to his Hindu friends. All of them agree that if this reviewer, by his own choice, risks being damned, they need not be worried.

The trouble arises because Christianism has been perceived as a handmaid to Western imperialism and the followers of Islam, having led India into partition, are seen as a threat to the integrity of the remaining India. It is here that *Hindutva* builds up its case. Calling it names, as many authors in this book have done, particularly Harshvardhan, is not going to help in bridging the gap between the secularists and the *Hindutva-vadis*. Just as the existing misgivings between communities have to be solved by dialogue, the confrontation between the *Hindutva-vadi* and secularist forces has also to be resolved by a dialogue. That task would become difficult if we harbour wrong notions about the positions of *Hindutva,* because those positions appeal to a large number of people. Unfortunately, this book does not properly analyse the *Hindutva* argument. Bindeshwar Pathak's apprehension that if religion is allowed to dominate politics, priests will

rule the country (p. 45), is wide off the mark. Neither the Rashtriya Swayamsevak Sangh (RSS), nor the Bhartiya Janata Party (BJP) is a religious organisation and neither envisages a rule by priests. Equally off the mark is Harshvardhan's observation that in a Hindu *Rashtra,* Ambedkar's secular Constitution would be replaced by *Manusmriti* (p. 111).

This reviewer has had a fairly long interaction with members of the RSS. A one time ideological chief of RSS, M.J. Vaidya, in a speech in Nagpur, clearly acknowledged that just as the Hindu culture has a credit side, it has also a debit side and that it is now our duty to wipe off the debit [*Ajacha Sudharak,* January 29, 1997]. He has argued for the acceptance of *Yugadharma,* i.e., modern values. In the daily congregation of the RSS members, caste distinction is not practised.

On the question of Hindu-Muslim amity, this reviewer had organised an open debate in Nagpur on July 2, 1995, wherein Asgar Ali Engineer and Vaidya had participated. In that connection, Vaidya had put forward two propositions: one, that while the words of Koran cannot be changed, they could be reinterpreted to give a more liberal meaning, and two, that if such meanings, acceptable to the non-muslim communities, are also accepted by a large body of Muslims, no further problem would remain. Vaidya was referring in particular to such passages from Koran which were supposed to call on the Muslims to wage a constant *jehad* against non-Muslims. Engineer explained that if one reads Koran as a whole, one would see that it is a peaceful document, believing in co-existence.

But the question is not only of co-existence but of being integrated into a nation. On the level of religion, the question is, as Vivekananda put it, not just of religious *tolerance* but of religious *acceptance* (p. 21). The *Hindutva-vadis'* case is that the talk of religious acceptance, of all religions being the same, is only from the side of Hindus. They say 'Don't tell *us* about the equality of all religions, our sages have already told us about it, ask the Christians and Muslims whether they are prepared to consider other religions to be as good as theirs'. A Westerner like Arnold Toynbee holds that the Christians and Muslims are intolerant in this respect. (He said in the course of five articles on 'major religions of the world', published in *Free Press Journal* several decades ago, that a Hindu, unlike people of these other religions, does not have a religious duty to be intolerant). Ali Ashraf's observation (p. 48) about Gandhi's attachment to religion being consistent with secularism would be readily accepted by a *Hindutva-vadi,* with a further comment that Gandhi's approach has not been replicated by a Muslim or Christian leader.

Along with the questions of communal harmony and modernisation, there is also a question as to what would unify India as a nation? And what kind of unity do we visualise? It is true that Hindu nationalism as depicted by Golwalkar, in his book *We or Our Nationhood Defined* (referred to by Harshvardhan on p. 112), shows some unsavoury traits; but the RSS people have almost repudiated him. They tell us privately that the book was 'withdrawn' several years ago (whatever that may mean). Going further, Sudarshan, a high-ranking dignitary of the RSS said in a public meeting in Hyderabad on April 3, 1998, that the book was not written by Golvalkar at all.[1] How his name came to be put on it and his responsibility for the views expressed in it have not been explained. But, the fact remains that the *Hindutva-vadis* have moved away from that position. They have also moved away from the RSS founder's understanding of the term Hindu. When Hedgewar founded the RSS, he spoke of the 25 crore Hindus in India being trampled upon by the 10 crore non-Hindus [see *Ekata* magazine, Vol. 51, No. 10, p. 66]. It is clear that Hedgewar understood the term Hindu as applying to a member of a particular (though broad) religious tradition. Today, the RSS is trying hard to get the

term Hindu being accepted as being synonymous with the word Indian (though with a tell-tale proviso that the person should be patriotic and should have respect for the Indian culture). All this shows that the *Hindutva-vadis* are certainly moving away from the narrow confines of a religious community. The statement of Ali Ashraf (p. 48) that the RSS considers the state as the organ of a religious community may perhaps have been inspired by some of Din Dayal Upadhyaya's writings, but seems to be completely wrong in the present state of things.

On the question of nationalism, Jose Kananaikil observes that the nationalist movements in Asian and African countries 'became a search for common identity, common boundaries, common goals and the very bond of nationalism and an attempt to define rights and duties in a nation-building process' (p. 162). Taking a cue from Western writers of the nineteenth century, who emphasised a common historical past and common bonds of culture as bases of nationhood, the RSS emphasises that the Indian culture, as it has evolved since several centuries before the advent of Islam and Christianity, is the common ground on which Indian nationalism can be based. Since the past 1,000 years have been a period of decline for that culture, the RSS has necessarily to invoke the glories of the *Pauranic* periods and the great ideals set forth in the *Puranas* and the *Vedas*.

A.K. Lal has criticised the '*sanskritising*' of the dalits by the forces of *Hindutva* to foster solidarity among the Hindus (p. 133). When the secularists greatly admire the freedom of religion granted by India's Constitution, including the right of proselytisation, how can they criticise the *Hindutva-vadis* for trying to *sanskritise* the dalits? To say that the intentions behind such efforts are diabolic is, to say the least, uncharitable and not conducive to a healthy dialogue. All these efforts certainly have a relation with the competition for political power, but gaining political power is the essence of all political activity and every political party has the same goal. Why criticise the *Hindutva* parties in particular?

What is wrong with the RSS is that firstly, their concept of ethnic and cultural nationalism is outdated and is inapplicable in any large society like India. The RSS have no idea as to how the culture of *Hindutva* can be applied to solve the modern problems of the society (what the editor of the Marathi journal *Vivek* has admitted in a letter to this reviewer) and yet they insist on cultural nationalism, appropriate to themselves the right to define Hindu culture and to *impose* it on others, to use it as a yardstick for judging the patriotism of the Muslim and Christian communities, to appoint themselves as the spokesmen of all Hindus towards questions, like the Ram *Mandir* in Ayodhya or the temples at various other places - in general to impose on others what they consider to be right. People like Vijay Kumar (p. 77) or Nil Ratan (p. 148) who favour the bringing in of a Uniform Civil Code by a majority-decided legislation or through court judgements are inadvertently playing into the hands of non-secular forces. What is needed today is not theoretical equality of all citizens brought about by law but a proper atmosphere where nobody feels culturally threatened and every body finds an environment congenial to a reinterpretation of his own culture so that he may become more able to shape his destiny in modern conditions. As stated above, this process in effect means a little shifting away from religion, at least from dogmatic religion. The real difficulty is how to bring about that shift.

Neither communal harmony, nor national spirit, nor modernisation can be brought about by such legislations or court-decisions as are perceived as being imposed on any section of the community. Attempts to impose reforms and to sit in judgement on whether the minorities have come up to the expectations of the self-styled spokesmen of the majority have in fact created

more turmoil than harmony or national spirit or reform. These objectives can be achieved only through a gradual process of education. What Indian formal education is doing in this behalf has been examined by R.P. Sinha who argues that secular and scientific education in the institutes of formal education will 'seize and encapsulate the growth of divisive, sectarian and non-secular tendencies' (p. 127). In the social sphere, as Harshvardhan says, 'secularism has to be spread as an active and vibrant ideology'. In the political sphere, as R.K. Verma says, 'political parties will have to produce such national political objects or values that are acceptable to all religious communities' (p. 102). He considers any attempts to bring secularism through legislation to be futile and says that '(t)he need of the hour is to provide equal share in political power and socio-economic opportunities in India to various religious groups' (p. 101).

So much about the wide-ranging theoretical discussions in this book on the question of secularism. A.K. Lal and J. Narayan have gone into the question of communalism and the resulting communal riots. Suresh Prasad has discussed the philosophical perspective of secularism and he says that 'to establish the rule of secularism is the same as to establish socialism', and that religion is a 'doctrine which rejects the fundamental reality of matter, ... which rejects sense perception as valid instrument of knowledge', etc. Jose Kananaikil examines pluralism which he finds is an un-ignorable aspect of modern societies. He has made a very interesting statement: 'In pluralistic societies, the central value system rarely grows into a "national culture"' (p. 163). The proponents of cultural nationalism should ponder over this observation.

NOTE

1. Sudarshan only confirmed this, written earlier in 1979 by Des Raj Goyal in his book, *Rashtriya Swayamsevak Sangh*, published from New Delhi, Pp. 156-57.

B.P. Patankar.

1. Jain L.C., *The City of Hope - The Faridabad Story*, Concept Publishing Company, 1998, New Delhi, Pages 330, Price Rs 400/-.
2. Subha, K., *Karnataka Panchayat Elections, 1995: Process, Issues and Membership Profile*, Institute of Social Sciences and Concept Publishing Company, 1997, New Delhi, Pages 156, Price Rs 175/-.

These books would seem to be poles apart, one about the northern city of Faridabad and the other about the southern state of Karnataka, one about refugee rehabilitation immediately after partition and the other about Panchayat elections in 1995. There is however a common strand, which we will come to later. First about the books.

I. FARIDABAD STORY

The author of the Faridabad story, L.C. Jain was active in the Quit India movement. In 1948, he became one of the founders of the Indian Cooperative Union (ICU), an organisation which played a major role in the rehabilitation of refugees who had been put in a camp in Faridabad. Jain held the post of Secretary to the Faridabad Development Board (FDB) for about three years. His narrative is quite interesting, bringing back to us the saga of those eventful years. However it is filled with too many long extracts from the relevant documents.

The book has 15 chapters, divided into four sections. The first section contains the introduction, telling us why the book was written and the present day relevance of the story. It also sets the story in its context, the partition, the violence engineered by Jinnah with the help of the British Government's bureaucracy, the brutal killings, the plight of the fleeing refugees, and how one group of about 25,000 people was located in Faridabad, posing a challenge of their rehabilitation to those dealing with them. The second part deals how this challenge was successfully met. Jain has argued that the credit for the success goes to mostly non-official effort (ICU and what has

been called an *autonomous* FDB). The third part tells us how this magnificent effort fell apart because of the later bureaucratisation of the whole work. The last section draws the conclusion that development efforts in India would be much more fruitful if the government limits its involvement to giving financial help plus some administrative facilities and leaves the people to manage the actual implementation of the projects.

The first question which comes to mind from this narration is whether the success of the Faridabad experiment can be wholly credited to the non-official effort and whether the failure of that experiment at a later stage can be wholly blamed on the alleged apathy and spoil-sport attitude of Ministers like Ajit Prasad Jain, official advisers and bureaucracy. This reviewer would hesitate to draw such a clear-cut conclusion from Jain's narration. The highest personalities in the government of India including the Prime Minister took keen interest and tried to help and guide the work, trying to remove the bottlenecks and giving a liberal touch to the spending of government money. The success of the Faridabad project was mainly in the housing project where ICU organised the construction by forming cooperative working groups of the refugees themselves. There was a clear-cut, physical objective and funds were coming from the government. It is in this situation that the ICU succeeded. The FDB also succeeded to some extent in establishing an electricity power plant, again with government funds and a lot of prodding from the Prime Minister himself.. But when the main construction work was over, the earnings of the refugees began to fall and all sorts of malpractices grew (Pp. 94-100). New avenues of employment had to be found. Making industries grow proved to be difficult (p. 179). 'Through all this period of acute distress...., the Board remained in a moribund state' (p. 181). Even the hand-picked, dynamic Secretary of FDB, Sudhir Ghosh, resigned and went to the USA to find whether he could get aid from there. His wife says that he resigned because Nehru gave up the fight with people opposing the project (Pp. 192-93). Jain says that Sudhir's exit disabled Nehru (p. 196).

It was *after* the setting in of the decline of FDB that Barve, an ICS officer, was appointed as an *Administrator*. Jain has made three specific complaints against Barve: (i) that when Barve was expected to take charge within a week, he proceeded on four months' leave (p. 196), (ii) that in order to be able to put the blame for FDB's sorry state of affairs on the Executive Engineer of FDB (who was temporarily to act as Secretary in place of Sudhir Ghosh), Barve, in his first report to the government, suppressed the fact that he had taken over charge as Administrator from another ICS officer, C.P. Gupta and not from the Executive Engineer, and (iii) that by introducing strict administrative methods, he alienated the very people who were to build their future.

To this reviewer, the role of Barve does not seem to be so flawed. The dates on which the concerned officers took charge of their duties are given on p. 200, from where we can see that (i) Barve did not proceed on *four* months' leave (We don't know the date on which he was given the posting orders but he actually joined within two-months of Sudhir Ghosh's exit), (ii) C.P. Gupta held charge of the post for only 11 days, and (iii) in his report, Barve has made mention of the work done by ICS Gupta during these 11 days (p. 280). Barve has noted three important weaknesses of the FDB: (i) ambiguity about responsibility and absence of central direction within the FDB, (ii) absence of budget estimates and budgetary control, and (iii) staff disappearing during office hours without leave. Barve had gone there as an *administrator* and not as a member of the Board ('which had practically ceased to exist'- Nehru on p. 253), and he seems to have done what an *administrator* should do.

All this wrangling about the role of different people reminds one of the famous words of President Kennedy that success has a hundred fathers and that failure is an orphan.

That does not detract from the credit due to ICU and FDB for doing good work when conditions were favourable. Jain's argument is that non-efficial efforts will always be successful. In the Introduction of the book, he connects the Faridabad story to the empowerment of Panchayats (through the 73rd and 74th Constitutional amendments) and says that this empowerment has given birth to a new hope. He, however wants people to be wary of the nexus between political and bureaucratic power, which was, according to him, the undoing of the Faridabad experiment.

2. KARNATAKA PANCHAYAT ELECTIONS, 1995:

This is the subject of the second book being reviewed. It is a study conducted by the Institute of Social Sciences, New Delhi, based on the responses given by 3,342 people to questions on various aspects of the electoral process, and on the responses by 4,775 elected representatives to questions on the social background of the emerging leadership. It also gives us the basic data about the Panchayati Raj structure in Karnataka, the number of institutions at different levels, the number of elective seats, the number of seats reserved for Scheduled Castes, Scheduled Tribes, Other Backward Castes (SCs, STs, OBCs) and women, a list of the several castes into which the electorate is divided, etc. The number of tables giving all this information is 97.

The findings of this study are quite interesting and reassuring about the future of the Panchayati system. The important findings are:

- More than 79 per cent of the electorate got their information about elections from the print and electronic media (p. 22).
- NGOs did not play any role. Nor did any religious/caste organisations give any directions to the electorate. (Pp. 24-26).
- People did not vote on the basis of castes but voted for experience and good performance and against bad performance and corruption (p. 28). What they wanted was social justice (p. 95).
- Most of the people welcomed the reservation of seats for women (p. 33). In fact, women got elected to more than 40 per cent of the seats (p. 79).
- Political ideology is becoming more important (p. 38). Elected members are affiliated to one or the other political party (p. 66).
- The first priority of the elected members is education (p. 71). Family planning and sanitation come much lower.

All these findings show that the rural population is getting modernised quite fast and that universal adult franchise has become a success.

3. SOME QUESTIONS:

Panchayati Raj Institutions (PRIs) seem to be well established in Karnataka., They are also reported to be well established in West Bengal. The question is how far will they be able to handle development work which is the pressing need of the day. Will they prosper if given autonomy, as argued by L.C. Jain? What kind of autonomy can be given when these institutions will be handling public funds most of which will be transferred to them by the central or state governments? The ministers of these governments will certainly be held accountable in the respective legislatures for the proper utilisation of these funds. It is highly unlikely that grant of autonomy will immediately lead to an ideal working of these institutions. As George Mathew has argued elsewhere [Patankar, 1998, p. 781], the success of these institutions will require a combination of political will, people's awareness and the building of healthy conventions and traditions. The analysis of the Karnataka Panchayat elections has shown that political parties have become quite active even in the Panchayati Raj Institutions (PRIs) and, as in the case of West Bengal, these parties will try to build themselves through these institutions. The common people in rural areas are largely dependent on local political leaders for the easing of their day-to-day problems and, therefore, liable to be exploited by the latter. So, autonomy from the government and bureaucracy, even if feasible,

will not be enough for the health of these institutions. A hopeful factor however is that, as in Karnataka probably everywhere also in India, people are becoming aware of the possibilities of self-government. An optimist would certainly predict that the PRIs would be a success in the not too distant a future.

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Frank, Andre Gunder, *ReOrient, Global Economy in an Asian Age*, Vistaar Publication, New Delhi, 1998, p. xxix+416.

The author has made his objective clear at the very beginning of the book. He has sought 'less to challenge received evidence with new evidence than to confront the received Eurocentric paradigms with a more humanocentric global paradigm' (p. 4). Thus the author hopes to reorient, to change the outlook, while analyzing 'the structure and dynamic of the whole world economic system itself and not only the European (part of the) world economic system' (p. xv). For the author, 'Structure matters' (p. xvi) and hence the author thinks that his task is to 'attempt to see how the structure/function/dynamic of the world economy/system itself influences, if not determines, what happened - and still happens in its various parts. The whole is not only greater than the sum of its parts. It also shapes the parts and their relations to each other, which in turn transform the whole' (p. xxvii). The author questions 'Eurocentricism' or a European-centered outlook or approach, to explain what happened outside Europe using the European street light. In view of the author, 'the most important question is less what happened in Europe than what happened in the world as a whole and particularly in its leading Asian parts' (p. xv). Regarding this approach of analysis, the author only confirms what he wrote long back: 'The very attempt to examine and relate the simultaneity of different events in the whole historical process or in the transformation of the whole system ..... is a significant step in the right direction' [Frank, 1978, p. 21].

I cannot avoid quoting Frank in detail while reading with pleasure a classic book like this one not only because this book has showed me the path to understand the global phenomena in its totality but also because citing observations from others may only add to the confusions already built, here and there, because of the dominant Eurocentric paradigm. I think it is an opportunity, thanks to the author, to question that established paradigm using the power of the pen of a person no lesser than Gunder Frank.

What the author pledges is a 'holistic approach' that can accommodate disintegration of the whole, analyse the parts separately, explain interrelationships among the parts, and explain the relationship between each part and the whole. The principal aim of the author is to 'show why we *need* a global perspective and approach, which we require not only on the history of the world economy itself, but also so that we can locate its subordinate and participant sectors, regions, countries, or whatever segments and processes within the global whole of which they are only parts' (emphasis original, p. 4). What the author pledges is that his 'book will show that we live in one world, and have done so for a long time. Therefore, we need a holistic global world perspective to grasp the past, present, and future history of the world - and of any part of it' (p. 29).

In the 'Introduction' itself, the author combines history and geography of the globe and questions the often claimed European hegemony. To quote, 'Europe was certainly not central to the world economy before 1800. Europe was not hegemonic structurally, nor functionally, nor in terms of economic weight, or of production, technology or productivity, nor in per capita consumption, nor in any way in its development

of allegedly more "advanced" "capitalist" institutions' (p. 5). While 'Eurocentricism' came as an offshoot of the Europeans' use of American money to accumulate benefits from Asian production, markets, trade, etc., i.e., from Europe's actual dependence on the then dominant position of Asia, the emergence of Industrial Revolution eclipsed that history. 'The coming of the industrial revolution and the beginnings of European colonialism in Asia had intervened to reshape European minds and, if not to "invent" all history, then at least to invent a false universalism' (p. 14) in Eurocentric historiography. In fact, '(T)his social theory was vitiated by its colonialist Eurocentricism when it was conceived in the nineteenth century' (p. 27). The author has two aspects in mind for reorienting the outlook to explain global history: (1) 'the European-based model of a "world" system is theoretically not only insufficient but downright contrary to the whole real world economic/systemic theory that we really need' (p. 30), and (2) at the end of this twentieth century, 'this (social) theory and the entire Eurocentric historiography on which it is based is wholly inadequate to address the coming twenty-first century in which Asia promises to rise - again' (p. 27). It seems that the meaning of the title of the book 'ReOrient' starts becoming clear with these assertions by the author, namely, that Eurocentric analysis has to be replaced by a holistic one, and that the domination of Asia before 1800 and after 2000 has to be brought on the floor of analysis. The method of his analysis is holistic - conceptualising the whole which is more than the sum of its parts, the whole understood as contributing to differentiation of its parts and then juxtaposing the whole and the parts to understand their relations, inter and intra. By accepting and following the holistic global perspective, the author expects to avoid parochial views and distortional findings while examining social history.

The purpose of the book is thus made clear by the author in the introductory chapter and also the method of analysis to be followed by him in subsequent chapters. The author presents six chapters, excluding the Introduction. In Chapter Two, the author has again reminded the readers of the central focus of this book, namely, that 'there was a single global world economy with a world wide division of labor and multilateral trade from 1500 onward' (p. 52). As stated by the author on the basis of evidences cited by him time and again, '(i)f any regions were predominant in the world economy before 1800, they were in Asia. If any economy had a "central" position and role in the world economy and its possible hierarchy of "centres", it was China' (p. 5). In fact, it was this Asia-centered structure and its dynamism that encouraged the Europeans to enter into the Asian belt. Chapter Two examines the globe-encircling pattern of world trade relations and financial flows, region by region. It examines the structure and flow of trade, starting in the Americas and going eastward literally around the globe. It examines the pattern of trade imbalances and their settlement through payment in money, which also flowed predominantly eastward. As pointed out by the author, 'this world market and the flow of money through it permitted intra-and intersectoral and regional divisions of labor and generated competition, which also spanned and interconnected the entire globe' (Pp. 53-54). The author has examined in this chapter a dozen regions and their relations with each other, going from the Americas, via Africa and Europe, to and through West, South, and Southeast Asia, to Japan and China, and from there, both across the Pacific and also back across Central Asia and Russia. This reexamination demonstrates the strength and growth of these regional economies. Chapter Two is rich by its exhibition of five maps, the first one being about 'Major Circum-Global Trade Routes, 1400-1800', the second one 'Atlantic Region, Major Trade Routes, 1500-1800', the third one being 'Afro-West Asian Region, Major Trade Routes, 1400-1800', the fourth one

'Indian Ocean Region, Major Trade Routes, 1400-1800', and the fifth one being 'Asian Region, Major Trade Routes 1400-1800'. 'A schematic and incomplete mapping and summary of the global division of labour, the network of world trade with its balances and imbalances, and how they were settled by flows of money in the opposite direction is set out in the maps' (p. 64). In the view of the author, an analysis of the direction of world trade in the global system or vice versa is only a small step in the right direction. 'The point is to elucidate how the flow of trade and money through the "body" of the world's economy is analogous to the oxygen-carrying blood that pulses through the circulatory system..... The world economy also has a skeleton and other structures; it has organs that are vital to its survival but whose "function" is also bodily determined' (p. xxvi). These regional maps have been developed by the author 'to illustrate the major interregional imbalances of trade and how they were covered by shipments of silver and gold bullion' (p. 66). Chapter Two also includes discussion on multilateral world trade around the globe, region by region. The author concludes the chapter by reasserting that the world economy is a single whole and, into the whole global outer circle, one must place 'the Asian economic circle as well. Within this global circle, we can then successively view the smaller concentric Asian, East (and South?) Asian, and Chinese economic circles. Europe and, across the Atlantic, the Americas would then occupy their rightful places in the outer band of the concentric circles, since Asia also had economic relations with Europe and, through its mediation, with the Americas. These economic relations included the trade from Asia directly across the Pacific....' (p. 130). The location or mapping of the countries and regions in terms of trade has been done by the author in Chapter Two.

In Chapter Three, the author has examined the role of money in the world economy, as a whole, and in shaping the relations among its regional parts. At first, the author examines why money was produced at all. He answers, 'Money was produced because it (in the form of silver, gold, copper, coins, shells, and the like) was - and remains - a commodity like any other, the production, sale, and purchase of which can generate a profit just as any other commodity can.....' (p. 133). The second question he poses is why this money moved around the world. Answers the author, '(s)ince the price of the money was largely determined by supply and demand, both locally and worldwide, the money traveled from here to there if and when the supply was high here relative to its supply and demand there' (p. 134). The third question he poses is why and how this money makes the world go round. Answers the author, particularly with reference to Asia (and within it specially China), '(b)ecause people and companies and governments there were able to use money to buy other commodities, including precious metals such as gold and silver. Both at the individual and firm micro-level and at the local, regional, "national", and world economic macro-level, money literally oiled the machinery and greased the palms of those who produced or ran that machinery in manufacturing, agriculture, trade, state expenses, or whatever' (p. 138). Thus, Chapter Three also examines the circulatory system through which the monetary blood flowed and how it connected, lubricated and expanded the world economy. The major observation on the role of money made by the author here is that this 'money supported and generated effective demand, and the demand elicited supply' (p. 138). However, the author is alert in his observation that there has to be 'productive capacity and/or the possibility to expand it through investment and improved productivity' (p. 138). Thus, Chapter Three examines how the flow of new American money supplied by the Europeans into Asia, and especially China, affected the world economy as a whole. The author shows here the existence of only one world economy, or system, which had its own structure and dynamic. 'The unequal structure and uneven dynamic of this single world

economy and the intersectoral/ inter-regional/ international competition within it also generated the incentives for and a process of global economic "development" through increased global production' (p. 130). For example, the new silver and copper money stimulated production in the world, regional, national and many local economies, i.e., in the parts of the single global economy. In this context, the author has shown, in Map 3.1, the production and flow of silver around the world (p. 148). As explained by the author, '(t)he injection of new American (overwhelmingly silver) bullion and also Japanese silver and copper provided new liquidity and credit formation. That in turn facilitated an important, perhaps dramatic, increase in worldwide production, which rose to meet the new monetary demand. This "pull" factor therefore encouraged further industrial success and development in China, India, Southeast Asia, and West Asia (including Persia)' (Pp. 153-154). The author examines particularly how money expanded the frontiers of settlement and production in China, India and in the rest of Asia (Pp. 158-163). From the facts he concludes that 'throughout most of Asia the increased arrival of money from the Americas and Japan did not substantially raise prices, as it did in Europe. In Asia instead, the infusion of additional new money generated increased production and transactions, as well as raising the velocity of money circulation through more extensive commercialization of the economy' (p. 157). The author summarises his observation on the differential role of money by citing the evidence that 'the new money which the Europeans brought over from the Americas probably supported population growth *more* in many parts of Asia than it did in Europe itself' (emphasis in the original, p. 164). As opined by the author, this conclusion is supported by the observation that the new money drove prices up more in Europe than in Asia, where increased production was better able to keep pace with the growing purchasing power generated by the additional money. It is a fact that 'in proportion to the size of its population and economy, Europe not only received but even retained more new money that circulated around its economy than was the case in the much larger and more populous Asia' (p. 157). The author confirms from evidence that because of Asia's higher power of absorption, it could accelerate output while Europe, because of absence of that power, generated inflation. The author thus confirms Asia's superiority reflected by higher productivity relative to that of Europe's, Africa's and America's. The age was thus Asian.

The major thrust of the book comes again into sharp focus in Chapter Four where the author confirmed from evidence that '(t)he so-called European hegemony in the modern world system was very late in developing and was quite incomplete and never unipolar. In reality, during the period 1400-1800, sometimes regarded as one of "European expansion" and "primitive accumulation" leading to full capitalism, the world economy was still very predominantly under Asian influences' (p. 166). While depicting the global economy by comparisons and relations, the author came to be convinced that the Asians were superior not only in production, but also in productivity, competitiveness, trade and capital formation at least until the end of the eighteenth century. In a major section of this chapter, the author concentrates on information (data) on world and regional population, production and income, their growth and structure. He found that contrary to latter-day European mythology, Asians had the technology and institutions to be the centre of accumulation and power in the world during 1400-1800 (p. 166). In the view of the author, 'the historical evidence demonstrates unequivocally, that Asia grew faster and more than Europe and maintained its economic lead over Europe in all these respects (indicators of competitiveness) until at least 1750' (p. 35). The eclipse of Asian giants from the onset of industrial revolution in Europe in the nineteenth century followed the ideological - theoretical shift that

concentrated on the 'rise of the West' as well as the focus on actual European economic and political penetration of Asia (p. 166).

The fact is that, as reminded by the author, 'the Asian share of the world total (population) was lower in the fifteenth century and then grew because the Asian economies grew even faster in the following centuries than the Europeans did' (p. 172). The interesting observation by the author in this context is that 'two-thirds of the world's people in Asia produced four-fifths of total world output, while the one-fifth of the world population in Europe produced only part of the remaining one-fifth share of world production to which Africans and Americans also contributed' (p. 173). The implication is clear. The average productivity of the Asian was higher than that of an European, even in 1750. Thus, contrary to the Eurocentric myth that the Asians just hoarded the American money they received through the Europeans' entry into Asia, 'Asians *earned* this money first because they were *more* industrious and more productive to begin with, the additional money then generated still more Asian demand and production' (emphasis original, p. 177). In terms of participation in world trade also, the front-runners were China and India, at least up to 1750.

To understand the global economic phenomena then, says the author, 'the analytically necessary emphasis must be shifted to the worldwide economic relations, in productivity, technology, and their enabling and supporting economic and financial institutions, which developed in a global scale - not just on a regional, let alone European, scale'. The author opposes the Eurocentric perspective in explaining development of world capitalism in this chapter.

While Europeans used American new money in Asia, the sphere of production via higher productivity absorbed that money. The fact is that international trade was predominantly Asian, and it was supported by higher Asian competitiveness, continued Asian growth, higher domestic and regional trade. There was in fact no reason, the author believes, why Eurocentric myth came to be so deep rooted, the myth that suggested that 'world trade was created by and dominated by Europeans, even in Asia' (p. 178). As confirmed by the author, 'the Asian economy and intra-Asian trade continued on vastly greater scales than European trade and its incursions in Asia until the nineteenth century' (p. 184).

The author in the same chapter questions Eurocentricism regarding science and technology. The author carefully studies the linkage between trade and consumption, on the one hand, and development of science and technology, on the other. For example, citing the example of China in Asia, the author shows not only increasing production and exports but also increasing productivity there. So was the case of India in Asia regarding improved productivity in the sixteenth and seventeenth centuries. For improved productivity on long-term basis, technological improvement is a foregone conclusion. This argument casts doubt on the Eurocentric wisdom (p. 205). In other words, in the view of the author, the received Eurocentric mythology that European technology was superior to that of Asia throughout the period of reference, namely, 1400 to 1800, is to be discarded.

The final section of this chapter questions the superiority of European institutions. Parallel to improved productivity and technology, it should be a commonsense argument that institutions must be supporting the improved and improving technology-cum-productivity, as observed in Asian regions, particularly China and India. The author confesses, however, that '(i)t may be difficult to offer enough convincing evidence to make a persuasive case of the derivative and adaptive transformation of institutions and their relations on a worldwide basis, but then maybe "posing the right question is already more than

half of getting the right answer"' (p. 210). What the author likes to derive is broad structural conclusions, and not some fragmented or truncated comparisons by selected indicators, on a selected time horizon. What he observes is that an already existing and expanding world production, trade and movements of money helped Europe to expand its own production and trade. In fact, three centuries after the Asian domination, the Europeans came to discover the use of American money on Asian space.

To be brief, Chapter Four 'examined population, production, income, productivity, trade, technology, and economic and financial institutions around the globe, compared them among major regions, and argued that all of them were related and generated as part of the market structure and developmental dynamic of single global economy' (p. 224). This chapter noted the strong case made by the author that development in many parts of Asia was not only far ahead of Europe at the beginning of 1400, but continued to be so still at the end of this period in 1750-1800 (p. 224). Thus, in view of the author, all the 'received "wisdom" is no more than Eurocentric ideology based on mythology, and not on real history or social science' (p. 224). Eurocentricism thus is being challenged by the author through the chapters of the book.

Chapter Five of the book 'proposes and pursues a "horizontally integrative macrohistory" of the world, in which simultaneity of events and processes is no coincidence. Nor are simultaneous events here and there seen as differently caused by diverse local "internal" circumstances' (p. 36). In this chapter the author uses some analytical apparatus to inquire into the temporal dynamic and to distinguish among different kinds of temporal and possibly cyclical movements. The author relies on use of horizontally integrative macro-history because what happens in one of the regions and sectors will have inter-linkages or at lease repercussions in the other sectors and regions (p. 227). Regarding this methodology, namely, 'horizontally integrative macrohistory', the author suggests that this consists in searching first for historical parallelisms, i.e., roughly contemporaneous similar developments in the world's various societies, and then determining whether they are causally interrelated (p. 255). In the view of the author, a long 'historical perspective ... allows us to make comparisons between different historical periods. These can afford us the opportunity to identify possible patterns of horizontally integrative history. These may reflect system "properties" such as the spatially and sectorally unequal structure and the temporally uneven process and development of the world economy/system' (p. 255). The author does not hesitate to stress the importance of Asia in this horizontally integrative macrohistory, where he shows how the peripheral Europe entered into the core Asian economies for its expansion relying on the shoulders of the latter. In order to appreciate the full significance of the peculiarities of particular societies or events, one has to place them where they fit into the integrative macrohistory. The central message of the author in this chapter is that the structural and temporal, possibly cyclical, systemic characteristics of world phenomena, and those of different regions and sectors, have to be understood in the light of this horizontally integrative macrohistory.

Chapter Six opens with the question on how and why the West won in the nineteenth century, and whether this victory was likely to endure or to be only temporary. The author gives the answer that the reasons were that the Asians were weakened, and that the Europeans were strengthened. This chapter 'inquires whether and how the world economic advantage of Asia between 1400 and 1800 may have been turned to its own disadvantage and to the advantage instead of the West in the nineteenth and twentieth centuries' (p. 259). In general, the book aims to build up the global scaffolding that is expected to

lead to the construction of at least preliminary answers derived from the structure and dynamic of the world economy as a whole. Chapter Six culminates the book's historical account and theoretical analysis of an argument for how "the Decline of the East" and "the rise of the West" may have been systematically related and mutually promoted. To do so, one part examines the unequal regional and sectoral structure and the uneven temporal or cyclical dynamic that fueled the growth of production and of population in the single global economy' (Pp. 36-37). The author offers the argument that it was, in reality, Asia's strength in the period of early modern world history that led to its decline after 1750 (p. 37). Also, '(i)n terms of world historical reality and development, it was really (only) American money that permitted the Europeans to increase their participation in this mostly Asian-based productive expansion of the world economy' (Pp. 262-263). Also, as studied by the author, it was China and India who remained during this early modern period the strongest and most dynamic parts of the world economy. In the view of the author, it was not a mere coincidence that the Asian economies were experiencing strength and weakness simultaneously because, of the inter-linkages in the case of these Asian economies, the linkages were stronger when they were intra-Asian than when linkages were between Asian and European countries.

The author seeks to answer the question when exactly political-economic decline really began in Asia (p. 264). Taking India, as an example, he concludes that economic decline in India and in particular in the Bengali textile industry, already began before 1757, the year of the Battle of Plassey. In fact, according to the author, India was the first Asian political economic power to submit to the budding European power (p. 271). For the rest of Asia, as observed by the author, Europeans replaced Chinese traders in the China sea only at the end of the eighteenth century, but China declined following opium growth and trade by the British in the nineteenth century (p. 274). What the author concludes in this chapter is that it was not a fact that the 'Rise of the West' followed the 'Decline of the East', but rather both the rise of one and the fall of the other occurred structurally simultaneously, where both the West and the East were operating as inextricable inter-related parts of a single global economy.

The author again questions on how the West rose and won, at least temporarily. The author observes that the Europeans obtained the money from the gold and silver mines they found in the Americas. The secondary answer or answers are that the Europeans made more money by forcing the indigenous peoples of the Americas to dig the mines up for the Europeans. The Europeans also got engaged in slave plantation in Brazil, etc., and in the slave trade itself to supply and run these plantations (p. 278).

The author in this chapter raises the question, 'how and why beginning around 1800 Europe and then the United States, after long lagging behind, "suddenly" caught up and then overtook Asia economically and politically in the one world economy and system' (p. 284). After a careful examination, the author likes to see this pursuit and victory as a part of a competitive race in the single global economy whose structure and operation itself generated this development. The author keeps in mind the investment-cum-technological developments associated with industrial revolution. He, however, reminds the readers that these technological developments of the industrial revolution should not be regarded as only European achievements. Instead, they must be understood more properly as world developments whose spatial locus moved to and through the West at that time after having long moved around the East. The author again raises the question about why and how Western Europeans and Americans came to outcompete Asians. It is known that Europeans had to compete for

their markets primarily with Asians. But Europeans were known as high wage/high cost producers. Contrary to this, because of the relatively higher population-land ratio in many parts of Asia, the latter were low wage/low cost economies. This implied that for the European producers it was a difficult task to sell their products in Asian markets, because of their inability to cover costs. Parallelly, the lower European population and its emigration to the new land, the Americas, provided the ground for invention and innovation of labour-saving machinery. This, as explained by the author, helped the Europeans to move ahead of the Asians. Europe thus took advantages of its backwardness and initial non-competitiveness to ultimately outcompete Asia on the Asian soil. The author does not deny the fact that 'the political economic weakening of their Asian competitors by their respective and common (cyclical?) decline also facilitated the greater European incursions in Asia. There, competitive indigenous market access, not to mention export, was also suppressed by political/military oppression' (p. 293). The forces that helped Europe to outcompete Asia during the nineteenth century was also a steady supply of big capital - spectacularly large sums flowing into England, for example, 'from abroad - from the slave trade, and especially, from the seventeen-sixties, from organized looting of India' (p. 294). The European power thus came from colonisation and discovery; while colonies supplied cheap inputs including almost free labour and capital, the newly discovered space in the Americas provided money to help them get involved in trade with Asia on Asian soil. Indeed, the colonies did pay for new investment and expanding technology frontier for the Europeans. To quote the author, 'Europe also had to have a source of sufficient capital to make these technological investments possible and affordable, as well as the expending market to make the investments profitable. Beginning especially after the Battle of Plassey in 1757 and from 1800 onward, these conditions were met by and in the world economy. The very decline of Asia, not to mention European colonialism, simultaneously offered Europeans the necessary increase in markets and market share as well as an additional inflow of investable capital' (p. 311).

To be brief, the author argues that Asia was well ahead of the others during 1400-1800 in terms of all the positive yardsticks of economic advancement. Europe took advantage of its relative weakness by use of new money, digging in the newly discovered American soil and a continuous inflow of capital from the colonies. On the other hand, in the late eighteenth century, the Asian regions had to pay for initial economic advantage. For Asia then 'production and trade began to atrophy as growing population and income ... exerted pressure on resources, constrained effective demand at the bottom, and increased the availability of cheap labour .....' p. 318). It leaves the readers in no doubt that Europe and then North America took advantage of this pan-Asian crisis in the nineteenth and twentieth centuries.

The author concludes the book in Chapter Seven, followed by an imposing list of References for further study on the issues he has covered, and a subject index. One of the major implications that can be derived from the book is methodological which is broadly that 'early modern history was shaped by a long since operational world economy and not just by the expansion of a European world system' (p. 327). In successive chapters from two to six, the author has shown (i) the network of global division of labour made operational through chain-linked trade relations (Chapter Two), (ii) the circulatory system of money that went around the world and made the world go around (Chapter Three), (iii) the supremacy or superiority of Asia or Asian regions in technology and institutions, reflected in sustained production and productivity (Chapter Four), (iv) advancement and stagnation of regions

in the world economy/system following simultaneous forces operating in the globe (Chapter Five), (v) structural transformation of the world system that led to 'Decline of the East' and 'Rise of the West' (Chapter Six).

It goes without saying that it is highly commendable to have such an insight into world economic-political history as Gunder Frank has shown in this book. He questions the long accepted Eurocentricism to explain recent global phenomena. The author has attained the peak of his wisdom by explaining why and how factors that explain the Rise of the West cannot be taken to explain the Fall of the East. He shows how the phenomena, forces and integrated macrohistory explain both the Rise of the West and the Decline of the East. He sets Asia on its appropriate pedestal. By establishing holistic methodology to explain world history, the author in fact has offered a real history - the universal history. The book is a classic one, a revolutionary one that definitely will attract scholars over generations.

REFERENCE

Frank, Andre Gunder, 1978; *World Accumulation, 1492-1789*, Monthly Review Press and MacMillan Press, New York and London.

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ANNOTATED INDEX OF BOOKS AND ARTICLES IN INDIA

EDITOR'S NOTE

These abstracts are prepared by the author of each book/article sent to us voluntarily in response to our invitation through the *Economic and Political Weekly*. These cover publications after 1st January 1986. Only abstracts of books/articles so received are published. The index, therefore, is not exhaustive and complete.

The limit of 250 words and 100 words for abstracts of books and articles, respectively, is strictly enforced. Only a minimum amount of copy editing is done in order to bring the abstracts within the prescribed limits. The readers should approach the author of the abstract, not this Journal, for any clarifications.

ARTICLES

1990

Majumder, Bhaskar: 'Import Substituting Industrialisation Strategy in Indian Economy: A Critical Evaluation', *Indian Journal of Economics*, Vol. LXXI, No. 281, October 1990.

It is often alleged that the inefficiency of the Indian foreign trade regime and also the gradual erosion of possibilities of import substitution in Indian economy since the mid-1960s contributed to the retardation of Indian industrial growth since 1965. It is our contention that the static allocational costs of the Quantitative Restrictions regime in the Indian economy have been more than offset by the dynamic gains from growth in this period. Our endeavour is to see whether the kind of growth generated in this period led to a slowing down of growth in the future. Our analysis would tend to justify the contention that on the basis of our development experience during the first three decades of Indian planning there is a need to reorient plan strategy to ensure both accelerated economic growth and growth-led trade.

1991

Majumder, Bhaskar: 'Capital-Output Ratios in India: Some Issues', *Productivity*, Vol. 32, No. 2, July-September 1991.

The phenomenon of rising rates of investment with rising rates of saving dissociated with an accelerating industrial growth has been the feature of economic development since planning started in India in 1951. One explanation for this goes in terms of high and rising capital coefficient. This paper stresses not only on the coefficient but also on the generation of the ratio by an unchanging product-technology mix which the policy-makers accepted for Indian economy. This may help in setting the problem which seems to emanate from the coefficient.

Majumder, Bhaskar: 'Export Oriented Industrialisation Strategy in Indian Economy: A Critical Evaluation', *Indian Journal of Economics*, Vol. LXXII, No. 285, October 1991.

This paper aims at examining the viability of Export-Oriented Industrialisation (EOI) strategy of post-1966 Indian economy, particularly with

reference to the international economic order weighted in favour of the product-cum-technology leaders. The paper argues that the long-run viability of an industrialisation strategy for an LDC like India cannot rely on an EOI strategy for the very status she enjoys *vis-a-vis* her trade partners. The paper stresses the significance of industrialisation for a late-starter LDC, like India, and argues that a critique on the operational success and failure of a trade regime may be misunderstood in a context where the market-determined and planned output-structure are conflicting.

1992

Majumder, Bhaskar: 'From Import Substitution to Open-Door Industrialisation: An Evaluation', *Productivity,* Vol. 33, No. 2, July-September, 1992.

This paper examines the switching of India's trade policy from the pre-1966 inward-looking import-substituting industrialisation (ISI) to the post-1966 outward-looking export-oriented industrialisation (EOI) and the ultimate convergence to the path of open-door industrialisation (ODI) in the terminal decade of the twentieth century. The analysis justifies the contention that on the basis of our development experience during the last four decades of Indian planning, there is need to reorient our strategy to ensure both economic growth and growth-led trade.

Majumder, Bhaskar: 'Planning for Industrialisation in Indian Economy: An outline', *Productivity,* Vol. 33, No. 3, Oct-December, p. 1992.

The principal barrier to post-Independence Indian industrialisation happens to be an unbalanced industrial structure inherited from the colonial times: policies have to be formulated to break that structure. Based on three propositions, viz., (i) production of commodities is a reflection of social cooperation, (ii) a process of growth visible to all has to be shared by all, (iii) the State has to ensure macro-economic growth, we chalk out, a scheme that signals an output employment oriented home market dependent path. Success of planning for independent industrialisation along this path depends on a strong State commitment to initiate the activities on a priority basis.

1997

Majumder, Bhaskar: 'Accommodating New Economic Policy in India's Social Dynamics: A Critical Review', *Productivity,* Vol. 371, No. 41 January-March, 1997.

The government of India (GOI) declared its New Economic Policy (NEP) in 1991. This policy is consistent with the acceptance of the principle of globalisation by Government aiming at the formation of an outward-oriented economy and allowing free play of market forces, and backed by the belief that the Indian industrial economy has wide, diversified and increasingly competitive base. However, if India's socio-cultural fabric has to accommodate NEP, then the latter will have to bring about a sea-change in the quality-cum-productivity of an individual in the working age. This is where we talk about the necessity for formation of a new vibrant socio-economic order with or without NEP, states the author.

1998

Majumder, Bhaskar: 'India and Globalisation: Some Reflections on India's Trade Links with G-7', *Journal of Indian School of Political Economy,* Vol. X, No. 2, April-June, 1998.

The government of India adopted the New Economic Policy (NEP), 1991, that stood on the

principle of liberal import-led industrialisation. This paper concentrates on the post-NEP half-a-decade in the context of the 1980s to examine the nature of integration of India's economy in G-7. This paper aims to show that the more India links herself with G-7 in trade, the more she gets indebted to each of the countries in G-7, in association with the failing value of Rupee *vis-a-via* the currency of each country in G-7. Thus, the paper claims that a major explanation for India's long-term constraint on industrailisation lies in this integration in G-7. Hence, what India needs is adoption of 'hard' internal decisions relying on 'national power' and 'soft' diplomatic relations with the neighbours.

The Journal will publish in its issues Annotated Bibliography of Books and Articles on Indian Economy, Polity and Society, published after January 1, 1986. Authors are requested to send their entries with full details of publication and annotation not exceeding 250 words for books and not exceeding 100 words for articles. Use separate sheet for each entry.

BOOKS RECEIVED

Acharya, S.S. and Agarwal, N.L., *Agricultural Marketing in India*, Edition - 3, Oxford and IBH Publishing Company, New Delhi, 1999.

The book studies the existing system of agricultural marketing and its response to the changing macro-economic environment of the country. It is the third revised edition, revised chiefly to take note of the suggested reforms pertaining to the farm inputs and farm products as well as to update the data. Nevertheless, the authors retain the discussion about some of the policies and practices which constituted important part of the agricultural system recently. The first three chapters provide the theoretical base: Chapter 1 defines the concept of agricultural marketing, its scope and the difference between marketing of agricultural products and manufactured goods. In Chapter 2, the theory of markets and market structure, market forces and market models for price determination, including rural and urban markets and cooperative marketing, are analysed. Further, income and price elasticities of demand for agricultural commodities, and per capita availability of foodgrains are estimated. Chapter 3 traces the history and growth of agricultural marketing and explains the concepts of producer's surplus, marketable surplus and marketed surplus, also the relationship between price and marketable surplus. Chapter 4 analyses marketing functions (procurement, packaging, storage, quality control - grading and standardization, processing, transportation, distribution, risk-bearing, etc.), marketing agencies and marketing channels (like middlemen, state trading corporations, etc., and intermediaries for various farm products). Chapter 5 is devoted to marketing of farm inputs while Chapter 6 to government intervention and regulation. Chapter 7 evaluates market integration, market efficiency, marketing costs and marketing margins. Training, research and statistics in agricultural marketing are dealt with in Chapter 8 and export markets in Chapter 9.

Fernandes, Leela, *Producing Workers: The Politics of Gender, Class and Culture in the Calcutta Jute Mills*, Vistaar Publications, New Delhi, 1999.

This Ph.D. dissertation argues that cultural identities, such as religion, ethnicity, gender, class and race (castes) have been politicized in recent years. Analytical boundaries between such categories are real (material) and often rigid - not easily mutable, yet never discrete or predetermined. They are the product of three facets simultaneously - continual contests of power, continual negotiations, and processes unfolding through institutional, discursive and everyday social and political practices. The search for a pure category puts into play technologies of power that both designate and police the boundaries of the category in question through hierarchical representation of other social identities. In support of this argument, it is shown how affiliations and allegiance based on castes, gender and political parties contest secular identity of class (labourers' class) in the case of Calcutta jute-mills. Based on the fieldwork conducted in 1990-91 and adopting both inter-disciplinary as well as genealogical (from the 1950s to the 1990s) approaches, this study of contestation at the workplace further argues that the categories of caste and gender are also created and contested, for instance, religious rituals and patriarchal models of the working-class family are employed by unions, managers and community organizations, to accentuate hierarchical and gender differentiations and, thereby, to form hegemonic boundaries between categories. As a result the study maintains that the relative weakness of trade unions in India and their inability to serve as an effective independent force cannot be attributed solely to their institutional dependency on the state and political parties but to their own inability to overcome differences and hierarchies within the working classes as well, leading to their exclusionary agendas for limited interest groups.

Jha, S.N. and Mathur, P.C. (Eds), *Decentralisation and Local Politics*, in the Series, *Readings in Indian Government and Politics-2*, Sage Publications, New Delhi, 1999.

This collection provides a compact yet comprehensive analysis of the political dimensions of decentralization from both macro and micro perspectives. Besides, the first introductory chapter there are 13 papers divided into four parts. Part I, comprising three chapters, discusses general issues of decentralized governance in developing countries, specifically in India, and the third stratum (local governance) instituted by the 1992 constitutional amendment. Part II is partially devoted to various problems faced by Panchayati Raj (PR) institutions, such as lack of clarity in approach as well as about objectives, multiplicity of agencies of rural development at the district level, lack of resources for the PR institutions, etc. Further, Chapter 7 from this part contains the *Report of the Economic Advisory Council, 1983* (Second Part) and Chapter 9 discusses the extension of PR institutions to the Scheduled Areas and tribal areas by the Act of 1996. The urban local self-governing institutions and their difficulties are reviewed in Part III while the role of women and other marginalised groups in PR institutions, the challenges faced by them and the changes in the leadership and power structures are delineated in Part IV. There are four appendices presenting the texts of the seventy-third and seventy-fourth constitutional amendments, the recommendations of the Bhuria Committee and the 1996 Act based on the recommendations.

Michael, S.M. (Ed.), *Dalits in Modern India: Vision and Values*, Vistaar Publications, New Delhi, 1998.

This collection of sixteen papers, brought out in appreciation of Dr. Stephen Fuchs' contribution to Indian anthropology and sociology, analyses the major concerns of the marginalised people of India, the Dalits, and the impact of the ideal of equality on their socio-cultural, economic and political perspectives. The papers are divided into four parts, besides the introduction which reviews not only the papers in the present collection but also the literature on Dalits from the colonial days. The first two papers in Part I discuss the controversial issue of the origin and development of untouchability in India. Part II is concerned with the contemporary Dalit vision of Indian society which is not the same as the so-called upper-caste Hindu vision. Dalit movement today is not limited to achieving partial changes in the existing social order but aspires to total transformation of Indian society. Part III is devoted to the methodological and processual aspects of *Sanskritization* and the alternative traditions nurtured within the Dalit movement which challenge it. The economic dimension of the issue is examined in the last part. The outcome of the reservation policy for Dalits in employment, the likely impact of the New Economic Policy on Dalits, and questions related to employment and social mobility and empowerment are studied here.

Papola T.S. and Alakh N. Sharma (Eds); *Gender and Employment in India*, Indian Society of Labour Economics, New Delhi, Institute of Economic Growth, New Delhi, and Vikas Publishing House, New Delhi.

The volume comprises 16 papers out of 28 papers presented at the seminar organised during 18-20 December 1995 by the two institutes of New Delhi, namely, Indian Society of Labour Economics and the Institute of Economic Growth. The papers are thoroughly revised, and divided into six broad groups (Parts) as follows: 1. Trends and Problems of Measurement of Women's Employment, 2. Employment and Poverty of Women in Rural Areas, 3. Women's Employment in Organised and Informal Sector, 4. Gender and Labour Market Discrimination, 5. Structural

Adjustment Programme and Women's Employment, and 6. Interventions for Promoting Employment of Women. In addition, an introduction by the Editors initiates the volume. Conceptual, methodological and empirical aspects of measurement of women's work are examined in the papers. The extent, nature and structure of women's work as well as its qualitative characteristics - earnings, productivity, regularity, security and stability, and physical conditions of work - are analysed.

Taori Kamal, *People's Participation in Sustainable Human Development (A Unified Search)*, Concept Publishing Company, New Delhi, 1998.

This volume presents a blueprint for sustainable development, whether economic, social or in any other related field. It stresses the importance of holistic approach to area planning as well as the necessity of viable and effective coordination and cooperation between stakeholders and role players. Further, it identifies the possibilities of support from the various organs of the United Nations (UN) to potential development facilities being linked to Parliamentary Members' Local Area Development Schemes. It studies those hope generating landmarks, signals, turning points, indicators which, if rationally and systematically arranged in a coherent manner, may help in clearly analyzing the pattern. It is divided into four parts. Part I gives the background of Parliamentarians' forums, the UN organs, Panchayati Raj Institutions, non-governmental organisations, etc., as well as analogous experiments from other countries. Part II delineates on the author's field visits, some integrated development projects and socio-economic programmes - common to all. Part III presents the SWOT analysis (strength, weaknesses, opportunities and threats) of issues that need to be addressed holistically, rationally, transparently and collectively. The last part, Part IV comprises correspondence and list of auxiliary reading material.

ANNOUNCEMENT

The School has started publishing booklets of general interest. The attempt in the case of a booklet is to present the various facets of a subject of current relevance to the Indian economy, polity and society. This is an effort at public education that is expected to contribute to the development of informed public opinion, so very important for a democratic society.

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The price of each booklet is Rs. 30/-. The amount may be sent by cheque/draft/moneyorder in the name of Indian School of Political Economy, Pune. For cheques from places other than Pune, Rs. 15/- for collection charges may be added.

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Maital, S., 1973; 'Public Goods and Income Distribution', *Econometrica*, Vol. XLI, May, 1973.

Chakravarty, S. 1987; *Development Planning: The Indian Experience*, Clarendon Press, Oxford.

If a Reference is cited in a Note, the Note may use the shortened reference form:

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