

Social Watch India

Citizens Report on
Governance and Development
2003



Editors
John Samuel
Jagadananda

Editors

John Samuel
Jagadananda

Editorial Co-ordinators

Bobby Kunhu
Gnana Prakasam

Contributors

A Surya Prakash Seeking Accountability – Parliament Watch
Praveen Jha Rhetoric and Reality – Policy Watch
Joseph Pookatt Access to Justice – Watching the Supreme Court
Yogesh Kumar Grassroot Democracy – Watching Local Governance

Research Team

Barnali Bose, Deepak L Xavier, Nesar Ahmad
Prakash Gardia, Sibasankar Mohanty, Subrat Das
Sunila Singh, Vineet Kohli and Vinod C B

Assistance

Himmat Singh Negi

Social Watch India
Citizens Report on Governance and Development

National Social Watch Coalition
B-102, First Floor, Sarvodaya Enclave
New Delhi - 110 017
India
Tel: +91-11-26567309/26518302
e-mail: socialwatch@ncasindia.org

This work can be reproduced in whole or in parts for any use except commercial purposes by any individual or institution with due acknowledgement to this report.

© National Social Watch Coalition 2003

Published by

Centre for Youth and Social Development, Bhubaneswar and
National Centre for Advocacy Studies, Pune

Design by

Dhārana, Email: studiodharana@vsnl.com

Printed by

Mehta Offset Pvt. Ltd., Delhi

ISBN: 81-901742-0-7

Price: Rs 250

Parliamentary Advisory Committee

Madhusudhan Mistry

Nilotpal Basu

Beatrix D'Souza

M V Rajasekharan

N K Premachandran

Media Advisory Committee

Ajit Bhattacharjea, *Press Institute of India*

V K Madhavankutty, *Senior Journalist*

Pamela Philippose, *The Indian Express*

KV Ramesh, *Freelance Journalist*

Gowridasan Nair, *The Hindu*

Civil Society Advisory Committee

Jean Dreze, *Delhi School of Economics*

W R Varada Rajan, *CITU*

Kamla Bhasin, *Jagori & South Asian Network of Gender Activists and Trainers*

Rajesh Tandon, *Society for Participatory Research in Asia*

P V Rajagopal, *Ekta Parishad*

Mohini Giri, *Guild of Service*

Maja Daruwala, *Commonwealth Human Rights Initiative*

Babu Matthew, *New Indian Trade Union Initiative*

Vinod Vyasulu, *Centre for Budget and Policy Studies*

Foreword

We are happy to present Social Watch India Report 2003 and the first Citizens Report on Governance and Development. This has evolved out of the self-need by a number of development agencies, social action groups and citizens to ensure that there is a critical engagement with the process of governance. This, we consider, is a part of the initiative to make Democracy meaningful and participatory. This is also a concrete effort towards seeking an accountable and transparent Government.

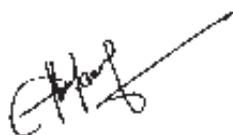
The National Social Watch Coalition is an attempt at a broadbased network of civil society organisations, citizens and communities to build a process of monitoring governance towards professed goals of social developments, particularly with respect to the marginalised sections of our country. As an attempt to check rhetoric against the real, it tries to audit governance institutions per se, and their commitment towards evolution as real democratic institutions.

The process is attempted as a model with multiple stakeholders and ownership rather than a mere institutionalised or academic exercise that would remain within the confines of academia or accessible to just a few of the intellectual elite. The model will have varied ownership, its course would be determined by the multiple interests of the participants in the process. The process would involve different levels of actors at different levels of audit.

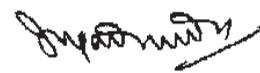
The National Social Watch Coalition is bringing out this Social Watch Report on governance review of the Central Government Institutions of India—particularly, the Legislature, the Executive and the Judiciary, the first of its kind in the world. The focus is on the National Parliament, the Union Executive and the Supreme Court. There will also be a study on the Panchayati Raj Institutions. The review is being done by experts with long-standing experience in their respective fields. However, this is just an experimental model that would have to be perfected with the evolution of multiple ownership and regional level reports. It is envisaged that the Social Watch Report will emerge as the Citizens' Report on Governance and Development.

This report is broadly divided into four parts examining the Central governance institutions broadly in the year 2002. The first part of the report examines the working of the parliament and the quality of business that has been transacted. The second part takes a look at three important focus areas of policy viz. health, education and poverty alleviation in the context of globalisation and the policy initiatives in 2002. The next part takes a critical look at the Supreme Court and its functioning and the last part is an analysis of the functioning of the Panchayati Raj Institutions.

We hope that the initiative by the National social Watch Coalition will further be deepened and there will be such efforts in all the states in India right from the panchayat level to the national level. This is a part of our initiative to democratise knowledge and to strengthen informed citizenship and participatory governance. We welcome any suggestion and comments to further improve this report and the process.



John Samuel



Jagadananda

Contents

<i>Foreword</i>	<i>v</i>
<i>List of Abbreviations</i>	<i>viii</i>
<i>Making Sense of Democracy</i>	<i>ix</i>
Part I: Seeking Accountability – Parliament Watch	
Introduction	3
Social Composition of Parliament	3
Time Management	4
Quorum	5
Cost of Parliament	6
Overall Performance of the Two Houses of Parliament	7
The Lok Sabha	7
The Rajya Sabha	10
Legislative Business	13
Working of Parliament: An Analysis	14
Question Hour	14
Assurance	16
Parliamentary Committees	17
Parliament's Commitment to Social Development	21
Part II : Rhetoric and Reality – Policy Watch	
Introduction	27
Health Care Scenario: A Background	28
National Health Policy 2002	31
Union Budget 2002–03	32
Pharmaceutical Policy, 2002	33
The Patents (Amendment) Bill, 2002	34
State of Education in India: Some Major Indicators	35
Poverty and its Correlates	39
Implications of Current Policies for Poverty Correlates	40
A Concluding Remark	44
Part III: Access to Justice – Watching the Supreme Court	
Part I: Qualitative Review	47
Constitutional and Administrative Law	47
Judiciary	50
Labour and Service Laws	51
Education	52
Environmental Law	53

Redefining Criminal Law Jurisprudence	54
Change in Judicial Stances	56
Dominant Judicial Attitudes	56
Part 2: Quantitative Review	57
Pendency of Cases in Various Courts	57
Reasons for Delay in Justice Delivery	58
Benchmarking Productivity for Judges	60
Budgetary Allocation For Judiciary	60
Conclusion	61
Part IV: Grassroot Democracy – Watching Local Governance	
Perspective on Decentralised Governance	65
Constitutionalisation of Panchayati Raj Institutions	66
Operational Challenges in Strengthening PRIs	67
Annexures	
Information on Parliament (Annexure I to XVI)	77-100
Information on Health, Literacy and Poverty (Annexure XVII to XXXII)	101-115
Information on Panchayati Raj (Annexure XXXIII to XXXVI)	116-126
People Involved	127
List of References	128

List of Abbreviations

AIIMS	All India Institute for Medical Sciences
BALCO	Bharat Aluminium Company Ltd
BPCL	Bharat Petroleum Corporation Ltd
BPL	Below Poverty Line
CBI	Central Bureau of Investigation
CCI	Competition Commission of India
CEHAT	Centre for Enquiry into Health and Allied Themes
CEO	Chief Executive Officer
CGHS	Central Government Health Services
CNG	Compressed Natural Gas
CSE	Calcutta Stock Exchange
DDO	District Development Officer
DPCO	Drug Price Control Order
DSB	Dealer Selection Boards
DSF	Delhi Science Forum
FCI	Food Corporation of India
FIR	First Information Report
FPC	Forest Protection Committee
GDP	Gross Domestic Product
GIC	General Insurance Corporation
HPCL	Hindustan Petroleum Corporation Ltd
IPCL	Indian Petroleum Corporation Ltd
JFM	Joint Forest Management
JPC	Joint Parliamentary Committee
LARRDIS	Parliament Library and Reference, Research, Documentation and Information Service
LS	Lok Sabha
MEA	Ministry of External Affairs
MPLADS	Member of Parliament Local Area Development Scheme
MRTTP	Monopolies and Restrictive Trade Practices Act
NAFRE	National Alliance for Right to Education
NCERT	National Council for Educational Research and Training
NCT	National Capital Territory
NHP	National Health Policy
NSS	National Sample Survey
PESA	Panchayat Extension to Scheduled Areas Act
PIB	Press Information Bureau
PIL	Public Interest Litigation
RS	Rajya Sabha
SCC	Supreme Court Cases
SEBI	Securities and Exchange Board of India
SEC	State Election Commission
TADA	Terrorists and Disruptive Activities Act
TRIPS	Agreement on Trade Related Intellectual Property Rights
USQ	Unstarred Question
UT	Union Territory
UTI	Unit Trust of India
VFC	Village Forest Committee
VRS	Voluntary Retirement Scheme
VSNL	Videsh Sanchar Nigam Ltd
WTO	World Trade Organisation
ZP	Zilla Parishad

Making Sense of Democracy

'We the people of India', that is how the Constitution of India begins. It is the people who lend life and legitimacy to democracy. Democracy is all about freedom with responsibility, freedom from fear, freedom from want and freedom of association, expression and belief. Democracy also encompasses the responsibility to govern in a responsive, accountable and transparent manner. The sovereignty of the State is derived from the sovereignty of its citizens to exercise their rights and responsibilities. Citizens have a responsibility to participate in the process of governance and to seek accountability and transparency from the government, as the legitimacy of the government is derived from the people.

In a liberal democracy, citizens are supposed to determine the boundaries of the State, and the State is supposed to determine the boundaries of the market. With the advent of neo-liberal policy frame and unbridled marketisation, the process seems to have reversed. The market forces increasingly seek to redraw the boundaries of state, through market-driven policy regime and legislative framework in consonance with the hegemony of the Brettonwood institutions and the WTO. While the market forces seek to determine the boundaries of the state, the state increasingly tends to determine and restrict the freedom of citizens. As a result, citizens are less and less considered the owners of the State and are increasingly reshaped as consumers of government services and public goods. This leads to erosion of Citizens' Rights and undermines freedom and democracy. Hence, there is a need to exercise the rights as citizens and to seek accountability and transparency from each and every public institution and organ of the State.

Making sense of democracy involves development of the most marginalised section and the development of the nation. Freedom is the connecting link between development and democracy. Poverty is the denial of right to live with dignity and the deprivation of basic needs such as food, health, shelter, education and livelihood. Development is the presence of socio-economic conditions wherein every person's right to live with dignity is realised, and freedom from want and freedom from fear are guaranteed. Human rights, Civil, Political, Economic, Social and Cultural, become the core principles and legal framework that lend universal validity and legitimacy to both democracy and development.

Democracy and development can only be achieved through deliberate policy interventions and adequate public expenditure to make the dream of a world without poverty real. The principles of equity, participation and distributive justice need to get incorporated into every arena of governance and policy-making process. India has one of the largest number of poor people in the world. A large number of the marginalised, particularly the adivasis, dalits and landless poor, are still outside the ambit of the so-called national development. Mere projection of economic growth, without equity or distribution, will lead to further social and political fragmentation, which would undermine the connecting threads of Indian democracy. Thus development with equity, justice, distribution and participation is a prerequisite to the survival and growth of Indian democracy.

The eight Millennium Development Goals (MDGs), adopted by the UN General Assembly in 2000, seek to achieve quantifiable and monitorable targets to measure the progress towards development and poverty eradication. A recent analysis of the trend towards achieving the MDG clearly indicates that India is far behind in achieving many of the MDGs by 2015. India is lagging behind many of the countries in addressing the MDGs due to the lack of adequate budgetary commitments and the lack of affirmative policy framework. The privatisation of public services and the marketisation of development reduce the bargaining capacity of citizens, making them mere consumers of public goods and services.

Along with such a pretentious policy environment and more rhetoric and less commitment, the lack of effective right to information and of public transparency and accountability degenerate democracy and perpetuate development deprivation.

Millennium Development Goals		
S. No	Development Goals	Indicators for Measurement
Goal 1 Eradicate extreme poverty and hunger	<ul style="list-style-type: none"> ● Halve, between 1990 and 2015, the proportion of people whose income is less than \$1 a day ● Halve, between 1990 and 2015, the proportion of people who suffer from hunger 	<ul style="list-style-type: none"> ● Proportion of population below \$1 a day ● Poverty gap ratio (<i>incidence x depth of poverty</i>) ● Share of poorest quintile in national consumption ● Prevalence of underweight in children (under five years of age) ● Proportion of population below minimum level of dietary energy consumption
Goal 2 Achieve universal primary education	Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	<ul style="list-style-type: none"> ● Net enrolment ratio in primary education ● Proportion of pupils starting grade 1 who reach grade 5 ● Literacy rate of 15 to 24-year-olds
Goal 3 Promote gender equality and empower women	Eliminate gender disparity in primary and secondary education preferably by 2005 and in all levels of education no later than 2015	<ul style="list-style-type: none"> ● Ratio of girls to boys in primary, secondary, and tertiary education ● Ratio of literate females to males among 15 to 24-year-olds ● Share of women in wage employment in the non-agricultural sector ● Proportion of seats held by women in national parliament
Goal 4 Reduce child mortality	Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate	<ul style="list-style-type: none"> ● Under-five mortality rate ● Infant mortality rate ● Proportion of one-year-old children immunised against measles
Goal 5 Improve maternal health	Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio	<ul style="list-style-type: none"> ● Maternal mortality ratio ● Proportion of births attended by skilled health personnel
Goal 6 Combat HIV/AIDS, malaria, and other diseases	<ul style="list-style-type: none"> ● Have halted by 2015 and begun to reverse the spread of HIV/AIDS ● Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases 	<ul style="list-style-type: none"> ● HIV prevalence among 15 to 24-year-old pregnant women ● Contraceptive prevalence rate and number of children orphaned by HIV/AIDS ● Prevalence and death rates associated with malaria, proportion of population in malaria-risk areas using effective malaria prevention and treatment measures ● Prevalence and death rates associated with tuberculosis and proportion of TB cases detected and cured under DOTS

Contd... Millennium Development Goals

S. No	Development Goals	Indicators for Measurement
Goal 7 Ensure environmental sustainability	<ul style="list-style-type: none"> ● Integrate the principles of sustainable development into country policies and program and reverse the loss of environmental resources ● Halve, by 2015, the proportion of people without sustainable access to safe drinking water ● Have achieved, by 2020, a significant improvement in the lives of at least 100 million slum dwellers 	<ul style="list-style-type: none"> ● Change in land area covered by forest ● Land area protected to maintain biological diversity ● GDP per unit of energy use ● Carbon dioxide emissions (per capita) ● Proportion of population with sustainable access to an improved water source ● Proportion of population with access to improved sanitation ● Proportion of population with access to secure tenure [Urban/rural disaggregation of several of the above indicators may be relevant for monitoring improvement in the lives of slum dwellers]
Goal 8 Develop a global partnership for development	Develop further an open, rule-based, predictable, nondiscriminatory trading and financial system (includes a commitment to good governance, development, and poverty reduction—both nationally and internationally)	<ul style="list-style-type: none"> ● Net ODA as a percentage of DAC donors' gross national income ● Proportion of ODA to basic social services (basic education, primary health care, nutrition, safe water, and sanitation) ● Proportion of ODA that is untied ● Proportion of ODA for environment in small island developing states ● Proportion of ODA for the transport sector in landlocked countries

Note: Some indicators, particularly for goals 7 and 8, remain under discussion. Additions or revisions to the list may be made in the future.

Sources: http://www.developmentgoals.org/About_the_goals.htm

The first Citizens Report on Governance and Development is an initiative to strengthen the process of democracy and development, to ensure citizen participation at every level of governance and to equip citizens to ask informed questions to their elected representatives as well as public officials/servants. In a country where there are about 700 legislators (including MLAs, MLCs and MPs) with criminal records, citizens increasingly feel insecure as well as helpless. It has been reported that the top four candidates in many of the constituencies spend between Rs 8 to 10 million during the Lok Sabha election. As per the latest Human Development Report, large corporations provided 80 per cent of funding for the major political parties in India during the 1996 elections. The criminalisation and marketisation of politics undermine the values of democracy enshrined in the very preamble of our Constitution. It is in this context that citizens and civil society need to play a crucial role in resisting the vulgarisation of politics and governance. This requires constructive and proactive initiative to revitalise democracy and development at grassroot level and critical engagement with institutions of governance at various levels.

This Report on Governance and Development is an initiative to look at the key institutions of governance and pillars of democracy and discuss their performance in the year 2002. Each institution of governance has a distinct role to play, and the fulfilment of such roles and responsibilities make democracy work. It is

the responsibility of the citizens to be constantly vigilant about the roles, responsibility and functions of such institutions and to point out aberrations so that there will be a constant attempt to take corrective measures to live up to the constitutional guarantees and obligations. This Report seeks to discuss the performance of four key arenas of governance viz., the Parliament, the Public Policy (the Executive), the Supreme Court and the local self-government. This Report also seeks to provide a coherent information based on each of these arenas so that there will be an informed public discourse on the state of governance, development and democracy in India.

Seeking Accountability: Performance of the Parliament

The performance of the Parliament in 2002 is discussed in Part I of this report. Being the apex law-making body and centre of governance in India, the performance of the Parliament is of interest to the citizens of the country. The observations on the performance of the Parliament are:

- In 2000-01, the budget allocation for the two Houses of the Parliament was Rs 1,730.90 million. It is estimated that in the same year the per minute cost in the Lok Sabha was Rs 15,700.
- A total of 86 Bills were passed by the Parliament during the year 2002 (34 Bills in the Budget Session, 10 Bills in the Monsoon Session and 42 Bills in the Winter Session).
- The number of sittings of both the Houses of Parliament has declined over the years. Now there is an average of 80 sittings in a year. As a result, the time available for debating matters of public concern is reduced.
- A lot of time was wasted due to disruptions and pandemonium in the Houses (slogan shouting, storming the well of the House, adjournments, disorderly behaviour of the members, etc.). In the Lok Sabha, during the year, a total of 100 hours and 49 minutes were lost during the three Sessions, and in Rajya Sabha, a total of 85 hours were lost only during the first two Sessions.
- The questions asked during the Question Hour are repetitive, and questions are asked for which information is already available or published.
- The Houses continued to function even when there is lack of quorum. The Presiding Officers of both Houses do not take suo moto cognisance of a lack of quorum.
- There is declining interest in budget discussions in the Houses. For example, between 1952 and 1979, the Lok Sabha devoted an average 23 per cent to discussing the budget. This has now declined to about 10 per cent.
- There is poor attendance in the Parliamentary Committee Meetings. In 2002, the average percentage of attendance by members of the Committee ranged from 65 per cent (Committees on Technology and Defence) to 36 per cent (Committee on External Affairs). What is even more disconcerting is the fact that the Committees that deal with social sectors and issues that directly affect common man/woman have the lowest percentage of attendance by members.

Rhetoric and Reality: Policy Performance

In Part II of the Report, the current policies of the Government regarding health, education and poverty alleviation were reviewed to understand the government's commitment to ensure and safeguard the livelihood and basic rights of the citizens. It is observed that people, especially the marginalised, have become victims of multidimensional deprivations; and a step-motherly treatment is given to Social Sectors as against Economic Sectors.

Health: In the realm of health, the government took three new policy initiatives namely, The National Health Policy, 2002; The Drug (Pharmaceutical) Policy, 2002; and The Patents (Amendment) Bill, 2002. But it has been observed that:

- There is considerable amount of time lapse between policy pronouncement and policy implementation, and policy pronouncements are made without proper budgetary allocations.
- Both in urban and rural areas, the health infrastructure is far from adequate by any acceptable standards.

- Curative care facilities are almost non-existent in rural areas.
- Morbidity and mortality rates are still high.
- The level of public expenditure in health sector is the lowest in the world. 83 per cent of aggregate expenditure on health is private spending, and 43 per cent of the poor depend on public sector hospitals for care.
- The Indian health system is the most privatised health system in the world. Privatisation and deregulation of the health system has resulted in rising drug prices.
- As regards health, there are still marked disparities between states, between rural and urban, between the marginalised and the mainstream, and between men and women.
- The new National Health Policy, 2002 is riddled with confusions and contradictions. It legitimises the ongoing privatisation of health.
- The new Drug (Pharmaceutical) Policy, 2002 is biased towards urban-specialist-based health care.
- The public health expenditure, which is currently below 1 per cent of GDP, is far below the 5 per cent of GDP recommended by the World Health Organisation.
- The year 2002 witnessed a continuation of anti-people, but pro-market policies in the health sector.

Education: As regards education, the government passed the Constitution 86th Amendment Act, 2002 to make elementary education a fundamental right. Also the government introduced the National School Curriculum Framework. A major scheme known as the Sarva Shiksha Abhiyan (SSA) or the National Programme for Universalisation of Elementary Education was launched in November 2000 and continued in 2002. It is observed in the Report that the overall performance is disappointing.

- In spite of the fact that the literacy rate has risen from 18 per cent in 1951 to 65 per cent in 2001, every third illiterate in the world is an Indian.
- Out of approximately 200 million children in the age group 6-14 years, only 120 million are enrolled.
- Inadequate budget allocation, dismal school infrastructure in rural areas, high dropouts, caste-bias, gender-bias, etc. are the hallmarks of our education system.
- There is increase in budget allocation for elementary education, but with a decline in higher and technical education.
- The year marked the open and public saffronisation of the education system imposing fundamentalist vision of Hindutva in the education system of the country with the National School Curriculum Framework.
- Under Sarva Shiksha Abhiyan, a total of Rs 5 billion in 2001-02 and of Rs 15.12 billion in 2002-03 was allocated. What has been achieved? There is a serious concern raised on the implementation of the scheme.
- The Constitution 86th Amendment Act, 2002 has lots of ambiguities, and absolutely, there was no reference to this Act nor was there any budget allocation in the Budget 2003-04 presented in the Lok Sabha on February 28, 2003.

Poverty Alleviation: For years, poverty alleviation has been a major concern of the government. Year after year programmes were launched to eradicate poverty. In 2002, the Tenth Five Year Plan (2002-07) document reiterated the policy direction of the government towards poverty alleviation stating the need for 'expanding and reinvigorating the ongoing poverty alleviation programmes to improve quantitatively the economic conditions of SCs/STs/OBCs/Minorities, through specially designed activities in the programmes best suited to their skills and requirements.' Also the government introduced the National Water Policy, 2002. A review of the performance of the government reveals the following:

- The lower sections of the society still lack access to assets.
- Land reform has been given a silent burial, and there is increase in landlessness among the poor.
- People continue to be displaced, their human rights are violated, and their livelihood resources are denied.

- The Tenth Five Year Plan document places greater reliance on the private sector to contribute to poverty alleviation. It has reversed the land reform agenda, and seems to recommend market as a substitute for the state.
- The National Water Policy, 2002 calls for 'private sector participation in planning, development and management of water resources', a clear signal towards privatisation of water services.
- Increase in unemployment, casualisation of labour and increase in starvation deaths and suicides are some of the indicators of deepening poverty situation in India.
- Nothing substantial was done to address the draught, and the government was abdicating its responsibilities towards the people, particularly the poor.

Access to Justice: Performance of the Supreme Court

In Part III, the performance of the Supreme Court is reviewed. The Supreme Court delivered a number of landmark judgements during the year. The prominent among them are:

- Disclosure by candidates contesting election of their criminal antecedents, which the voters had a right to know.
- Ensuring compliance by government authorities to adhere to orders passed by the Court by filing Action-Taken-Reports or Compliance Reports.
- In a radical decision with far-reaching social consequences, the Supreme Court heard a Public Interest Litigation and decided that non-Brahmins can perform puja in Hindu temples. Also the Court came heavily on the misuse of Public Interest Litigation.
- The Court also expressed its reluctance to step into matters of economic policies unless it was shown to be violative of fundamental rights or patently mala fide.
- The Court took suo moto cognisance of the conditions prevailing in mental asylums from a newspaper report and issued a sweeping set of directions to ameliorate the conditions of the inmates in the asylums.
- The Court reiterated the independence of the Election Commission in the conduct of elections and that the government cannot interfere in the manner of holding elections.
- The Court held Arundhati Roy guilty of contempt of court saying that the freedom of speech and expression and the freedom of the press are one and the same thing and are subject to the same restrictions.
- The Court upheld the Constitutional validity of the Legal Services Authorities (Amendment) Act, 2002 in a landmark judgement.
- On the role of the subordinate judiciary, filling vacancies and developing infrastructure, the Court held that it is the obligation of the state governments to mobilise funds. Directions were issued to the state governments in this regard.
- The Supreme Court also increased the scope of review of its own decisions.
- In the realm of labour and service laws, the Supreme Court said that the courts have the power to interfere in appointments, selection process, compensation, etc. if there are any irregularities.
- The Court upheld the right of the state government to make a law preventing the misuse of school administration to make profits, especially by private schools.
- As regards reservations in education, the Court held that reservations are permissible in educational institutions at the lowest levels. However, at the higher levels, it should be withdrawn in the interest of achieving the goal of excellence in education.
- The Supreme Court maintained a strong and sustained pro-environment stand. The Court passed a series of orders emphasising environmental protection.
- The Court reiterated that the right to speedy trial is part of Article 21 of the Constitution (the right to life).

Since the citizens have lost hope in the Legislature and the Executive, they have some confidence in the judiciary. Public confidence is built when the judiciary is accountable, accessible, responsive, effective and efficient. But the following observations tell the other side of the story.

- In 2002, 37,780 cases were filed in the Supreme Court. 85 per cent of the cases were disposed or dismissed.
- The pending cases reduced from 1,04,936 in December 31, 1991 to 23,012 in May 31, 2002.
- In the High Courts, as on November 28, 2002, 3,640,870 cases are pending.
- In the subordinate courts, 20 million cases are pending.
- The total budget of the Supreme Court for 2001-02 was Rs 299,300,000 (i.e. almost 300 million).
- The function of the courts is to deliver justice expeditiously and economically. Do the poor have access to justice in the Supreme Court?

Grassroot Democracy: A Distant Dream?

Part IV of this Report gives an overview of grassroot democracy in India through the Panchayati Raj Institutions. It is observed that:

- The 73rd Constitutional Amendment reflects the political will in favour of decentralisation.
- It has enabled the participation of women, dalits and adivasis in local governance. This has challenged the existing power centres at the local level.
- It has provided the marginalised opportunities to participate in decision making, to strengthen their capacities, to seek accountability, to play their role in competitive politics, etc.

But on the other hand:

- Devolution of power, funds, functions and responsibilities, and functionaries have not taken place.
- In a number of states, there has been promotion of parallel structures/committees at the local, district and state levels by undermining the Panchayati Raj Institutions.
- It has been found that the marginalised, such as dalits and adivasis are, largely unacceptable to the upper castes and class forces. They are insulted in the Gram Sabha and block and district level meetings.
- Certain regulations such as the two-child norm for Panchayat representatives in Madhya Pradesh has led to harassment of elected representatives, humiliation by officials, labelling them as illiterate, demotivating them, etc.
- The contribution of revenue from states per se has declined.
- Sometimes, the elected representatives at the block and district levels function like their MLAs and MPs.
- It has also been observed that agrarian economic relationships and feudal social practices and attitudes are the greatest impediments for decentralised and participatory governance.

This Report is a modest attempt to review governance performance at the Centre. In future the review will be more broad-based taking into consideration the performance of the States. It is expected that this initiative will generate discourse on people-centred governance, strengthen the role of civil society and promote citizens' participation in governance, democracy and development.



Part I

Seeking Accountability – Parliament Watch

There is no precedent in history in which a nation of such colossal size, complexity and population adopted the parliamentary form of government and used democratic methods and processes for the development of a country of such stark poverty, illiteracy and ill-health and historical economic stagnation. We have made steady and substantial progress in this endeavour without sacrificing the freedoms of our people and imposing on them intolerable hardships. But much more needs to be done in consolidating and extending democracy and in resolving some of the major problems.

'However theoretically good' Jawaharlal Nehru once said of parliamentary democracy, 'it has to answer the questions put to it by the age. If it answers the questions, it is well-established.' In the present age when both India and the world have changed and are changing, new questions are being put to it on the top of the old ones and the system has got to address them if it is to succeed.

—K R Narayanan

Seeking Accountability – Parliament Watch

Given the importance of Parliament as a key institution of governance and policy creation within the framework of Indian Constitutional democracy, it becomes imperative to debate its working. In this regard this audit looks at the performance of the two Houses in the year 2002. This chapter essentially takes a look at the time spent by Parliament qualitatively on businesses that it ought to carry out viz. legislation, check on executive functioning etc. and the report critically evaluates the quality of business conducted by both the Houses in each Session. The report studies the functioning of the various parliamentary organs including various committees. There is also an attempt at a cost benefit analysis of the Parliament. The functioning of the Parliament also has ramifications vis-à-vis the functioning of other branches of governance and so there are certain overlaps in subject matter with other parts of this report.

Introduction

The year 2002 marked the Golden Jubilee of the two Houses and also a change of guard in both Houses. Mr. Bhairon Singh Shekhawat took over as Chairman of the Rajya Sabha following his election as Vice-President. In the Lok Sabha, Mr. Manohar Joshi was elected Speaker following the tragic demise of his predecessor Mr. Balayogi in a helicopter crash.

While there is general disappointment over the

performance of the two Houses, which constitute the apex legislature in the country, there is no gainsaying the fact that the Lok Sabha and the Rajya Sabha have played a critical role in nurturing the democratic ethos in the country. They have also made a signal contribution in upholding and strengthening the Constitution and ensuring that it has remained a living, vibrant document that ensures equity and equality.

Social Composition of Parliament

Lok Sabha today is far more representative of the Indian people than it was fifty years ago. The socio-economic profile of members of the Lok Sabha since 1952 shows the dramatic changes that have taken place in regard to the empowerment of many disadvantaged groups. For example, in the First Lok Sabha, 51 per cent of the members were lawyers, doctors, journalists and writers. In fact, lawyers occupied one-third of the seats in the House. The representation of these professionals has fallen to 14.65 per cent in the Twelfth Lok Sabha. Similarly, traders and industrialists who had 12 per cent representation in the First Lok Sabha were down to just 2.25 per cent. On the other hand, though India is almost wholly an agrarian society, agriculturists had

just 22.5 per cent of the seats in the First Lok Sabha. Their share in political power rose over the years and touched a respectable 49 per cent in the Twelfth Lok Sabha.¹² (Annexure II and III).

These figures reveal the process of occupational democratisation of the Lok Sabha that has been on and this has in to large extent equalised opportunity for political representation and power. What is true of the professions is also true of the castes. Though the Lok Sabha Secretariat does not maintain records on the caste composition of the House, the growing assertiveness of the intermediate castes and Dalits, and the increasing presence of their representatives in Parliament is all too obvious.

There is a marked improvement in the educational qualifications of MPs, and many of them come from families, who are setting their first exposure to university education.¹

Time Management

Parliament is always a study in contrast and the year 2002 was no exception. As against the budget and the Monsoon Sessions that saw a record number of hours wasted by Members of Parliament in slogan shouting, storming the well of the House and adjournments caused by disruptions and disorderly behaviour, the Winter Session witnessed none of these. Strangely enough, this Session found the members conducting parliamentary business in the way they ought to. According to the Lok Sabha Secretariat,² in the last 30 years, no Winter Session had transacted as much business or achieved as much as the Eleventh Session of the Thirteenth Lok Sabha. Among the achievements were the passing of a record number of 37 Bills, many of them extremely important and pending for long. In addition, unlike the earlier Sessions, the average number of questions that came up daily for answers in the Lok Sabha doubled from two to four. Similarly, several issues raised by the Opposition were taken up for detailed discussion in both the Houses during the Winter Session.

The work in both Houses of Parliament is often disrupted by the disorderly behaviour of members. This is a phenomenon that began in the 1970s and has continued over the last three decades. The problem appears to have worsened, in recent years. For example, in the Eleventh Lok Sabha, 5.28 per cent of the time was lost in disruptions. The percentage rose to 10.66 in the Twelfth Lok Sabha. (Annexure I) In the first eight Sessions of the Thirteenth Lok Sabha, members of the House squandered away 22.40 per cent of the time in disorderly conduct.³

Further, the time devoted by Parliament to budget

discussions and questions has declined over the years. For example, between 1952 and 1979, the Lok Sabha devoted an average 23 per cent to discussing the budget. This has now declined to about 10 per cent. Though the constitution of Departmentally Related Standing Committees in the 1990s resulted in the transfer of some of this responsibility from the House to the Committees, the Lok Sabha's declining interest in budget discussions was visible even before the Committees came into being. While the Lok Sabha spent about 15 per cent of its time on questions between 1952 and 1979, the time available for this activity has dropped to just over 10 per cent since the 1990s. Since questions are key instruments to ensure the accountability of the Executive to Parliament, this trend is an indicator of the weakening of Parliament in some ways.⁴

There is also a fall in the number of sittings per year. Since its inception, in 1952, the Lok Sabha has sat for 123 days in a year. In subsequent years, it has averaged 138 sittings. It is now 14 years since the number of sittings per year crossed hundred days. The Lok Sabha sat for 102 days in 1988. Since then the average is around 80 sittings per year. As a result, the time available for debating matters of public concern stands curtailed.⁵

During the Budget Session (195th Session) in the Rajya Sabha, 50 hours were lost to disruptions and pandemonium that broke out on three issues: Ayodhya imbroglio, the communal violence in Gujarat and the storming of the Orissa State Legislature by a mob. The same issues came up during the Monsoon (196th) Session. The continuing violence in Gujarat and the issue of irregularities in the allotment of petrol pumps should have got the

1. *Members of the Twelfth Lok Sabha – A Socio-Economic Study*, LARRDIS Parliament Library and Reference, Research, Documentation and Information Service.
2. Lok Sabha Secretariat press release, 20 December, 2002.
3. Time spent on various kinds of business in Lok Sabha-An Analysis, Lok Sabha Secretariat, June 2002. (Tables in Annexure-I), pp.18-19.
4. *Ibid*, pp. 13-16.
5. *Ibid*, pp. 9-11.

attention of the House to discuss at length immediate remedial measures. Instead, over 35 hours were spent, not in debates and discussions, but in shouting and slanging matches and disrupting the smooth conduct of the House, resulting in repeated adjournments. Finally, the Winter Session saw some welcome change.

Usually, during the Zero Hour, that is, the time between the Question Hour and legislative business, one only hears unruly exchanges and slanging

matches, all amounting to very little—a large part of the Zero Hour being a fruitless exercise in parliamentary proceedings. Yet it takes up as long as one to two hours of parliamentary time. Since the Rule Book does not provide for the Zero Hour, successive Lok Sabha Speakers have tried to put a stop to this practice or at least regulate it. In the Winter Session of 2002 however, Zero Hour too saw a remarkable change—a number of issues were not just raised, but actually discussed during the Zero Hour, which is really an achievement!

Quorum

In fact, despite the explicit wording of Article 100(4), Presiding Officers of both Houses do not take suo moto cognisance of a lack of quorum. This practice gets support from the Handbook for Members published by the Lok Sabha Secretariat, which says that ‘The quorum to constitute a sitting is 55 members including the Speaker or the person acting as such. Before the Speaker takes the chair in the morning and the House commences its sitting, the Marshal ascertains that there is quorum and after he has reported to the Speaker that there is quorum, the speaker takes the chair’. It says further: ‘The Speaker presumes that there is quorum at all times but his attention may be invited to lack of quorum or he may himself notice the lack of quorum. In either case, the bell is rung and if the House is made within the first ringing of the bell, or if necessary within the second ringing of the bell, as the speaker may direct, the business of the House proceeds.’⁶

Usually, the attendance goes down during the post-

lunch period, but by convention, the House carries on with its business even when the number falls below the quorum mark, unless a member brings this to the notice of the Presiding Officer. The Winter Session two, despite its good record of business transacted, could not boast of excellent attendance. When the LS passed the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Bill 2002, only 38 members were present in the House, which has a strength of 542 MPs!⁷

On Friday afternoons, when private members’ bills are taken up, one sees many empty chairs, with a large number of MPs having left for their constituencies. Since 6 December, a Friday, was a holiday on account of Id, both Houses had fixed Thursday afternoon for private members’ bills. However, MPs decided to leave for their constituencies a day earlier, because the afternoon session on 5 December had such thin attendance that both Houses had to be adjourned for want of quorum.⁸

Even when social issues of great importance are discussed, the situation remains the same. On 18 November, at 4.15 p.m. when a debate on Gujarat was in progress, BSP MP Rashid Alvi pointed out that there was no quorum, to which Devendra Prasad Yadav, who was in the Chair, said the quorum bell had been rung! When the House discussed the drought in various parts of the country, there was quorum, but the number of MPs present were less than 100, showing their lackadaisical attitude towards issues that concern the common folk.⁹

6. *Handbook for Members*, Lok Sabha Secretariat, 1991.

7. *The Indian Express*, New Delhi edition, 6 December, 2002.

8. *Ibid.*

9. *Ibid.*

On 5 December, Law Minister Jana Krishnamurthy requested that a private member's Bill, seeking to amend the Constitution to enact a Common Civil code be withdrawn. Since the MP, Adityanath, was not present in the House, Deputy Speaker, PM Sayeed, called for a division, but had to abandon it for lack of quorum. However, the attendance was good on 27 November, not because of any discussion of importance scheduled for the day, but because the group photograph of MPs was being taken.¹⁰

During the Winter Session, even some ministers played truant, forcing Ramanand Singh of the BJP to request the Speaker to ensure that ministers did not disappear after the Question Hour, but stayed back during the Zero Hour. But one minister who came up for special mention for his frequent absence from the House was (then) Health Minister Shatrughan Sinha. On 11 December during Question Hour, several MPs pointed out that Sinha was busy shooting for a film and was not attending the House. In response, Speaker Manohar Joshi said members had raised this issue a number of times and he had asked the government to ensure that the minister is present in the House. He also assured the members that he himself would speak to the minister.¹¹

Cost of Parliament

When MPs squander away precious time in Parliament, Tax-payers see good, hard-earned money going down the drain, specially because a truly representative, multi-tier democracy is an expensive affair. Inflation, high salaries and perquisites for MPs and Parliament's widening scope of activities have together pushed up the cost of Parliament, resulting in a steady increase in the annual budget of Parliament.

Over the years, some attempt has been made to determine the cost of Parliament on a per minute or per hour basis. The earliest such assessment was made in 1951 when the Provisional Parliament was informed that Question Hour cost the exchequer Rs 6,000 or Rs 100 a minute.¹²

In 1966, Prime Minister Indira Gandhi told Parliament that based on the budgetary allocation for the Lok Sabha, the hourly cost of the proceedings in that House was Rs 18,000, or Rs 300 a minute.¹³

This was calculated by dividing the annual budgetary allocation for the Lok Sabha by the number of

sittings per year. Since then the formula applied to determine the cost of Parliament has undergone a change. The formula now in vogue is to divide the total budgetary allocation for the two Houses by the notional number of working days in a year. Applying this formula, it was estimated that the per minute cost of Parliament (both Houses) was Rs 2,570 in 1992-93.¹⁴

Since the ratio of the budgets of Lok Sabha and Rajya Sabha is 6:4, the per hour cost in fiscal 1992-93 was Rs 92,520 for the Lok Sabha and Rs 61,680 for the Rajya Sabha. This works out to approximately Rs 1,500 per minute for the Lok Sabha and Rs 1,000 per minute for the Rajya Sabha.

More recently, the Lok Sabha Secretariat has estimated that the cost of Lok Sabha in the fiscal year 2000-01 was Rs 15,700 per minute.

Over the last decade, the budgetary allocations for the two Houses of Parliament has been on the rise. In 1990-91, it was Rs 277.20 million. This had risen in the fiscal year 2000-01 to Rs 1.73 billion—a 700 per cent jump over a ten year period.

10. Ibid.

11. Ibid.

12. Provisional Parliament Debates, 24 February, 1951.

13. RSQ 547, Rajya Sabha Debates, 6 December, 1966, Cols 4285-89.

14. *What Ails Indian Parliament*, A Surya Prakash, Indus, 1995, pp.154.

Overall Performance of the Two Houses of Parliament

The Lok Sabha

The Budget Session of the Lok Sabha began on 25 February, 2002 and was adjourned on 22 March, till it met again for a joint sitting with the Rajya Sabha on 26 March. Thereafter, upon completion of the business at the joint Session, Lok Sabha stood adjourned once again to enable the Standing Committee to consider the Demands for Grants. It met again on 15 April and was adjourned sine-die

on 17 May. Thus, even though the total number of days of the Session was 82, the number of actual sittings was only 40 days and calculated in terms of time spent during these sittings, it was 220 hours and 54 minutes.

The performance of the house in the Budget Session is summarised in the following table:

Time Spent on Different Activities of the House (Budget Session of Lok Sabha)			
Items of discussion	Time spent on different Sessions	Percentage of total time of the House	Result of such discussions
Railway Budget	15 hours 3 minutes	6.81%	–
General Budget	22 hours 1 minute	9.97%	–
Budget in respect of a State under President's Rule	18 minutes	0.13%	–
Discussing Government Bills	61 hours 13 minutes	27.70%	House passed 38 bills and 37 bills remained pending.
Discussing Private Members' Bills	4 hours 51 minutes	2.20%	235 Bills were pending.
Question Hour	24 hours 39 minutes	11.16%	Out of 760 starred questions for oral answers, only 60 got answered. 7908 unstarred questions put down in questions list for written answers.
Short Duration Discussions Under Rule 193 on Matters of Urgent Public Importance			
Godhra Killings and Subsequent Violence	8 hours 15 minutes	3.37%	–
Prime minister's Statement on the wake of Supreme Court's Judgement on Ayodhya	4 hours 35 minutes	2.07%	–
Financial Package to Bihar	5 hours 5 minutes	2.30%	–
Terrorist Attack in Jammu	6 hours 29 minutes	2.93%	–
Zero Hour	16 hours 39 minutes	7.54%	–
Motion under Rule 191 on State failure in protecting minorities moved by Mulayam Singh	16 hours 21 minutes	7.40%	Got defeated
President's Address	12 hours 24 minutes	5.62%	–

Sources:

1. Statement showing the work transacted during the 9th Session of 13th Lok Sabha, LS Secretariat Press Release.
2. Statement showing time taken on various kinds of business transacted during the 9th Session of 13th Lok Sabha, LS Secretariat.

Short Duration discussions under Rule 193 on Matters of Urgent Public Importance also took considerable time of the House and there were enough reasons for it. Godhra killings and the subsequent violence in Gujarat took eight hours and 15 minutes of the House. The other issues discussed under Rule 193 were:

- On the statement made by the Prime Minister on the current situation in Ayodhya in the wake of the Supreme Court judgement—4 hours and 35 minutes.
- Financial package for Bihar—5 hours and 5 minutes.
- Terrorist attack on bus passengers and army camp at Kaluchak in Jammu on 15 May, 2002—six hours and 29 minutes; all adding up to 24 hours and 24 minutes or 11.05 per cent of the total time of the House.¹⁵

Zero hour too had its share—a total of 171 issues were raised and 247 members spoke, taking a total

time of 16 hours and 39 minutes during the Session (Annexure IV). Motion under Rule 191 on ‘the failure of the administration in ensuring the security of; the minority community in various parts of the country, specially in Gujarat’, moved by Mulayam Singh Yadav took 16 hours and 21 minutes of the House. Eventually, it was defeated. The President’s Address took 12 hours and 24 minutes.¹⁶

The Monsoon Session of the 13th Lok Sabha began on 18 July and was adjourned sine-die on 12 August. In fact, the Session was scheduled to conclude on 14 August, but as the House could not transact the business in an orderly manner, the Speaker adjourned the House sine-die two days in advance.

Short-duration discussion under Rule 193 on Matters of Urgent Public Importance took considerable time of the House during this Session. The four subjects discussed under Rule 193 were:

Time Spent on Different Activities of the House (Monsoon Session of Lok Sabha)

Items of discussion	Time spent on different Sessions	Percentage of total time of the House	Result of such discussions
Discussing Government Bills	12 hours 7 minutes	13.60%	12 bills could be passed, 1 withdrawn and 43 remained pending.
Discussing Private Members’ Bills	5 hours 3 minutes	5.67%	–
Question Hour	13 hours 18 minutes	14.92%	Out of 420 starred questions, only 46 were answered. 4366 unstarred questions were put down for written answers.
Short Duration Discussions Under Rule 193 on Matters of Urgent Public Importance			
Foreign investment in Print Media	16 hours 46 minutes	18.81%	Out of 1999 notices received under Rule 193, only 6 were admitted and only 4 were discussed. 1 issue was discussed partially
Relief and Rehabilitation of the Riot Victims of Gujarat			–
Disinvestment of Public Sector Undertakings			–
Flood and Drought in various parts of the country	12 hours 37 minutes	14.16%	–

15. Resume of work done by Lok Sabha (Thirteenth Lok Sabha, Tenth Session, 2002) Lok Sabha Secretariat.

16. Statement showing time taken for various kinds of business transacted during the Ninth Session of thirteenth Lok Sabha, Lok Sabha Secretariat (Annexure IV).

Contd... Time Spent on Different Activities of the House (Monsoon Session of Lok Sabha)

Items of discussion	Time spent on different Sessions	Percentage of total time of the House	Result of such discussions
Calling Attention Notices	3 hours 6 minutes	3.47%	–
Zero Hour	8 hours 25 minutes	9.44%	–
Motion under Rules 191 and 342	7 hours 18 minutes	8.19 %	408 notices received, 80 motions admitted, but no motion could be discussed because of repeated adjournments

Notes: Total number of days of the Session was 31 Number of actual sittings was 21 days Total Time period was 89 hours 7 minutes

Sources:

1. Statement showing the work transacted during the 10th Session of 13th Lok Sabha, LS Secretariat Press Release.
2. Resume of work done by Lok Sabha (13th Lok Sabha— 10th Session, 2002), Lok Sabha Secretariat.

- The situation arising out of the decision of the government to allow foreign investment in print media.
- Relief and rehabilitation of the riot victims in Gujarat.
- Disinvestment of public sector undertakings.
- Floods and drought in various parts of the country. The last issue took the longest time, the discussion spanning 12 hours and 37 minutes. All the four subjects together took 29 hours and 23 minutes, constituting 32.97 per cent of the total time. Out of 1999 notices received under Rule 193, six had been admitted, but four were discussed. One issue was partly discussed.

Calling Attention notices took 3 hours and 6 minutes and pertained to four subjects:

- Problems being faced by raw silk producers in the country.
- Problems faced by jute growers in the country and the steps taken by the government to

overcome it.

- Problems of coffee growers in Karnataka due to a sharp slump in the price of coffee in the international market.
- Recent disinvestment in IPCL, Paradeep Phosphate and Maruti Udyog and the reported proposal to disinvest BPCL, HPCL, etc.

Under Rules 191 and 342, 408 notices were received out of which 80 Motions had been admitted. However, no motion was discussed during the Session due to repeated adjournments caused by disruptions and unruly behaviour in the House. An adjournment motion on the massacre in Kasimpur, Jammu on 13 July, 2002 and the failure of the Union Government to combat cross-border terrorism was admitted, discussed and negated. The Adjournment Motion took 7 hours and 18 minutes or 8.19 per cent of the total time. Matters of Urgent Public Importance raised after the Question Hour or during the Zero Hour took 8 hours and 25 minutes or 9.44 per cent of the total time.¹⁷

Time Spent on Different Activities of the House (Winter Session of Lok Sabha)

Items of discussion	Time spent on different Sessions	Result of such discussions
General and Railway budget	4 hours 43 minutes	
Discussing Government Bills	–	17 Bills introduced and 37 got passed, 23 remained pending.
Adjournment Motions	14 hours 24 minutes	One was the drought situations, and the other was on failure of government in curbing communal elements in country.
Question Hour	–	Of 461 starred questions 76 answered orally. Out of 5089 unstarred questions.
Short Duration Discussions Under Rule 193 on Matters of Urgent Public Importance.		
Problems being faced by farmers in the country	6 hours 10 minutes	–
Internal security	4 hours 12 minutes	–
Disinvestment of Public Sector Undertakings	5 hours 7 minutes	–
Political Developments in UP	4 hours 33 minutes	–
Problems faced by sugarcane growers in the country	2 hours 3 minutes	–
Calling Attention Notices	5 hours 12 minutes	–
Zero Hour	15 hours 6 minutes	236 submissions

Notes: Number of actual sittings were for 21 days.
Total Time period 160 hours.

Sources:

1. Business Transacted during 11th Session (XIII Lok Sabha, LS Secretariat, Press Release.
2. Time spent on various kinds of business in Lok Sabha— An Analysis, LS Secretariat, June 2002.

The Rajya Sabha

The business transacted by the Rajya Sabha in 2002 is more or less similar in pattern with the Lok Sabha. The first two sessions were marked with interruptions while the winter session saw volumes of business being transacted.

The Budget Session had 38 sittings spread over 160 hours and saw the introduction of six new Bills. It was during this Session that the House unanimously moved a resolution urging the government intervene effectively in the communal violence in Gujarat

Time Spent on Different Activities of the House (Budget Session of Rajya Sabha)

Items of discussion	Time spent on different Sessions	Result of such discussions
Railway Budget General Budget	8 hours	759 starred and 5519 unstarred questions were asked. Of these 84 Starred questions were answered and 7 statements by ministries laid on the table.
Government Legislative business	46 hours	6 new Bills introduced, 3 withdrawn, 36 passed out of which, 11 were Finance Bills, 2 were Repealing Bills, 3 new Bills and 20 Amending Bills
Workings of the Ministries of Labour External Affairs and Agriculture	12 hours	–
Discussing persistent communal violence in Gujarat.	18 hours	Resolution moved unanimously urging Central Government to intervene effectively under Article 355 of the Constitution to protect the lives and properties of the citizens and also provide effective relief and rehabilitation to the victims of communal violence.
Short Duration Discussions Under Rule 193 on Matters of Urgent Public Importance		
Continuing Violence in Gujarat	15 hours	
Drinking Water crisis in the Country	–	–
Role of Governors in discharging their constitutional responsibilities in the context of UP crisis	–	–
Terrorist Attack in Jammu & Kashmir	–	–
Time lost due to interruptions	50 hours	–

Notes: 38 sittings spread over 160 hours.

Source: Valedictory Remarks, 195th Session, Rajya Sabha

There were 130 Special Mentions on Matters of Public Importance. There were Short Duration Discussions on four subjects, lasting 15 hours. They were:

- Continuing violence in Gujarat and the resultant loss of a large number of lives and property.
- Drinking water crisis in the country.
- Role of governors in discharging their constitutional responsibilities in the formation of governments in the light of events in Uttar Pradesh
- Dastardly attack by terrorists on civilians and army personnel and their family members in Jammu & Kashmir on 14 May, 2002, leading to the death of a large number of persons, including women and children.

Three important matters, among them: (a) the situation in Ayodhya, (b) purchase of coffins at a higher price during the Kargil war and (c) alleged supply of election material to the finance minister in 1999 by the chairman of a company which is under CBI investigation, were raised with the permission of the chair, the discussions lasting over two hours. There was one Calling Attention on the securities scam in cooperative banks and the failure of the central government regulators.¹⁸

The Monsoon Session began on 15 July, 2002 and was scheduled to terminate on 14 August, 2002. However, due to continuous interruptions over the issue of irregularities in the allotment of petrol

18. Valedictory Remarks, 195th Session, Rajya Sabha.

pumps, the House was adjourned sine-die on 12 August. During this time, the House sat for 21 sittings spread over 80 hours (63 hours and 32 minutes excluding recess intervals). The total time lost or wasted on interruptions and disruptions was over 35 hours.

During the Session, government legislative business was transacted for over 14 hours. Five new Bills were introduced and 1 Bill was withdrawn, 12 were passed including the one on Prevention of Money Laundering Bill, 1000. Seven reports of various Parliamentary Committees were presented or laid on the Table of the House during this period.¹⁹

- Steps taken by the government to intervene in the state of Gujarat under Article 355 of the Constitution.
- Situation arising out of the deterioration in the finances of the states and unsustainable debt burden of such states, leading to severe curtailment of development activities.
- Situation in Jammu & Kashmir with special reference to the massacre in Kasim Nagar on 13 July, 2002.

There were 109 Special Mentions on Matters of Public Importance. There was one Calling Attention on the issues arising out of the decision of the VSNL

Time Spent on Different Activities of the House (Monsoon Rajya Sabha)

Items of discussion	Time spent on different Sessions	Result of such discussions
Government Legislative business	14 hours	5 new Bills introduced, 1 withdrawn, 12 passed
Question Hour	27 hours 32 minutes	420 starred questions and 2800 unstarred questions were asked and answered.
Short Duration Discussions Under Rule 193 on Matters of Urgent Public Importance.		
Drought in various parts of the country	20 hours	109 special mention of matters of public importance
Steps taken by government to intervene in Gujarat under Art. 355	–	–
Deterioration of State finances	–	–
Massacre in Karim Nagar of Jammu & Kashmir	–	–
Calling Attention	2 hours	On the decision of the VSNL Board to invest Rs 12 billion in Tata Tele Services
Time lost due to recess intervals	16 hours 28 minutes	–

Notes: 21 sittings spread over 80 hours (63 hours and 32 minutes excluding recess intervals).

Source: Valedictory Remarks, 196th Session, Rajya Sabha.

During the Session 420 Starred questions and 2800 Unstarred questions were admitted and answered. Of these 28 starred questions were orally answered and 2 statements by ministers correcting the answers to questions were made/laid.

There were Short Duration Discussions on four subjects, lasting over 20 hours. They were:

- Drought situation in many parts of the country.

Board to invest Rs 12 billion in Tata Tele Services — lasting about two hours.²⁰

The Winter Session was by far the most productive. The Session lasted 23 days, in the course of which, 35 Bills were passed, including those on electoral reforms, conservation of biodiversity, consumer welfare, development of North East, Welfare of SC and ST and financial sector reforms.

19. Valedictory Remarks, 196th Session, Rajya Sabha.

20. Ibid.

There were five Calling Attention Motions and 130 Special Mentions and Short Duration Discussions on important issues such as the drought in various parts of the country, political developments in Gujarat and Uttar Pradesh, disinvestment of PSUs, mid-year review of the economy and international development concerning West Asia.²¹

There were two important announcements in the Winter Session of Parliament: One, pertaining to the relief package announced by the Prime Minister for farmers reeling under severe drought conditions; two, the assurance given by the finance minister to pensioners, widows and senior citizens, promising a scheme that would protect their incomes from the falling interest rates.

Legislative Business

Parliament carries out its law-making duty year after year to ensure that the laws keep pace with the times. The year 2002 was no exception and a total 86 bills were passed by Parliament during the year 2002 (34 in the Budget Session, ten in the Monsoon Session and 42 in the Winter Session. (See Annexure IX for details)

In the Winter Session, like the earlier two Sessions, Parliamentarians wasted only 3 hours and 15 minutes on account of interruptions. The Session began on 18 November and adjourned sine-die on December 20. During the 23 days of sitting, lasting 160 hours, the House passed 37 government Bills and introduced 17 of them. Since 43 Bills were pending at the end of the Monsoon Session, 23 Bills must be pending by the end of the Winter Session.

Two Adjournment Motions were discussed during the Session—the longest lasting 7 hours and 53 minutes was on the unprecedented drought situation in the country and lack of comprehensive policy initiative on the part of the Union Government to combat the situation. The other Adjournment Motion was on the failure of the government to curb communal elements in the country, especially in Gujarat, from creating communal tension and disharmony among various sections of the Society (6 hours and 31 minutes).²²

The General Budget and the Railway Budget (supplementary demands for grants) together took 4

hours and 43 minutes. Parliamentarians devoted longer hours to discuss under Rule 193, the problems being faced by farmers in the country (6 hours and 10 minutes). The discussion on disinvestment of public sector undertakings took 5 hours and 7 minutes. The other issues that were discussed under Rule 193 were internal security (4 hours and 12 minutes), recent political developments in Uttar Pradesh (4 hours and 33 minutes) and problems being faced by sugarcane growers in the country (2 hours and 3 minutes).

The Zero hour, with 236 submissions took 15 hours and 6 minutes. The Question Hours during the Session saw a total number of 461 Starred questions being admitted. Those answered orally were 76. A total of 5089 Unstarred Questions were admitted during the Session. Seven issues, taking up a total time of 5 hours and 12 minutes came up for discussion under Calling Attention Motion.²³

To understand the significance of the Winter Session, one has to look at the data on the number of hours squandered by MPs in interruptions/adjournments due to disorderly behaviour during the previous years. In the Tenth Lok Sabha for example,²⁴ 279 hours and 25 minutes were thus wasted, out of a total of 2807 hours and 17 minutes of Parliament time, spanning 16 Lok Sabha Sessions, thereby taking the percentage of time wasted to 9.95 per cent. (Annexure VIII).

During the Eleventh Lok Sabha, out of 858 hours

21. Valedictory Remarks, 197th Session, Rajya Sabha.

22. Business transacted during Eleventh Session (XIII Lok Sabha), Press Release, Lok Sabha Secretariat.

23. Ibid.

24. Time spent on various kinds of business in Lok Sabha— an Analysis, Lok Sabha Secretariat, June 2002.

and 58 minutes spent during six LS Sessions, 45 hours and 20 minutes were squandered away by MPs, taking the percentage of time wasted to 5.28 per cent.²⁵ During the Twelfth Lok Sabha, 68 hours and 37 minutes or 10.66 per cent was wasted out 643 hours and 32 minutes of Parliament time last-

ing four Sessions of the 12th Lok Sabha. The percentage however doubled to 22.40 per cent during the first eight Sessions of the Thirteenth Lok Sabha, wherein, out of a total of 1287 hours and six minutes, the MPs wasted 288 hours and 40 minutes. (Annexure I)

The Lok Sabha Secretariat, in a press release said the five-week Session did not see any of the Members entering the Well of the House and neither was the House adjourned for any reason. It also claimed that in the last 30 years, no Winter Session had ever transacted the amount of business that this particular Winter Session has been able to achieve.

Working of Parliament: An Analysis

Question Hour

Questions are instruments of accountability. Questions facilitate an MP to pull up the government of the day for its failures—be it with reference to promises made or governance, or implementation of laws. The Question Hour thus gives the MP an opportunity to take an issue forward or pin down the government. However, if questions are to serve the true purpose for which they are meant, they must be specific and precise. But that requires some basic homework and unfortunately not all MPs are willing to put in that effort. Questions then become monotonous and meaningless and the answers more so. The year 2002 was no different.

Some of the negative aspects one sees during the Question Hour are:

- Repetitive questions borne out of laziness and lack of seriousness,
- asking questions merely for the sake of statistics,
- wasting Parliament time by asking for information which is already available in printed publications and
- not doing adequate homework and thereby allowing the government to get away with shoddy replies.

An MP can informally ask the government or the minister concerned for information, reports, publi-

cations, etc. and get them without much effort. Similarly, the Parliament Library at the disposal of the MP provides an excellent selection of books, periodicals and journals besides all government publications, annual reports, etc. There are helpful librarians ever willing to assist the MP in finding the required information, books and reports. Given these facilities, when an MP asks a question, it should go beyond information that is already available in reports and government publications.

But a perusal of some of the questions show how Parliament time is wasted by questions that should not have been asked at all in the first place. In the Monsoon Session, for example, there were monotonous questions on the National Health Policy, when the policy document is freely available. In almost all Sessions, there would be a few questions on Infant Mortality Rate and Maternal Healthcare—answers to these could easily be found in annual reports. The year 2002 was no exception. Many of these questions elicit lengthy answers from the government. Such questions do not serve any purpose, except of course to help the MP tell his/her constituents that he/she asked so many questions. If one were to look at the kind of meaningless questions that are asked, it seems that statistics rather than public interest has prompted them. Many MPs produce periodical report cards before their

25. Ibid.

constituents and these questions are obviously used to show how 'active' they are in Parliament.

A good question, on the other hand, should serve a useful purpose and elicit from the government, a promise, a commitment or information that is otherwise unavailable. Unfortunately, this is a difficult task for a large percentage of our MPs. The way the questions are drafted is equally important—they should not give the government any escape route. But if one were to look at the questions and their answers, one gets a feeling that in about 75 per cent of them, both the MP asking the question and the minister replying to it have no involvement in the task that they are performing. A routine question, for example, is to draw the attention of the government to a newspaper report and ask whether the government or the minister has seen the report or is aware of such a report and if so, what his response is. In a large number of cases, both the questions and the answers are routine and do not yield much result in terms of information.

There is no computation of the time that the government or the bureaucracy spends in replying to Parliament questions, but if one were to visit various central government ministries when the Parliament

is in Session or just before the Session commences, one sees a flurry of activity centered around answering Parliament questions. Bureaucrats often talk about the sanctity of these questions and answers, but most answers fail to reflect this sentiment.

On the part of the government, if one expects candour and honesty in the replies, one would be disappointed. In fact, there are many number of questions to which the answers would run as follows: (a) yes (b) no (c) does not arise.

There are some MPs who ask good questions but their number, unfortunately, is not very high. But such questions can put the government in a tight spot and elicit a promise or an assurance of action to be taken. In a country where all-India statistics are hard to come by on certain issues, a Parliament question can bring forth a compilation of information from all the states. It is for this reason that journalists, researchers and NGOs look for such answers that give some statistical data. Obviously, given the pace at which the bureaucracy moves, eliciting answers from various states is no mean task. One can often find the government seeking more time to reply to such questions on the ground that the information is still being collected.

Life Cycle of a Question

On 27th July, 2000 the Minister of Petroleum and Natural Gas was asked whether (a) the CBI had revealed a network of racketeer in Madhya Pradesh and Maharashtra taking delivery of subsidised oil from Gujarat and other states. It was further asked whether some companies were raided in these states and whether the oil companies are alleged to have failed to detect such indulgences by their retail outlets. In reply Minister of state in Petroleum and Natural gas gave an assurance that information was being collected and would be laid on the table of the house. On November 23, 2000 when it was asked whether the information has since been collected, the reply was that the CBI had registered a case in Gandhinagar and the investigation was in progress. This was again treated as an assurance and was required to be fulfilled by February 22, 2002. The Ministry then requested the Assurance Committee that in view of the appropriate action being taken by the investigating agency, the assurance may be considered to be dropped and if this request is not acceded to then ministry may be permitted to fulfil the assurance on the completion of investigation. The committee did not accede to the request of the Ministry on the grounds that it's admission that CBI has registered a case and is carrying out an investigation itself reveals that irregularities have taken place. The Committee further argued that Ministry does not have to act before the CBI completes its investigation. This case clearly points out that government's attempt to avoid the reply by saying that case is under CBI investigation and its failure to fulfil the assurance within stipulated time. But what is most deplorable is that MPs had no answer even two years after the question was first asked.

Assurance

There are instances where the government expresses its inability to carry out its assurance and requests the Assurance Committee to 'drop' the assurance. The committee scrutinises the reasons for such a request and takes a decision on whether to accept or reject such a request. The Tenth and the Eleventh Report of the Committee on Government Assurances (2002-03) presented to the Lok Sabha on 4 December and 18 December, 2002 in the Winter Session, gives a glimpse into the work of the Committee and also that of the government. The Report is also an indicator of how good questions can bring about administrative accountability, provided that the Assurance Committee does its job effectively and does not allow the government to get away without fulfilling its assurances.

Despite the amount of time and energy spent on Parliament questions prepared by not one but sometimes several officials of various government departments/ministries, mistakes obviously do creep in, sometimes forcing the minister to issue corrections. In the Rajya Sabha, for example, during the Budget Session (195th Session), 7 statements were issued by various ministers, correcting answers to questions given by them.²⁶ In the Monsoon Session too, there were two statements by ministers correcting answers to questions given in March and May 2002.

There is no computation of the money spent specifically on the Question Hour. But one can make a guesstimate. During the year 2000-01, the expenditure per hour on conducting the proceedings in Parliament was Rs 6,61,768 per hour (2000-01).²⁷

Committee on Government Assurances

Reports of the Committee on Government Assurances are an important indicator of the accountability of the Executive to the Legislature and the Executive does not come out in shining colours. Besides delays in fulfilling the assurances, or only partly fulfilling the assurances, the Executive is also prone to violating parliamentary norms by not seeking the permission of the Assurances Committee for extension of time in fulfilling assurances and even questioning the decision of Parliament on what constitutes an assurance. A perusal of some of the reports of the Committee on Government Assurances brings to the fore the scant respect shown by the Executive to Parliament and parliamentary norms.

During the course of replies to questions or other proceedings of the House, ministers make promises or give assurances or undertakings. These are culled out by the Parliament Secretariat and the concerned ministries are asked to take appropriate steps to fulfil them expeditiously. The ministries are required to do so within three months of making the assurance and in case of any problem in fulfilling it within the stipulated time, move the Committee on Assurances for an extension of time. In exceptional and genuine cases where it is practically impossible to fulfil the assurances, the ministries can move the committee for dropping of the assurances.

The function of the Committees on Assurances (Rajya Sabha and Lok Sabha) is to scrutinise these from time to time and report on (a) the extent to which such assurances have been implemented and (b) when implemented whether such implementation took place within the minimum time necessary for the purpose.

During the Budget, Monsoon and Winter Sessions (195, 196 and 197) of Rajya Sabha, 2002, for example, out of 1251 assurances, only 292 were fully implemented. Three were dropped and 956 were pending.²⁸ (Annexure XV)

26. *Questioning the Question Hour*, National Centre for Advocacy Studies, New Delhi 2001, pp.31.

27. Government Assurances (Rajya Sabha), Session wise summary, as on February 3, 2003, Rajya Sabha Secretariat.

28. Resume of the business transacted by the Rajya Sabha, 195th Session, Rajya Sabha Secretariat, New Delhi.

This is sure to have gone up. Add to this, the cost of maintaining the question branch in Parliament, cost of paper and printing the questions and the answers, the time and thereby money spent in preparing the answers by various government departments and the time, energy and money spent on the requests for dropping the assurances and the Reports of the

Committees on Assurances, etc. the cost of the question hour and its burden on the citizens is enormous. The least that one can expect from Parliamentarians in the given circumstances is to use the opportunity judiciously so that it serves the purpose for which it is meant—to bring in executive accountability through parliamentary supervision.

Our Privileged Representatives

During the year 2002 there were a couple of issues pertaining to the 'privilege' of MPs. The first of these was the case of alleged assault on Devendra Prasad Yadav, a Member of the Lok Sabha, by the police in New Delhi on 9 December, 2002. The Lok Sabha Speaker constituted a special committee to inquire into this incident and the committee submitted its findings to the House on 20 December, 2002. The second case pertained to the downgrading of Jaswant Singh Bishnoi, another Member of the Lok Sabha, from a First Class AC compartment to a Second Class AC compartment on a Delhi-Jodhpur train on 11 August, 2000. The Committee of Privileges of the Lok Sabha examined this issue and submitted its findings to the House on 8 December, 2002.

In the first case having found no merit in the accusation made by the MP, the committee concluded its report with the bland observation that during public demonstrations 'the organisers, police and Government should be careful'.

In the second case the committee took note of the fact that the Railways had already awarded punishment to the railway official for confirming the berths of Mr. Bishnoi and his wife to which the Judge of the Rajasthan High Court had prior claim as per Warrant of Precedence. Further, that the Railways had acted on the advice of the committee and revised the instructions sent out to Railway Zones in regard to allotment of Emergency Quota seats and berths on trains. The Railways informed the committee that the revised instructions stipulated that once the emergency quota allotments were finalised and fed into the computer, 'no manual correction should be resorted to'. The committee did not suggest any further action against anyone else. However, officials of the Indian Railways were repeatedly pulled up by members of the committee, forcing them to apologise for the lapse. As a result the evidence of these officials before the committee is interspersed with regrets and apologies and the report of the committee dealing with the problem faced by Mr. Bishnoi runs in to 115 pages.

Parliamentary Committees

Parliament has a plethora of Committees, which range from committees like the Committee of Estimates, the Committee on Public Accounts which closely scrutinise government's spending and utilisation of funds, to a host of other committees which relate to day-to-day working of Parliament like the General Purposes Committee or the Business Advisory Committee.

Parliament also has 17 departmentally-related

Standing Committees which came into being a decade ago to enable MPs to take a closer look at the demand for grants of every ministry and department in the union government.

The responsibility of managing the affairs of the Committees is shared by the Secretariat's of the two Houses. For example, of the 17 departmentally related Standing Committees, 11 are presided over by Members of Lok Sabha and are therefore manned

by LS Secretariat officials. At last count, the committees under the direct care of the LS totalled 34. There are also two Joint Committees in Parliament, namely, the Joint Committee on Salaries and Allowances of Members of Parliament and the Joint Committee on Offices of Profit.

Apart from the Committees managed by the LS, there are several committees that come under the direct supervision of the Rajya Sabha Secretariat and these include 6 Departmentally Related Standing Committees, which are chaired by

Members of the Upper House. Besides these, there is a House Committee to attend to the housing accommodation needs of MPs, a Committee to Supervise the Provision of computers to MPs, a Library Committee and a Rules Committee. Both the Houses also have separate Committees to deal with day-to-day business and matters relating to the respective chambers like the Business Advisory Committees.

Let's look at the Departmentally-related Standing Committees constituted during 2002 under the

Standing Committee on Urban and Rural Development

Standing Committee on urban and rural development submitted its 37th report on the implementation part 9th of the Constitution pertaining to the establishment of the Panchayati Raj institutions in the country. The report shows how this Constitutional provision has been flouted in most states. The elections were not held every five years in all states. At the same time states did not endow Panchayats with enough authority to enable them to function as institutions of self-government.

Standing Committee on Food, Civil supplies and Public Distribution

The committee, in its 19th report, noted with a great deal of concern the quantum of food subsidy given to Below Poverty line population. A large part of the food subsidy is meant for maintaining buffer stocks. This should be immediately corrected and efforts should be made to maximum food subsidy to the BPL households. In its latest report committee took the ministry to task for not disposing the accumulated stock of food grains. While government has taken some initiative in this direction, lot more needs to be done. Government also criticised the ministry for the amount of inedible food grains in the godowns of food grains.

Of the 22 recommendations/observations made by the committee, the government accepted nine. The committee decided to drop six of the recommendations after considering the replies furnished by government. The committee did not accept the replies furnished by government in respect of four recommendations while final replies from government were awaited in respect of three other recommendations.

Committee on Empowerment of Women

The most important task this committee took was to visit Gujarat in the wake of communal riots in February and march last year. The committee found that there were a large number of cases in which women and children were attacked. It took the state machinery to task for not being able to anticipate the potential dangers of the situation. After visiting the relief camps the committee members found out that police often did not register FIRs in the cases of crimes against women and that where the cases were registered, the pace of investigation was slow. The committee thus suggested that free legal aid to those women who have not been able to register their FIRs is most urgent. While observing the role of media during the riots, the Committee concluded that "media can play a dual role by also acting as a moderator to calm passions."

Standing committee on Labour and Welfare

A committee that examined an issue which concerning a large number of citizens was the Standing Committee on Labour and Welfare. The committee has made some valuable suggestions after examining The Payment of Wages (Amendment) Bill, 2002, which was referred to it after its introduction in the Rajya Sabha.

The committee disagreed with the Bill in regard to raising the wage ceiling in the Payment of Wages Act from Rs 1600 per month to Rs 6500 per month. The government had proposed the revision keeping in mind similar ceiling in other laws, while the trade unions had demanded that the ceiling be abolished altogether or enhanced on the basis of Consumer Price Index. The committee said the central government should be empowered to enhance the wage ceiling periodically on the basis of the Consumer Price Index by issue of notification in the Gazette instead of bringing amendments to the Act at periodic intervals in Parliament.²⁹

Further, in order to protect the interests of persons employed through contractors, the Committee suggested that the Bill should specify that in case of disappearance of contractors or the persons designated by the employer, 'the principal employer shall be responsible for payment of wages'. It also wanted the penalties and fines in the Act to be made more stringent in order to have a deterrent effect on those who violate the laws.³⁰

Joint Parliamentary Committee on the Stock Market Scam

Joint Parliamentary Committee on Stock Market Scam was constituted on April 27, 2001. The committee was constituted after allegations that a major stock market operator had used bank funds and taken huge stock market positions, thus putting bank depositors money at risk. This was followed by two other developments—pay out crisis in the Calcutta Stock exchange because of default of some major brokers and the run on an important co-operative bank, which had extended guarantees to Ketan Parikh.

The report of the committee noted that scam lied not just in fluctuation of stock prices but also manipulations such as the ability of certain stock market operators and brokers to divert bank deposits and public funds (such as those of UTI) for the purpose of speculation in stock market. At the same time, it held executives of Madhavpura Mercantile Bank guilty of flouting all prudential banking norms and the guidelines laid down by the RBI. At the same time the Committee also noted that deficiencies in the working of CSE were not of recent origin but had a past history. SEBI while being aware of this problem did not take a timely corrective measure and thus the committee suggested that SEBI's lapses should also be investigated. The committee also observed that government's inability to implement the recommendations of the earlier committee also encouraged the wrongdoers.

chairmanship of the members of Lok Sabha. There are 17 such Committees with MPs from both Houses as members. On 1 January, 2002, all the eleven Committees headed by Lok Sabha MPs were constituted and during the period when the Budget Session was on, the Committees met to conduct business, the number of meetings ranging from 3 to 23.

However, if one were to look at the average percentage of attendance by members of the Committee, it ranges from 65 (Committees on Technology and Defence) per cent to 36 per cent (Committee on External Affairs). What is even more disconcerting is the fact that the Committees that deal with social sectors and issues that directly affect common

29. *Twenty-Third Report*, Standing Committee on Labour and Welfare, Lok Sabha Secretariat, New Delhi, pp.5.

30. *Ibid*, pp.6.

Code of Conduct for MPs

The Second Report of the Lok Sabha's Committee on Ethics was one of the high points of the year. This committee, headed by former Prime Minister Chandra Shekhar, appears to have finally got down to brass tacks in that it has drawn up a Code of Conduct for MPs and suggested a mechanism to probe and, if necessary, punish members who resort to unethical conduct. Though this code falls short of expectations, the good news is that a Committee of Parliament has finally come up with a set of principles, incorporated the same in its report and drawn the roadmap for enforcing the same. The committee's report was approved by the House on 27 November. All that needs to be done now is to implement it and this will depend on Speaker Manohar Joshi. If he acts promptly and incorporates the committee's suggestions in the Lok Sabha's Rules of Procedure, the Lok Sabha will have taken the first step to redeem itself in the public eye. This will force the Upper House to come up with a matching response. Thereafter this is bound to have a snowballing effect with citizens in different states forcing state assemblies to adopt a Code of Conduct for members, establish ethics committees and institute credible procedures for investigation of complaints against legislators.

Once this happens, the two Houses of Parliament and legislatures in all states will have the wherewithal to enforce ethical and moral standards, and, more importantly, close to 700 million voters in the country will acquire the right to complain against elected representatives who cross the line. This is bound to have a salutary effect on the conduct of MPs and MLAs. The unresolved issue, however, is the codification of privileges. But that is another story.

man/woman have the lowest percentage of attendance by members. The Committee on Food, Civil supplies and Public distribution, for example, recorded an average attendance of 40.2 per cent, while that on Energy, 40.65 per cent. The Committees on Agriculture, Urban and Rural Development and Labour Welfare have done only marginally better by registering an attendance of 45.6 per cent, 48.71 per cent and 48.1 per cent respectively.³¹ (Annexure X)

Poor attendance dogged even the Financial Committees of Parliament such as the Committee on Estimates, Committee on Public Undertakings and Committee on Public Accounts. MPs on these committees did no better. The average attendance on these three committees was 47.77 per cent.³² (Annexure XI)

Here, the maximum attendance of 71.66 and 70.33 and 70 per cent have been recorded in the sittings of the Business Advisory Committee, Committee on

Papers Laid on the Table and the House Committee. Ironically, even the Committee on Absence of Members from the sittings of the House, has an absenteeism of 40 per cent. The average attendance of this committee was 60 per cent. The attendance on other committees ranged from 56 per cent to 33 per cent.³³ (Annexure XII)

The attendance in the sittings of the eleven Standing Committees was no better during the period of the Monsoon Session. The Committee on Energy registered an average attendance of 41 per cent. The Committee on Food, Civil Supplies and Public Distribution, which presented one report, had a poor attendance of 35.6 per cent. The Committee on Urban and Rural Development had an attendance rate of 42 per cent, while that on Railways registered the poorest attendance 27.8 per cent.³⁴ (See Annexure XIII)

Considering that the Monsoon Session saw tumultuous scenes and work in both Houses was

31. Standing Committees, Resume of work done by Lok Sabha, 13th Lok Sabha, 9th Session, Lok Sabha Secretariat.

32. Financial Committees, Resume of work done by Lok Sabha, 13th Lok Sabha, 9th Session, Lok Sabha Secretariat.

33. Committees other than Financial and Standing Committees, Resume of work done by Lok Sabha during the 9th Session, Lok Sabha Secretariat.

34. Standing Committees, Resume of work done by Lok Sabha, 13th Lok Sabha, 10th Session, Lok Sabha Secretariat.

constantly disrupted by interruptions by Members over the Petrol Pump Dealership Scam, one would have expected the members to take more interest in the sub-committee constituted to look into complaints on non-observance of guidelines laid down by the Government in allotting retail outlets and LPG distributorships by Dealer Section Boards. However, the attendance at the meeting of this sub-committee was a mere 50 per cent. During this period, only one meeting of the committee was held, its duration being 30 minutes. (Annexure XIII)

The absence of members from the sittings of the House might bother the citizens in general and

MPs' constituents in particular, but it is not a matter of such great importance to Members of Parliament because ironically, the Committee on Absence of Members from the sittings of the House, which had one sitting during the period of the Monsoon Session, recorded a dismal 33.3 per cent attendance or 66.7 per cent absenteeism! The three meetings of the Committee on the Welfare of Scheduled Castes and Tribes registered an average attendance of 55.56 per cent. Committee on Subordinate Legislation recorded an attendance of approximately 46 per cent. Even the Joint Committee on Salaries and Allowances of Members of Parliament did not attract more than 40 per cent attendance!³⁵ (Annexure XIV)

Parliament's Commitment to Social Development

How committed are Parliamentarians to social issues and social developments? As a barometer/ representative sample, Special Mentions: or Matters of Urgent Public Importance that were raised in the Rajya Sabha with the permission of the Chair were looked into. The Lok Sabha equivalent of 'Special Mention' is 'Matters raised under Rule 377'. Here too, a large number of issues are raised under Rule 377, but, the LS Secretariat does not put out the details, so it is difficult to analyse them subject-wise. Instead, two other instruments used by Parliamentarians in Lok Sabha to discuss issues of public importance are examined is the Short Duration Discussion under Rule 193 and the other, Calling Attention Motion.

Special mention

During the Budget Session of Rajya Sabha 129 Matters of Public Importance were raised, the total time spent on them being 5 hours and 7 minutes.³⁶

Usually, Special Mentions get anywhere between one minute to three minutes each. The issues raised during this Session covered a wide range:

- Nuisance of car parking in Delhi.
- Reduction in import duty on Titanium Dioxide to the need for telecasting live the world cup

football event through DD Sports Channel.

- Crash of MIG planes and explosives shipped from South Africa to Kandla. Now, out of these 129 matters raised, 28 pertained to social issues and even here over 50 per cent were constituency/state-specific problems, while the rest pertained to the entire nation. Some of the issues mentioned were:
 - Damages caused by heavy rains in Tamil Nadu.
 - Plight of fishermen in TN on the coast of Bay of Bengal.
 - Trafficking in children, implementation of the Disability Act.
 - Exploitation of minors.
 - Serious drinking water problems in Karnataka.
 - Impact of AIDS on weaker sections in India.
 - Drought in the country.
 - Old age homes.
 - Plight of the disabled.
 - Need for registration of clinical labs, nursing home and medical centres in the country.

Similarly, during the Monsoon Session of the Rajya Sabha, 109 matters came up for Special Mentions—

35. Committees other than Financial and Standing Committees, Resume of work done by Lok Sabha, 13th Lok Sabha, 10th Session, Lok Sabha Secretariat.

36. Resume of Business Transacted by the Rajya Sabha, 195th Session, Rajya Sabha Secretariat.

Members of Parliament Local Area Development Scheme (MPLADS)

A perusal of the Tenth Report of the Committee on MPLADS 2002-2003, presented to the Lok Sabha Speaker on 12 August, 2002, not only shows some MPs choosing projects that violate the guidelines, but the MPLADS Committee even approving some of them, many times overruling the objections of the ministry of Statistics and Programme Implementation. The guidelines on MPLADS stipulate that MPs should suggest individual works costing not more than Rs 25 lakh per work. Proposals involving costs substantially higher than Rs 25 lakh have been considered by the MPLADS Committee on a case-to-case basis. Similarly, projects that may not fit in with the guidelines have also been brought before the Committee for consideration.

However over the years, there has been improvement in the percentage of utilisation of funds released under the MPLADS scheme, but not to the extent desired. If one were to look at the statistics given by the Department of Statistics and Programme Implementation pertaining to utilisation of funds by Rajya Sabha members, one finds that in Jharkhand, for example, the utilisation is only 47.9 per cent of the funds released. Similarly, Uttaranchal, Kerala and Orissa record 54.4 per cent, 54.8 per cent and 55.2 per cent respectively. In Goa too, the utilisation percentage is only 57.8 per cent. In respect of Rajya Sabha members, the average percentage of utilisation for all the states and union territories is 72.3 per cent. (See Annexure XVIII for state-wise tables)

Since 1993 when the scheme was first announced, the government of India has released Rs 96.93 billion against the amount sanctioned, totalling Rs 102.74 billion, thereby taking the percentage of sanction over release to 94.3 per cent. Similarly, the expenditure incurred so far under the scheme is Rs 78.61 billion and the percentage of utilisation over release is 76.5. This is the All-India figure and includes LS and RS MPs from all the States and Union Territories.

the total time taken by them adding up to 3 hours and 56 minutes.³⁷ Out of these, 24 pertained to social issues such as electrification of villages, social security for the dependent elderly, the need to take steps to find a permanent solution to water and power crisis, cancer treatment to the elderly, water problem in India, flood situation in Bihar, steps to prevent AIDS, river water pollution in the country, scarcity of snakebite serum, suicide by onion growers of Bihar, suicide by cotton growers in Andhra Pradesh, molestation of women in Suddan village of district Hazaribagh in Jharkhand, child development and the need to enact a central legislation for the welfare of agricultural workers in the country. These were among the 109 questions that ranged from allocation of natural gas for ceramic and glass industry in Rajasthan and the urgent need to develop effective anti-missile defence system to shortage of NCERT books, revision of royalty on minerals and transfer of money meant for jawans welfare to private school.

Similarly, in the Winter Session of the Rajya Sabha, 138 matters came up for Special Mentions. Out of these, 34 pertained to the social sector, including issues such as malnourishment among children in the country, use of crude methods for laproscopy by private health centres, pathetic conditions of government-aided private hospitals, problem of fluoride in drinking water in Maharashtra, severe water problem in Andhra Pradesh, special schemes for educated unemployed youths in the country, implementation of SC/ST reservation policy by universities, malnourishment among children in the country, prevention of atrocities against women and resurgence of virulent malaria in tribal districts of Orissa.

Surprisingly, among the 34 issues raised, a relatively large number—9 to be specific—pertained to environmental issues such as the need to protect biodiversity and ecology of the long coastline of Orissa, threat posed to dolphins in Chilka lake,

37. Resume of Business Transacted by the Rajya Sabha, 196th Session, Rajya Sabha Secretariat.

environmental and health hazard posed by plastic bags, climate policy, immediate need to save the national bird from extinction.³⁸

Matters under Rule 377

In the Lok Sabha Special Mentions' are categorised as 'Matters under Rule 377'. As mentioned earlier, in the absence of details, it is not possible to analyse 'Matters raised under Rule 377'. Therefore one must look at Short Duration Discussion under Rule 193 and Calling Attention Motion.

Twelve issues came up under 'Short Duration Discussion' during the Budget, Monsoon and Winter Sessions (four issues in each Session) of Lok Sabha. Of this, only three pertained to social issues; (a) problems being faced by farmers in the country, (b) relief and rehabilitation of riot victims in Gujarat and (c) floods and droughts in various parts of the country. In other words, 25 per cent of the subject discussed pertained to social issues.

Under Calling Attention, a total of 15 different sub-

jects were discussed during the three Sessions of Lok Sabha in 2002. (Winter: 7; Monsoon and Budget: 4 each). Out of these, only two issues pertained to the social sector: while one pertained to non-supply of medicines in CGHS dispensaries, the other was on the non-availability of basic amenities in tribal areas due to Forest (Conservation) Act of 1980. So here, only 12 per cent of the subjects that came up for discussion under Calling Attention was on social sector.

However, another issue of concern should be brought up here pertaining to 'Matters raised under Rule 377'—the decreasing number of answers going from the Executive to the Legislature on issues raised under Rule 377. Given the short time that is available under this Rule, members briefly raise issues and the concerned ministers are expected to reply to them in writing subsequently and endorse a copy to the LS Secretariat. However, an analysis of the work in this regard shows that while the number of matters raised under Rule 377 is increasing, the replies given by the ministers to these matters is on

Income of Parliamentarians

MP's are paid salaries and allowances along with travel and other privileges so that they may perform their responsibilities as lawmakers without fear of favour. This is what an MP makes in terms of salaries and allowances.

Salary	Rs 12,000 per month
Allowance for attending Parliament	Rs 400 per day
Secretarial allowance	Rs 6,000 per month
Stationary and postage	Rs 3,500 per month

Perks: Each MP gets 50,000 unit of free electricity every year. He/she is entitled to 3 telephones, one in the office, one at home and one in the constituency with 50,000 free calls per year. This means an MP can make about 135 calls of 3-minute duration everyday free of cost. One of these lines can be used for connecting to the Internet. But MPs have to pay for these facilities if they use them beyond the free limit. Unutilised free calls can be transferred to their mobile phones. An MP can travel free 32 times by air anywhere within India along with a companion. He/she can travel free another 8 times from their constituency to Delhi to attend Parliament sessions. They are given free passes to travel by trains. Besides this an MP gets 80 vouchers four times a year to make out of turn LPG connections. If an MP manages to complete five years in Parliament he/she is entitled to pension for life.

Source: The Right to Know—A Voter's Guide, CHRI, VANI, 2003.

38. Resume of Business Transacted by the Rajya Sabha, 197th Session, Rajya Sabha Secretariat.

the decline. This shows a lack of accountability on the part of government.

During the First Session of the 13th Lok Sabha, only 49 matters were raised under 377 and the number of replies sent by the concerned ministers stood at 43. In other words, 89.58 per cent of the issues were replied to. Subsequently, in the Second Session, the number of matters raised went up to 174, while the replies went down to 79.31 per cent (138 replies). From the Third to the Sixth Session, the percentage of replies hovered between 77.91 to 71.11 per cent. It came down to 69.68 to 66.22 per cent during the Seventh and the Eighth Sessions. During the Ninth Session or the Budget Session of 2002, the number of matters raised under Rule 377 went up to an all-time high of 314. However, the number of replies sent was only 200, thereby bringing down the percentage of replies sent by ministers to MPs to 63.69 per cent. But the worst

was yet to come. During the Monsoon Session, 123 matters were raised out of which a mere 43 were replied to, showing a slide in the percentage to a shocking 34.96. (Annexure XVI)

Concluding Remarks

Being, the cornerstone of the largest democracy, the parliament in its Golden Jubilee did see some business being transacted conscientiously in the Winter Session. In the Lok Sabha, the Speaker has stepped up interaction with leaders of parties in the Lok Sabha and has been trying to improve discipline and decorum in the House. The two presiding officers appear to have achieved some measure of success in their endeavours, as is obvious from the performance report of the two Houses during the Winter Session of Parliament. However, insofar as attendance record of the Parliamentarians, both within the House and in the Committees are concerned, there is much left to be desired.



Part II

Rhetoric and Reality – Policy Watch

Fifty years into the life of our Republic we find that justice—social, economic and political—remains an unrealised dream for millions of our fellow citizens. The benefits of our economic growth are yet to reach them. We have one of the world's largest reservoirs of technical personnel, but also the world's largest number of illiterates, the world's largest middle class, but also the largest number of people below the poverty line, and the largest number of children suffering from malnutrition. Our giant factories rise out of squalor, our satellites shoot up from the midst of the hovels of the poor. Not surprisingly, there is sullen resentment among the masses against their condition erupting often in violent forms in several parts of the country. Tragically, the growth in our economy has not been uniform. It has been accompanied by great regional and social inequalities. Many a social upheaval can be traced to the neglect of the lowest of society, whose discontent moves towards the path of violence.

—K R Narayanan

Rhetoric and Reality – Policy Watch

This part of the report focuses on the policy prerogatives of the Union Government in the year 2002 in the larger context of the last decade of economic liberalisation. The report is essentially based on three major socio-economic themes viz. health, education and poverty alleviation. This part critically looks at the policy trends in the last 10 years in these three sectors. The consequences of the liberalisation process in the increasing non-availability and lack of affordability of these services, especially to the marginalised sections has been highlighted particularly in the context of the new policy initiatives in 2002. Efforts have also been made to contextualise the discourse within the international developments that have a bearing on the themes discussed. There has also been a thorough analysis of the relevant policy documents that have evolved in these areas.

Introduction

The fact that substantial sections of Indian population suffer from serious deprivations vis-à-vis a set of commonly acknowledged basic needs, such as adequate food, shelter, clothing, basic health-care, primary education, clean drinking water and basic sanitation, is well known.

Indeed, the major shortcoming of the State-led economic transformation in India after independence is not the lack of economic growth or industrialisation (as is often portrayed in some quarters), on the contrary, in these respects Indian performance has been at least respectable, but it is in the realm of policies and processes that could have facilitated the fulfilment of the basic rights and needs. Moreover, there is some concern that with reference to some of these basic needs the prospects may have worsened relatively during what is commonly described as the period of economic reforms (i.e., the period since July 1991 onwards).

This report attempts to review the current policy commitments of government with respect to health, education and poverty alleviation, mainly with reference to 2002, although obviously locating these in the context of the framework of economic reforms unfolding for well over a decade now. For

reasons of information availability, it is largely the central government's policies which form the basis of discussions. Core features of the relevant policy pronouncements and their implications are outlined, and to the extent possible, the facts and figures are looked at. As is well-known often there are significant time lags between a policy pronouncement and its implementation, and such lags are even larger when it comes to the data availability relating to implementation and its outcomes. Thus, at this point, tracking down what happened in the year 2002 due to the relevant policies can only be a quick assessment keeping in mind the limitations mentioned in the foregoing, and a more substantive analysis can be undertaken only at a later date. It may also be noted here that the important concern of this paper is to explore specific connections between the relevant policies and the possible consequences for the relatively marginalised social and economic groups.

It may be in order here to begin with a discussion of the salient features of the avowedly stated commitments of the state to the fulfilment of these basic needs. The public provisioning of these basic needs may be considered inalienable human rights guaranteed to all citizens by our constitution.

Health Care Scenario: A Background

Under the Constitution of India, in terms of distribution of sectoral responsibilities in the federal set up, health is a state subject. However, a number of items related to health are listed in the Concurrent list, and thus the Central Government has had enough scope to influence the context and the prospects in the health sector through its policies, budgetary allocation etc.

By any reckoning the healthcare facilities for an overwhelming majority of people in India are poor, both quantitatively and qualitatively. As per the most recent available estimates, urban areas have only 4.48 hospitals, 6.16 dispensaries and 308 beds per one hundred thousand of urban population. For the rural areas the situation is much worse, with 0.77 hospitals, 1.37 dispensaries, 3.2 Public Health Centres (PHCs) and just 44 beds per one hundred thousand of rural population.¹ For the country as a whole, number of beds per one hundred thousand of population, which had increased from 32 in 1951 to 83 in 1982, was only 93 in 1998. Similarly the number of doctors per one hundred thousand of population increased from 17 in 1951 to 47 in 1991, but stood at 52 in 1998. Thus, not only has the progress of the country in the health sector in the 55 years after independence been grossly inadequate, it may well have slowed down in many respects in the recent years. Numerous indicators can be cited,

apart from those mentioned above, to drive home this point.

Also, the curative services are primarily located in urban areas whereas the rural institutions mainly provide preventive and promotive services. The curative care facilities are almost nonexistent in rural areas, resulting in a massive proliferation of quacks in many parts of the country. It is on account of both the very poor spread and lamentable quality of preventive as well as curative healthcare system that the morbidity and mortality levels are still at unacceptably high levels in the country. Communicable diseases like Malaria and TB continue to haunt substantial sections of population. Even common waterborne diseases like gastroenteritis and cholera are still contributing to the high levels of morbidity.

Low public expenditure and highly privatised health care

One of the main reasons underlying the poor state of healthcare facilities in India happens to be the very low levels of public expenditure in health sector, which happens to be among the lowest in the world as may be seen from Annexure XVII. During the decade of the 1990s, it became even worse as the public investment on health as a percentage of Gross Domestic Product (GDP) declined from 1.3 in 1990 to 0.6 per cent in 2002.

Medicine and Public Health in 2003-04 Budget

1. The per capita real budgetary allocations for medicine and public health, declined for both revenue and capital account under plan and non-plan heads.
2. The per capita real capital allocation for medicine and public health is too small and in fact has negative expenditure in case of non-plan allocation.
3. The Budget 2003-04 encourages increasing privatisation of the health care sector. The stated objective of making India a global health destination, promotion of health tourism seems to be the main concern of the budgetary provision on health.
4. The proposal for community based universal health insurance scheme to be designed by LIC and GIC is ridiculous as only a very small chunk of the economically deprived sections of our population will be able to spend thousands of rupees on healthcare at private hospitals. So, the people who benefit most out of it will be those who can spend such amount and get it reimbursed later.

Source: The Marginalised Matter, CBA, 2003.

1. Ravi Duggal (2002); *Right to Health* (Mimeo), CEHAT, Mumbai.

Currently the aggregate annual expenditure on health is 5.2 per cent of GDP. Out of this, about 17 per cent of aggregate spending is coming from the state, the rest being out-of-pocket expenditure borne by the citizens directly. While the budgetary allocation on health sector by the Central Government over the last decade has been stagnant at 1.3 per cent of the total Central Budget, in the states it has declined from 7 per cent to 5.5 per cent.² The information in Annexure XVII show that public expenditure on health in India is one of the lowest in the world.

Further, it is ironic that in a context of widespread deprivations vis-à-vis the most basic needs, the system of medical care in the country is one of the most privatised systems anywhere in the world (See Annexure XX). In 1997, an estimated 68 per cent of the hospitals, 56 per cent of dispensaries, 37 per cent of beds and 75 per cent of the allopathic doctors were in the private sector.³ The major squeeze on the fiscal resources of almost all the state governments in the last decade has meant that public investment in the health sector, instead of rising, has been stagnant at best in most cases. Health being primarily a state subject as per the Constitution, the contribution of Central Government to the overall public health funding has been limited. Moreover, the successive governments at the Centre have unfortunately shown an accelerated tendency of withdrawing from their responsibilities towards the so-called social sectors.

In this regard we may also note that in any case, in terms of resource allocations, almost throughout the post-independence period, the governments at the centre treated the Social Sectors—health, education, housing, and water and sanitation—as being inferior to the Economic Sectors. What may have worsened the scenario since the beginning of 1990s is a fundamental shift in the Central Government's approach towards the social sectors, the crux being that giving a greater role and all kinds of concessions to private players in the social sectors would lead to an adequate response from them that would go a long way towards filling up the existing gaps in these sectors.

An obvious consequence of such a shift in approach has been that a process of privatisation and deregulation of the health sector, which became evident in the 1980s, got accelerated significantly during the 1990s.

In the 1990s, a number of corporate hospitals sprung up on land allotted to them by the Central and state government in prime urban locations, in exchange for their promise to provide a reasonable proportion of their services free to the poor. However, there is increasing evidence of non-fulfilment of such promises by major private hospitals.⁴ Yet such policies are being pursued vigorously. The 1990s also saw the privatisation of public health institutions and specific involvement of private providers in the public health system. Such developments have contributed to the increases in health costs clearly evident in the mid-1990's NSS Survey.⁵ A major culprit in pushing up costs has been the systematic deregulation of the pricing of drugs which gathered momentum in the recent years. At the time of the introduction of Drug Price Control Order, in 1970, all drugs were kept under price control. In 1979, only 347 of the drugs were kept under price control. This number was almost halved to 163 by 1987, and was subsequently brought down to 76 in 1995. Now, the Pharmaceutical Policy of 2002 has reduced it further to 35 drugs.

This matter of rising drug prices is obviously worrisome as a very large part of our population lacks the commensurate purchasing power. Also, a handful of states, accounting for well over half of the country's population, are performing very poorly in terms of the standard indicators, as may be seen from Annexure XXI.

The aforementioned figures bring out the wide intra-country differences at the state level; as it happens, even within states, there exist wide disparities. Thus, as the Ministry of Health and Family Welfare puts it: 'national averages of health indices hide wide disparities in public health facilities and health standards in different parts of the country.

2. Draft National Health Policy, 2001.

3. Ravi Duggal (2002); *Right to Health* (Mimeo), CEHAT, Mumbai.

4. R Baru (2000); 'Privatisation and Corporatisation', *Seminar*, May.

5. G Sen, A Iyer and A George (2002); 'Structural Reforms and Health Equity—A Comparison of NSS Surveys: 1986-87 and 1995-96', *Economic and Political Weekly*, 6 April.

Box No. 1 The Impact of Liberalisation on Drug Prices

In 1995, the amendment of the Drug Price Control Order of 1987 (which had kept 163 drugs under price control) deregulated the drugs market leaving only 76 drugs under price control mechanism. An analysis of its impact by the Delhi Science Forum (DSF) showed that out of a set of 28 essential drugs (8 under price control and 20 outside it)—whose price movement was studied—‘prices of 6 of the 8 controlled drugs decreased; on the other hand, the prices of the 20 drugs outside DPCO mechanism showed an increase in excess of 10 per cent and in some cases in excess of 20 per cent.’ ‘The DSF also analysed the increase in prices of 50 top-selling drugs between February 1996 and October 1998. It showed that the average increase in case of brands under price control was 0.1 per cent, whereas that in the case of brands outside price control was 15 per cent. It was also found that the price-rise was not a one-time increase owing to an escalation in raw material costs but was indicative of a trend of a continual increase in the prices of decontrolled drugs.’⁶

Given a situation in which national averages in respect of most indices are themselves at unacceptably low levels, the wide inter-state disparities imply that, for vulnerable sections of society in several states, access to public health services is nominal and health standards are grossly inadequate.⁷

The fiscal health of most state governments has taken quite a beating in recent years, the low buoyancy of central transfers and the spillover of the central pay revisions being important culprits in this regard. Consequently the spending ability of many of the states has been significantly constrained. Since it is very difficult for the states to cut down their fixed expenditures (like interest payment, payment of salaries, etc.), such a situation might have forced the states to reduce their variable expenses which include developmental expenditures like that on the health sector. Under the circumstances, the Central Government ought to have done more, particularly to help the low-performing states. However, a look at the Central Government’s budgetary allocations under health sector, during 1992-93 to 1999-2000 shows that it rose during this period for the relatively better performing states such as Andhra Pradesh, Gujarat,

Karnataka, West Bengal and Delhi, whereas those already lagging behind, viz. Bihar, Madhya Pradesh and Rajasthan were neglected in this respect, (Annexure XXII and XXIII) thus accentuating inter-state differences.

Given the narrow reach and poor quality of the public health system in the country, the most vulnerable socio-economic groups have benefited the least from the public health system. There is indication of such an inequality (see Annexure XXI and XXIV) as reflected through some of the major indicators of the health status among different socio-economic groups in the country.

It is common knowledge, as illustrated by Annexure XXV, that the private healthcare system is many times more expensive compared to its public counterpart and hence a shrinking of the latter not only pushes up the per unit cost but is also socially very regressive.

The accelerated phase of privatisation and deregulation of the health sector in the recent years has resulted in a situation where 83 per cent of the aggregate expenditure on health in our country is

Box 2: Public Expenditure on Health in India is one of the Lowest in the World

Public expenditure on health in India is one of the lowest in the world. Currently, public expenditure on health as a share of the aggregate annual public expenditure on health is 96.9 per cent in UK, 44.1 per cent in USA, 45.4 per cent in Sri Lanka, and 24.9 per cent in China, but for India it is a meagre 17.3 per cent.⁸

6. R Ramachandran (2002); ‘Unhealthy Policy’, *Frontline*, 15 March.

7. Draft National Health Policy, 2001.

8. *Ibid.*

private spending. It is worth recalling here that the public expenditure on health, as a percentage of total expenditure, in India is among the lowest in the world (see Box 2). In such a scenario it is inevitable that the socially and economically

vulnerable sections would have found it increasingly difficult even to meet the minimal health needs and a reasonable guess would suggest that the sum total of such sections may come close to half of the country's population.

National Health Policy 2002

In 1983, the government for the first time adopted a National Health Policy (prior to that the actions of the Government in the health sector were guided by the Five Year Plans and recommendations of various committees), and its major recommendation was: *universal, comprehensive primary healthcare services which are relevant to the actual needs and priorities of the community at a cost which people can afford*. Then after a period of eighteen years, the Draft National Health Policy 2001 was announced towards the end of 2001 and was adopted by the Central Government in the year 2002.

This new National Health Policy (NHP) candidly acknowledges that India's public healthcare system is grossly short of defined requirements, functioning is far from satisfactory, that morbidity and mortality due to diseases that are curable continues to be unacceptably high, and resource allocations are generally insufficient. However, the 1983 NHP's goal 'of providing universal, comprehensive primary healthcare services' does not even find a mention in this new policy document. The new NHP is riddled with confusions and contradictions as it only proposes numerous impressive principles and goals but does nothing to ensure that these are realised on the ground. On the other hand, it can also be argued that this new NHP is an attempt towards legitimising the ongoing privatisation of the healthcare system of the country.

The stated objective of the new NHP is to achieve an acceptable standard of good health amongst the general population of the country. NHP 2002 is quite explicit in its acknowledgement of the poor state of affairs in the health sector; it also recognises globalisation as a concern with a critical view of TRIPS and its impacts, envisages regulation of the private healthcare sector, and proposes to increase the expenditure on primary healthcare. Also, the new

policy recommends an increase in public health expenditure from the present below one per cent of GDP to two per cent of GDP by 2010. Moreover, the policy projects that public expenditure on health by 2010 will be 33 per cent of total health expenditure—up from the present 17 per cent. However, the mechanisms of how these eminently desirable objectives are to be achieved are not spelt out. Further, there is no analysis of why the goals of NHP-1983 remain unfulfilled, and there is no attempt to explore the linkages between what is happening to some of the major determinants of health—like food, water, and sanitation, and the important indicators of health status in the emerging scenario. Above all, the NHP 2002 remains naive as to what can be done to ensure that the commercial vested interest in the private healthcare sector do not succeed in overshadowing peoples' needs and patients' rights.

Although a new Drug Policy (Pharmaceutical Policy, 2002) was adopted by the same government in the same year as this NHP-2002, it is more or less silent about the impact of this policy on the health sector and does not discuss the consequences of further deregulation of the pharmaceutical sector which it advocates. The new policy has ignored the pressing needs of primary healthcare, and shows a strong bias towards urban specialist-based healthcare. It is true that this policy recommends an increase in public expenditure on health from the present level of less than one per cent of GDP to two per cent of GDP by 2010. But the quantum of increase suggested is grossly inadequate, keeping in mind the huge gaps in this sector, and it is well below five per cent of GDP recommended by the World Health Organization long back. Although the policy is critical of the states for not increasing their investment on health, it does not address the causes behind their inability to do so. We may also note the valid concern expressed by NHP-2002 regarding

resource use inefficiencies of various kinds in the running of the programmes sponsored by Central Government, e.g., the wastage on account of vertical disease control programmes, (as the 'vertical' implementation structure for the major disease control programmes requires independent manpower for each disease programme which makes these programmes extremely expensive and difficult to sustain), but the document does not have concrete and worthwhile policy suggestions to improve the situation.

The new NHP proposes to strengthen the provision of user fees in public hospitals, with the qualification that it will target those who can pay. In the 1980s, a few states like Rajasthan and West Bengal had introduced charges for diagnostic facilities and other services. In the 1990s, several other states followed suit. However, a recent study of user fees in Gujarat, Madhya Pradesh, Orissa, Rajasthan and West Bengal shows that they do not contribute more than two per cent to the hospital budgets.⁹ On the other hand, there is a mounting body of evidence which shows that user fees can be highly regressive. Identification of those 'who can pay' is an exceedingly difficult task and often a large part of

the vulnerable sections may get left out of the count of those who cannot pay. Andhra Pradesh's experiment with white cards is an example of this failure,¹⁰ and there is a genuine fear that the further strengthening of user fees will inevitably result in driving out substantial sections of the poor from the public healthcare system in India.

Another notable feature of the new NHP is that it plans to encourage the use of India's health facilities, particularly in the private sector, to attract patients from other countries. It also suggests that such incomes can be termed 'deemed exports' and should be exempt from taxes. The concern has been raised by several observers that such a policy would strengthen a climate subservient to the interests of the rich and powerful in the global health market and create islands of brain and resource drain within the country. Finally, the NHP-2002 proposal regarding privatisation of secondary and tertiary level care ignores the simple fact that 45 per cent of the poorest of the country continue to depend on the public sector hospitals for critical indoor care (Qadeer, 2002), and such a proposal is bound to push the unit cost of such healthcare by many times.

Union Budget 2002-03

One of the very few positive prescriptions of the NHP-2002 was its recommendation of a significant increase in the public investment on health. But this too was ignored by the Union Budget for 2002-03. The NHP 2002 had stated that there has to be 'injection of substantial resources into the health sector from the Central Government Budget' due to the growing constraints on states' resources and the consequent shrinkage of their allocations to the health sector. The contribution of the Central Government to the total public health expenditure is just 15 per cent at the present. The NHP-2002 proposes that this should be increased at least to the level of 25 per cent of total public health spending by 2010. However, in the budget proposals for

2002-03, the total allocation for health (both plan and non-plan) was only marginally higher at Rs 24.27 billion compared to the allocation in the 2001-02 budget, which was Rs 23.54 billion.

In terms of specific initiatives the NHP-2002 identified availability of medicines at the primary care level as being crucial in the relatively better utilisation of public health centres in the southern states. The policy in fact envisaged the 'kick starting of the revival of the primary healthcare system by providing some essential drugs under Central Government funding through the decentralised system.' But there was no budgetary allocation for this purpose for the year 2002-03. As far as disease control

9. G Sen, A Iyer and A George (2002); 'Structural Reforms and Health Equity—A Comparison of NSS Surveys: 1986-87 and 1995-96', *Economic and Political Weekly*, April 6.

10. Imrana Qadeer (2002); 'Debt Payment and Devaluing Elements of Public Health', *Economic and Political Weekly*, 5 January.

programmes are concerned, many of the budget proposals seemed arbitrary and on the whole there was lack of a coherent perspective. For instance, proposed budgetary allocations in 2002-03 are higher than those of the previous year for National Anti-Malaria Programme, Kalazar Control Programme and Leprosy Control Programme whereas they are lower than those of the previous year for TB Control Programme, National Filaria Control Programme, and Trachoma and Blindness Control Programme; the rationale for reduced allocations for these programmes is not quite clear.

Similarly, a welcome feature of the budget proposals 2002-03 is the higher allocation on the National Mental Health Programme (at Rs 270 million) compared to that of the previous budget (Rs 44.8 million). However, it is difficult to comprehend why the allocation on 'assistance towards expenditure on hospitalisation of the poor' (at Rs 28 million) is lower than that of the previous budget (Rs 42 million).

The Finance Minister, during his presentation of the budget for 2002-03 rightly acknowledged that

'access to good and responsive healthcare is still a distant dream for the majority of the rural population.' But strengthening the public healthcare system and expanding curative health services in the rural areas, which is undoubtedly the best solution of this problem, did not find any firm footing in the budget. The proposed insurance scheme by him, called 'Janraksha', for providing health insurance in the rural areas through the public sector insurance companies is also questionable. Under this scheme, with a payment of Re one per day as insurance premium, a person will be entitled to indoor treatment up to Rs 30,000 per year, and out patient treatment up to Rs 2,000 per year, at designated hospitals and clinics which, apart from civil hospitals and medical colleges, include private trust hospitals and other NGO run institutions. Given the resource-starved scenario at the public hospitals, it may well mean that the government will be subsidising health services provided by some private health institutions. It is obvious that this subsidy would have been better spent if directed towards the strengthening of the public healthcare system, especially in the rural areas.

Pharmaceutical Policy, 2002

The Pharmaceutical Policy, 2002, is the new drug policy adopted by the Central Government, which has been criticised strongly for being one-sided, echoing mostly the interests of the business class at the cost of neglecting the health needs of the poor masses of the country. The Drug Price Control Order (DPCO) mechanism was put in place in 1970 with all drugs being kept under price control. Subsequently, with the successive Drug Policies, the number of drugs under price control has been progressively reduced from 347 to 35 in the present; these 35 drugs and their formulations constitute only about 22 per cent of the total market.¹¹ It must be mentioned here that there are as many as 279 drugs listed in the National Essential Drug List (1996) of the Ministry of Health and Family Welfare. Thus, it seems obvious that the commercial interests of the pharmaceutical companies have been given overriding importance in the

Pharmaceutical Policy, 2002, with complete disregard to its consequences for the poor people of the country.

The standard argument advanced for deregulating drug prices is that market mechanism and competition will help check and stabilise drug prices. Such a dubious argument seems to be originating from the failure of the government to evolve an effective mechanism to monitor the pharmaceutical industry's adherence to the DPCO, and, more important, the process of liberalisation being pursued by the government. As has often been argued, the pharmaceutical sector is peculiar in the sense that it is a seller's market; the consumer, the public, has no choice in the matter because the interface between the product and the patient is through the doctor for whom the issues of price and affordability are secondary or the chemist who has no

11. R Ramachandran (2002); 'Unhealthy Policy', *Frontline*, 15 March.

interest in selling cheaper drugs.¹² The deregulation of the drugs market in 1995 was soon followed by prices of drugs going up (See Box No.1), and similar consequences may be expected as a result of the Pharmaceutical Policy 2002. Indian Government seems to forget that even in the developed countries like the United States and the U.K. there are effective price control mechanisms

and bodies to monitor drug prices. In a developing country like India, what is most disturbing about this policy is that it does away with the control over the prices of a large proportion of the drugs just when the country is moving towards a stricter or patent regime which, it is feared, will further promote monopolistic practices in the pharmaceutical sector.

The Patents (Amendment) Bill, 2002

India's Patents Act of 1970 had exempted food, medicines and drugs(chemicals) from product patenting and had provided for a protection period of only seven years for the process patents. However, in 1994, India signed the WTO-TRIPS Agreement and was given 10 years to bring its patent laws into compliance with the provisions mandated in the TRIPS Agreement. Subsequently, the Central Government introduced the Patents (Amendment) Bill, 2002 which became an Act in June 2002. Thus India has fallen in line with what many have considered socially regressive TRIPS Agreement; moreover, it has been argued that the Amended Patents Act has not even exploited the scope that is provided to the developing countries

(in the TRIPS Agreement) to ensure that these countries can give preference to the concerns of public health over the interests of the patent holder. As Chaudhuri puts it: 'While deciding on the inventions eligible for patents, the terms 'new' and 'inventive' could have been defined in such a way as to exclude lower level innovations such as new dosage forms or new formulations from the grant of patents. This would have restricted the number of patents. Also, Article 30 of the TRIPS Agreement could have been used to permit non-patentees in India to produce and export patented medicines to the least developed countries, which cannot produce these themselves. But the most glaring failure relates to compulsory licensing. In a product

Box 3: Access to Essential Drugs in India (2000)

Based on the statistical estimates received from WHO's country and regional offices and through the World Drug Situation Survey carried out in 1998-1999, the Department of Essential Drugs and Medicines Policy of the WHO divided countries into four categories.

1. Good Access to Essential Drugs—Countries in which 95-100 per cent of the population had access to essential drugs.
2. Medium Access to Essential Drugs—Countries in which 80-94 per cent of the population had access to essential drugs.
3. Low Access to Essential Drugs—Countries in which 50-79 per cent of the population had access to essential drugs.
4. Very Low Access to Essential Drugs—Countries in which 0-49 per cent of the population had access to essential drugs.

While countries like the US, UK, Australia and even Sri Lanka fell under the best (95-100 per cent) categories; China, Indonesia, etc. fell under the second (80-94 per cent) category; and even Pakistan, Myanmar and Bangladesh were in the third (50-79 per cent) category; India fell in the last (0-49 per cent) category.¹³

12. R Ramachandran (2002); 'Unhealthy Policy', *Frontline*, 15 March.

13. UNDP, *Human Development Report 2002*.

Box 4: Some Key Indicators of India's Health Report Card

On the basis of data received over the period from 1995 to 2000, the Human Development Report - 2002 (UNDP) states that in India—less than 50 per cent of the population has access to essential drugs, only 31 per cent is using adequate sanitation facilities, 47 per cent of children under the age of 5 years are underweight, 46 per cent of children under the age of 5 are underheight and only 42 per cent of the births are attended by skilled health staff.

patent regime, a proper compulsory licensing system is of fundamental importance to ensure competition and competitive prices. But the process in the Indian case has been made much more legalistic than what is required by the TRIPS Agreement. As a result it provides enough opportunities to the powerful patent holders to manipulate the process by litigation to prevent others from producing their patented products. Thus, if the bias in the Patents Act of 1970 was in favour of the non-patentees, the bias in this Amended Act is clearly in favour of the patent holders.¹⁴ In short, the new patent regime is likely to have made it quite difficult for the Indian Government to control

monopolistic practices of the big pharmaceutical companies which is likely to worsen the already very poor access of the essential drugs (see Box 3 and 4), for the vulnerable groups.

Thus, from our discussion of the major policy initiatives taken by the Government in the last one year, it should be evident that the year 2002 not only saw a continuation of the anti-people and pro-market policies in the health sector but that it also experienced certain critical developments in the economy whose consequences for substantial sections of Indian society could be extremely harmful.

State of Education in India: Some Major Indicators

India's performance in the field of education, as in the case of health, has been among the most disappointing aspects of its post-independence scenario as the country currently houses the largest number of illiterates and has the dubious distinction that every third illiterate in the world is an Indian. Out of approximately 200 million children in the age group 6-14 years, only 120 million are enrolled and the net attendance figure is just over 60 per cent (which may be an overestimate) of enrolment. In short, the prospects of even minimal literacy appear to be bleak. Of course, it is not the case that there has been no progress at all; during the last half-a-century, educational facilities have expanded substantially and the percentage of literate population has risen from 18 in 1951 to 65 in 2001 (see Annexure XXVI). However, the simple point is that the deficit is huge even in terms of crude quantitative indicators and quite a few countries in Asia such as Sri Lanka, Indonesia or China, among

others, have done much better than India during the same period.

Not surprisingly, the school dropout rates are also very high in India (see Annexure XXVII), mainly because the conditions of schools in our country are dismal, especially in the rural areas. The high dropout rates are not largely due to lack of demand for schooling from the relatively poorer households, as is sometimes assumed; the problems are mainly on the supply side. Even the minimal infrastructure, such as proper rooms, desks, drinking water facility, toilets etc. are a distant dream in a large number of schools. It is well-acknowledged by now that even with small incentives—such as a meal—attendance at school tends to improve substantially. Clearly, basic infrastructure and decent physical environment can go a long way in retaining children at school. Also, the overall social climate plays a critical role in this respect; for

14. Sudip Chaudhury (2002); 'TRIPS Agreement and Amendment of Patents Act in India', *Economic and Political Weekly*, 10 August.

instance, it is well-documented that the attitude towards the students from low-caste families by their teachers and fellow students sometimes forces them to drop out. Similarly, entrenched gender biases result in girl children either not being sent to school or for their dropping out earlier.

Thus, due to a range of reasons, a large number of children of school-going age have remained out of school, their proportion being highest in states like Bihar and Uttar Pradesh. (Annexure XXVIII)

To tackle the problems of children not entering the school or dropping out early, almost all the major states in India have tried to make primary education mandatory, and a number of legislations have been passed to this effect. Annexure XXIX lists such Acts which are in force in States and Union Territories of India till November 1996 since independence.

Mandating an act is obviously no guarantee that it will be translated into action in the absence of appropriate infrastructure, requisite investments etc. Moreover, many of these Acts were ambiguous along with having a very elastic time frame, and by all accounts the respective governments did not show any serious commitment to them. According to one recent study, over 90 per cent of the officials dealing with the administration of education were unaware that their state had any law for compulsory education;¹⁵ it might be difficult to get a better indicator of the 'commitment' of the government apparatus!

We may also recall here that to push up the literacy rate, a number of specialised literacy and adult education programmes have also been experimented with. The National Adult Education Programme, Social Education Programme, Farmer's Education and Functional Literacy Programme, Shramik Vidyapiths, Total Literacy Campaigns and many other such programmes have been a regular feature for over three decades now, but serious and valid reservations about their efficacies have often been expressed by researchers,¹⁶ and we need not pursue these here. However, it may not be unreasonable to

hold the view, on the basis of available evidence, that in terms of quantity as well as quality, these programmes have not achieved much.

It has already been emphasised earlier that public investment in post-independence India on social sectors, including education, has fallen much short of what may be considered a level to be commensurate with the basic requirements. Moreover, it is well documented that in the recent years, all the rhetoric notwithstanding, such investments have come under further pressure. With respect to education, another notable development during the last couple of decades has to do with the changing resources allocation trends within it; essentially, share of spending on elementary education has been going up while the proportion on higher and technical education has been going down.

It is quite true that greater attention to the elementary education is much needed, but reducing support for already resource-deficit higher education may have very damaging impacts in the long run. If Prime Minister Vajpayee's address on 28 December, 2002, on the occasion of the Golden Jubilee Celebrations of the UGC, is a pointer, government support for the beleaguered higher education segment may worsen further.

In this brief backdrop, we now turn to most recent education-related policy initiatives which have significant implications. One of the most important in this regard is the 86th Amendment Act of the Constitution of India. The roots of this initiative, aimed at the universalisation of education and making it a fundamental right, may be traced to the United Front government's bill (83rd Constitutional Amendment) in the Rajya Sabha on 28th July 1997. The present Central government revised the original Bill as the 93rd amendment Bill which became 86th Amendment Act of the Constitution on 12th December 2002. The Act reads as follows:

Be it enacted by Parliament in the fifty-third year of the Republic of India as follows:

15. Juneja's study reported in R S Srivastava (2002); 'The Right to Education in India', Preliminary Paper for Discussion, CSRD, JNU, New Delhi.
16. M V Reddy, Lakshmi (2002); 'Implementation of Adult Education and Development Programme: Contradiction and Distortions', *University News*, 40(40), 7-13 October.

1.
 - a. This Act may be called the Constitution (Eighty Sixth Amendment) Act 2002.
 - b. It shall come into force on **such date** as the Central Government may, by notification in the Official Gazette, appoint.
 2. After article 21 of the Constitution, the following article shall be inserted namely:

‘21A The State shall provide free and compulsory education to all children of the age of six to fourteen years **in such a manner** as the State may by law, determine.’
 3. For article 45 of the Constitution, the following article shall be substituted, namely:

‘45 The State shall **endeavour to provide** early childhood care and education for all until they complete the age of six years.’
 4. In article 51A of the Constitution, after clause (j) the following clause shall be added, namely:

‘(k) Who is a **parent or guardian to provide for education to his child** or as the case may be, ward between the age of six and fourteen years’ (emphasis ours) (The Gazette of India, December 2002).
- education in the central/centrally sponsored category under this new framework in consultation and partnership with states.
- Under this scheme, a total of Rs 5 billion had been allocated in the Central Government’s Budget 2001–2002. Subsequently, in anticipation of the 86th Amendment Act, allocation for this scheme was increased to Rs 15.12 billion in the budget of 2002–2003. (Budget 2002–2003).
- As mentioned earlier, Sarva Shiksha Abhiyan (SSA), envisions a partnership between the Central and state governments. The enunciated specific goals under the Programme are:
- a. All children in school, Education Guarantee Centre/Alternate Schools by 2003.
 - b. All children complete five years of primary schooling by 2007.
 - c. All children complete eight years of elementary schooling by 2010.
 - d. Focus on elementary education of satisfactory quality with emphasis on education for life.
 - e. Bridging all gender and social category gaps at primary level by 2007 and at elementary level by 2010.
 - f. Universal retention by 2010.

There are problems with this Act which we shall soon consider, but before that a look at a major scheme, launched prior to this Act, which was supposed to facilitate the realisation of the objective of universalisation of literacy. The scheme of Sarva Shiksha Abhiyan (SSA), or the National Programme for Universalisation of Elementary Education (NPUEE), was launched in November 2000. This is a centrally-sponsored scheme for universalisation of elementary education in the ‘Mission Mode’ and its ostensible effort is to incorporate all existing programmes of elementary

All these goals are most laudable; the question is: are there enough indications that the same will be realised? India is a vast country and to provide compulsory education to more than 190 million children across 1.1 million habitations and numerous social groups/subgroups, requires not simply launching a modestly-funded scheme and the enactment of a long-pending bill with some

Education in 2003-04 Budget

1. There is only a marginal increase in real per capita planned budgetary allocation in education.
2. The amount spent is very small and needs to be enhanced substantially in order to achieve a significant improvement in human development.
3. Revenue account under non-plan allocation in education has declined in real per capita allocation in education from a meagre Rs 15.40 per head in 2002-03 to Rs 14.68 per head in 2003-04.
4. Plan capital allocation on education has declined from 30 paisa per head in 2002-03 to 18 paisa per head in 2003-04.
5. The National Programme for Women’s Education has been scrapped and put under the Sarva Shiksha Abhiyan.

Source: The Marginalised Matter, CBA, 2003.

revisions but a much more serious and comprehensive programme of action. Given the huge shortfalls with respect to the above objectives, current policies and programmes do not quite generate much optimism. For instance, we are already in 2003 and it is not clear at all how the objective of bringing all the children to the school by the end of the current year can be achieved.

The 86th Amendment Act has certain ambiguities and problems, most obvious of these being as follows:

First, as per Para one Section two of the Act, it shall come in force on such date as the Central Government may notify; the question is: why the delay in notification if the goal of SSA is to have all children in school by 31 December 2003? Is such a notification likely in the near future when the Central Government keeps telling the nation that there is a serious paucity of funds for education, when attempts are on to privatise the educational institutions run by government and reliance on market forces to fill up the educational deficit are on the rise, and when child labour is rampant with no credible attempts to rehabilitate them in sight?

Second, Para two of the Act says that the state shall provide free and compulsory education to all children of the age of 6 to 14 years, in such a manner as the state may determine. What does 'such a manner as the State may determine' mean? Which schools will the children go to? How does the government plan to strengthen the school system when there is no money to augment the infrastructure or to recruit new teachers? How helpful can the increased reliance on an army of para-teachers be who do not have any incentive to go to schools for teaching due to non-payment of salaries for months and due to the obvious insecurity of their jobs? Under the circumstances, how can one hope to get a credible response from the state that the promised fundamental right to education for those who continue to remain illiterate has been violated?

Third, Para 3 of the Act states that the state shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years. It is difficult to imagine how the government can achieve this in an environment of resource

crunch for health, education etc. As it happens, this clause has been kept as a Directive to State under Article 45 (by substituting the old Article 45). Therefore, the conventional position would be that the state is not bound to act on this clause.

Fourth, the Act makes the parents or the guardian responsible for providing opportunities for education, as per Para 4. However, the division of the domain of responsibility in this regard between the state and the parent/guardian is not quite clear. In any case, in a country like ours, where a large section of population remains either close to or below a narrowly defined poverty level, how meaningful is it to render the responsibility of providing educational opportunities on the parents or guardians? In fact, a couple of Bills introduced in 2002 were addressing some of these issues with a greater degree of seriousness, such as the 'Free Education (for children of parents living below poverty line) Bill-2002', tabled by Sushil Kumar Shinde on 3rd May, but they were cold-shouldered.

In sum, there is a real danger that the 86th Amendment Act may not translate into anything significant at the ground level. Nonetheless, it may have the potential to take a few steps in the right direction, as an enabling legislation. In any case, in terms of policy initiatives, there was possibly nothing else about which one can be even mildly positive. On the contrary, as already noted, the broad policy direction is a matter that has more to worry about than to be jubilant. In this respect, a few brief remarks on one of the presumably important aspects of this broad direction, namely the National Curriculum Framework for School Education (NCF), may be in order here. The NCF was introduced by NCERT in 2002, and has generated lot of concern within the academic community. The importance attached to the NCF by the government may be gauged from the fact that many accord it the status of a National Education Policy, and may be justifiably so. Critics have lashed out at the NCF on several grounds. It is not possible here to recount all the criticisms, but mention must be made of the most negative thrust of the NCF. It is very hard to miss that the BJP-led government at the Centre has not been shy of imposing its fundamentalist version of Hinduism on the country's educational system in a variety of ways, and the

NCF is a tool to further this objective. In the name of providing value-based education NCF pushes the idea that a certain version of Hinduism is the be-all and end-all as regards the 'values' that need to be inculcated. Further, through NCF and other occasional pronouncements, the government's spokespersons keep trying to prove that 'Hindu India' was the greatest civilisation and culture in world history. Certainly, like other old civilisations, ancient India had its share of creditable achievements, but the self-deluding and viciously jingoistic Hindutva version of these distorts the past and attempt to push the country's educational system on a retrogressive course. NCERT's recent well-known attempts to rewrite history books bear ample testimony to such tendencies.

There are other questionable thrusts associated with the NCF, which need not be taken up here. The important point is: it is difficult to find much that can be considered positive with this framework, which many in fact interpret as India's education policy.

Thus, to conclude this section, recent policy initiatives of the government including those taken in 2002 do not generate much optimism with respect to taking up the huge deficits in the education sector, and even appear to be retrogressive in important ways.

The next section looks at those policy areas which have significant causal impacts on material poverty.

Poverty and its Correlates

Conceptualising poverty is a difficult and controversial subject. At one level, it would appear reasonable to hold that poverty is essentially the non-fulfilment of certain basic needs and the threshold of such needs consists of being able to meet minimum nutritional, clothing and shelter requirements, escape avoidable morbidity, and be literate. However, what constitutes a basic needs package is itself a controversial subject. Should one focus only on a narrow set of economic and social criteria? What about political and cultural deprivations? There are no easy answers, and we have a whole range of conceptual constructions associated with the notion of poverty, some of which do have operational counterparts.

In the narrowest sense, poverty is pegged to a nutritional norm, and most of the poverty discussions in India are based on such a norm. It is based on the view that it is possible to have a nutritional norm such that the probability of a person being undernourished at that norm is minimum. Taking this norm as an anchor, it is then possible to apply the known nutritional contents of different foods and work out the expenditure required for the cheapest food basket. This is what economists call a poverty line.

Using such a poverty line, economists generally agree

that from the 1950s to the mid-1970s, there was no trend change in the percentage of people below the poverty line in India, but during the next decade and a half there was a clear decline. As regards the period of economic reforms, there are conflicting assessments, which have been widely discussed in the recent months and here we shall stay away from the contentious number-crunching issues.

Even the calorie-based narrow notion of poverty has complex causal connections, but its obvious major structural correlates are as follows: (a) assets, both tangible (e.g., land) and intangible or embodied (e.g., skill); (b) employment availability; and (c) rate of return to labour power. Efficacy of economic processes and policies towards poverty reduction depends on their impacts on these correlates, a lesson from economic history that one can hardly afford to ignore. During the first four decades after independence, particularly during 1970s & 80s, Indian economic policymakers appeared to show relatively more respect to this lesson compared to what seems to be the case in the reform period.

In the following, we try to assess the ascendant and emerging policy initiatives relevant to poverty, in particular by tracking down the implications through the above mentioned correlates.

Implications of Current Policies for Poverty Correlates

As regards the access of assets to approximately the bottom half of the Indian society, it can be said that it is one of the most pervasive failures of the Indian development strategy of the past half-century. Land reforms in terms of more equitable distribution of land were never taken up with any seriousness, except in some parts of the country. For instance, compared to several countries in East Asia, such as South Korea, Taiwan and Japan, where close to 35 per cent or more of cultivable area was redistributed within a short period of three to five years immediately after World War II; in India the comparable magnitude during the last fifty years has been below 1.5 per cent. One may also note here that among the most impressive performances in poverty-reduction during the post World War-II era, the same east Asian 'miracle' cases are at the forefront, and surely the redistributive land reforms were more than a mere coincidence in this respect.

Economically and socially vulnerable groups, apart from not benefiting from redistributive land reforms, have in fact been victims in terms of access to assets through displacements (on account of a variety of development projects), erosion of their rights vis-à-vis a whole range of common property resources etc. The sum total of these processes was that substantial number of landholders ended up being landless. For instance in Madhya Pradesh alone, during the last 50 years, close to 450 thousand acres of land belonging to the Revenue Department has wrongly been classified as the property of Forest Development, thus denying the ownership rights to legitimate landowners. All these are very well documented and we need not labour the point any further here. However, it needs to be emphasised that during the reform period many of these negative tendencies may have got accelerated sharply.

Land reform in terms of more equitable distribution is not even a rhetoric any more, although every once a while the government at the centre as well as several state governments do announce programmes about giving small plots of land to select socio-economic groups. For instance, Madhya Pradesh government's initiative in 2002 to give small plots of land to Dalits was one of the very few

positive steps in this regards although the same state government has launched questionable programmes which threaten the access to land and other assets of vulnerable groups, in particular the tribal communities. Occasional reports from other states also do not seem encouraging in this regard. For instance, in some district of Maharashtra, instances of land earlier distributed to tribal landless and marginal farmers being taken away from them under the Private Forests Act were brought to notice in 2002. In Tamil Nadu, Comprehensive Wasteland Programme launched as per the state government's budget 2001-2002 aims at encouraging leasing out land to corporate houses. Its ostensible objective is to develop, over a period of five years, approximately 2.5 million hectares with large agro-based industries, and at least one such lease was given to Mahindra & Mahindra in 2002. The issue is: why shouldn't such land, which is in the public domain, be given to the landless and marginal farmers, with necessary support package, to develop for their livelihoods? Incidentally, under the said programme, even tracts of common grazing land have been identified to be taken over and leased out to the corporate houses. Moreover, substantial tracts of land categorised as wasteland in government records are said to have already been developed and brought under the plough by thousands of marginal cultivators on the basis of assurances given to them that at some point ownership rights would get conferred, and there is real threat of displacement for such landholders.

Essentially, what we are witnessing is a resurgence of Social Darwinism. While paying occasional lip-service to the cause of the vulnerable sections of the population, a variety of processes have been unleashed facilitating transfer of land and other common property resources to the wealthy and powerful, thus depleting the access to such resources for the vulnerable sections of the population. Consistent with this strategy of betting on the strong, the 10th Five Year Plan document, released in 2002, suggests that leasing should be legalised and contract farming should be promoted, ostensibly to give a boost to the ongoing corporatisation of agriculture. There is a real danger that India's economic policy makers are out to delegitimise

whatever legitimate space has been created, through long and arduous struggles since the pre-independence period, in the public policy discussions on the desirability of reforms in land ownership, tenancy rights etc. To put it simply, we are witnessing the officially-sanctioned reversal of the land reforms agenda that was promised soon after independence. Baseless claims, such as the entry of the corporate sector in agriculture will enhance employment opportunities substantially, are being bandied to legitimise and push the case for corporate takeovers. Given the overall thrust of the Tenth Plan with reference to land, forests, water and other common property resources, it is indeed hypocritical when it occasionally envisages economic empowerment of Dalits through 'endowing a piece of land', or other supportive measures. Even if some of these 'supportive measures' materialise, although the mechanisms are far from clear, they would be like small crumbs in an otherwise demanding scenario where the structural and material conditions of their livelihoods are being threatened.

Access to water

Among the policy pronouncements of 2002, one of the more disturbing policies is about access to water. In terms of provision of water services for irrigation or even for household use, the trend towards privatisation and higher user charges has got accelerated—support for which also comes from the Tenth Plan—thus threatening whatever limited access the economically and socially disadvantaged have. **The National Water Policy, 2002**, calls for 'private sector participation in the planning, development and management of water resources' on the grounds that this may introduce innovative ideas, generate financial resources, 'introduce corporate management and improve service efficiency.' The Simple truth is: consistent with the development in many parts of the world during the last couple of decades, governments in India are simply abdicating their responsibilities towards the people to suit the interests of the 'water industry.' Growth of water industry has been strongly facilitated by the World Bank and the International Monetary Fund, which advocate commercialisation and privatisation of water and often insist on these while giving loans to developing countries. There is mounting evidence from every part of the globe that public providers have lower

costs per unit compared to private water utilities, and the transition from the former to the latter tends to cause much hardship, particularly in developing countries, to substantial sections of the population.

In spite of all the evidence, the seductive logic of the neoliberal orthodoxy coupled with not-too-hidden nexus between the corporate interests and governments are putting the agenda of privatisation of water on fast track. There are reports that parts of rivers and water bodies are being handed over to private managers. For instance, in Chhattisgarh, a 23.6 km stretch of the Sheonath river was leased out to Radius Water Limited. Fishing in, or taking water for irrigation purposes from, the said stretch is banned. Similarly in Kerala the government has already approved several projects to facilitate transfer of designated water bodies from public to private management, and the two well-known recent schemes to have drawn much flak, and justifiably so, relate to Malampuzha irrigation system, and the Periyar river. The significant fallout of these developments is simple: sections of the poor and socially disadvantaged are being deprived of the rights that they had.

Thus when it comes to a whole range of tangible assets—land, water, forests, etc.—it is quite evident that the momentum towards loss of assets, or reduction in rights to access such assets, has got accelerated in the recent times and 2002 was possibly among the worst years in this regard.

As regards the other important correlates of poverty, the story since the beginning of 1990s is no better. The rate of growth of returns to labour power has suffered a decline during the reform period, compared to the earlier decade. For agricultural labourers, who constitute the major bulk of the poor in India, the rate of growth of real wages per annum was almost halved in the 1990s compared to the 1980s, and the vulnerable workers across the board have suffered a similar fate. In general, the past decade has witnessed a worsening of the working conditions of labourers in informal sectors, both in agriculture and outside it, as per most of the relevant indicators.

In this respect, possibly the hallmark of the 1990s has been the collapse of employment opportunities. As the S P Gupta Report on Employment

(2002), the Report of the Second National Labour Commission (2002), and several other studies based on the relevant data have found, the overall employment growth in the 1990s was anywhere between two-thirds to a half of what it was in the 1980s. Open unemployment has tended to become more of a serious problem in the recent years, even as disguised unemployment continues at worrisome level. The employment elasticity of output growth has dropped to near zero in agriculture, and in some sectors such as mining, utilities, and social and community services, it has turned negative. The manufacturing sector also witnessed substantial declines; in particular the growth of employment at an average annual rate of only 0.87 per cent between 1993 and 2000 was way below that in the 1980s. In fact the share of the organised sector employment in total manufacturing at 16.5 per cent in 2000 was lower than 18.3 per cent in 1993.

The sharp deceleration in the organised sector employment due to collapse of opportunities in the public sector and only a slow increase in the private sector, is one of the more worrisome developments of the 1990s. In fact, the share of the organised sector in total workforce is only around 8 per cent and the rest of 92 per cent of the workers are located in the unorganised sector. Large sections of the latter work under most unprotected conditions, as is well-documented, and there are signs that their vulnerability may be on the rise.

One of the important causes, possibly the most significant, underlying a positive development in rural areas during the 1980s was the increase in share of non-agricultural employment in total rural employment. Given that the agricultural sector, even in relatively backward states had started showing clear signs of declining employment elasticity of output by 1980s, this shift was considered a significant one by many analysts. The important point is that such a development was largely on account of a substantial step-up in public expenditure in rural areas, and not because of anything intrinsic to the growth process. Increase in the government expenditure in rural areas was also instrumental in giving a boost to the pitiful low wages in large parts of the country. The net impact of these developments was that for the first time in

the post-independence period, there was a clear trend towards decline in poverty for well over a decade, beginning late 1970s.

As it happens, after the beginning of the economic reforms, the rate of growth of central as well as state governments' development expenditures started slackening, and the situation has tended to worsen progressively in the recent years. Consequently, the correlates that had facilitated a declining trend in poverty prior to the onset of the reforms have suffered a setback. As already mentioned, both the rates of growth of wage rate and employment have taken a severe beating. Casualisation of labour has continued unabated and the proportion of self-employed has continued to go down; particularly drastic has been the decline in non-agricultural employment in rural areas as may be seen from Annexure XXX.

In addition to the aforementioned adverse developments, factors such as the squeeze on credit for marginal/small farmers, negative developments on Public Distribution System and a variety of other processes, most of which are well-documented, are bound to have exacerbated the vulnerability in multiple ways, of those at the lower rungs of the Indian society. Anecdotal evidence seems to suggest that the instances of extreme vulnerability getting translated into starvation deaths, suicides, etc. may be on the rise. As may be seen from Annexure XXXI, suicides on account of poverty, unemployment and failure of agriculture is significant and quite substantial in many states of India.

In this context, it is worth emphasising that among the greatest policy failures of 2002 was the central government's inability to intervene in any substantive and meaningful manner after the failure of summer monsoon. In fact, for a while government spokespersons were not even willing to acknowledge drought conditions had gripped several parts of the country. Even after the belated acknowledgement, there was no attempt at any sort of damage containment. This was particularly absurd given that at that time government's food stocks were in excess of 60 million tonnes which could have played an important role through food for work programme, both to provide some relief as well as to undertake productive investment, for instance, to strengthen rural infrastructure.

Food Security & Poverty Eradication in 2003-04 Budget

1. The allocation of Rs 5.07 billion to be made under the Antyodaya Anna Yojana to cover 5 million more families with a wish to uplift 1/4th of all BPL families in rural areas is a grossly inadequate step.
2. Balwadi Nutrition program underwent major fund cuts in the last 6 years. The scheme has witnessed continuous slashing of grants coming down from Rs 55.4 million in 1997-98 to Rs 10 million in 2001-02. In 2002-03 no more allocations were made to it as it was dropped under the zero based budgeting exercise since integrated child development services has been universalised.
3. There has been a reduction in total expenditure on overall nutrition programme from Rs 79.2 million in 2002-03 to Rs 77.7 million.
4. The budgetary allocation for food storage and warehousing has gone up from Rs. 214.33 billion to Rs 280.4 billion implying a possible rise in the price of TPDS items in the near future.

Source: The Marginalised Matter, CBA, 2003.

However, nothing of the sort was done. In fact, running down the stock substantially would have made good sense even purely from the point of view of bringing down the carrying cost, and subsidy on account of the same, a point acknowledged even by some of the cheer-leaders of economic liberalisation in India.

In any event, nothing of any substance was done to address a nation-wide tragedy, instead there was much quibbling over whether starvation deaths were actually starvation deaths! The larger point here is that all the talk of India being self-sufficient in food is somewhat glib. In fact if one looks at the per capita availability of cereals and pulses, as may be seen from Annexure XXXII, there are no reasons to make any song and dance about it. Moreover, when it comes to food-security for these at the lower rungs of society, it appears reasonable to hold

the view that the situation is pretty grim and has worsened in the recent years.

We may conclude this section by looking at the relevant policy direction coming from the Tenth Five Year Plan document. Like all its predecessors, this document too sounds well-intentioned on the issue of poverty alleviation. In fact, it explicitly states the need for 'expanding and reinvigorating the ongoing poverty alleviation programmes to improve quantitatively the economic conditions of SCs/OBCs/ Minorities, through specially designed activities in the programmes best suited to their skills and requirements.' However, there is no spelling out of detailed and actual policy mechanisms that ought to be put in place to achieve the stated objective. If anything, the suggestion that it makes about merger and rationalisation of such schemes may end up diluting their quantitative significance.

Welfare of the Marginalised in 2003-04 Budget

1. The real per capita budgetary allocation for total SC/ST welfare has declined from Rs 39.2 in 2002-03 Budget to Rs.36.9 in 2003-04.
2. Even the miniscule capital account allocation for family welfare has found no mention in the Budget allocation for 2003-04.
3. The share of housing in total capital account allocation for social sectors is still much less than the figure for 2001-02.
4. Not even one percent of the total budgetary allocation is meant for capital outlays in Social Sector.
5. As a proportion of total revenue and capital account expenditures, the social sector experienced a decline.
6. Funds to the Rashtriya Mahila Kosh have been granted only Rs 10 million in the budget estimate of this year

Source: The Marginalised Matter, CBA, 2003.

Possibly the significant essential shift in the government's policy perspective, as reflected in the Tenth Plan document, is ever-greater reliance on the private sector.

The document hopes that the government will be able to 'motivate the private and corporate sectors to invest in the welfare and development of weaker sections and thus fulfil their social obligations and responsibilities.' But there is no attempt to provide any grounding for such a hope. And where has the private sector fulfilled its 'social responsibilities' on any significant scale to address the basic needs of the economically and socially disadvantaged sections? Is it the case that the government is washing its hands off what are primarily its own responsibilities and imagining that the private sector will do all the things that it has been grossly inadequate in addressing for more than five decades? Sure enough, private and corporate sector must be included in facilitating affirmative action for hitherto deprived groups, for which an appropriate framework in terms of incentives, legislations, enforcement, etc.

need to be spelt out and the Tenth Plan document shies away from that, but it would be sheer wishful thinking that the market can be a substitute for the state in these areas.

To the extent that one can treat the plan document as the policy framework for the five-year span (i.e., 2002-07), it seems that government is not even willing to engage in any serious manner with the most pressing economic problems of almost the bottom half of Indian society, such as not enough food, unaffordable healthcare, too few jobs etc. On the contrary, often it does not even recognise the problem. For instance, the document does not see access to food as a major problem, even through it is clear from the NSS data that there has been a very large decline in per capita calorie consumption of the poorest 40 per cent of the population over the past decade. Worse still, the relevant proposals in the document may lead to a further reduction in the Public Distribution System, as well as public provisioning for other basic needs as has been indicated earlier.

A Concluding Remark

In the opening section of this part, it was argued that in terms of its Constitutional mandate and through international declarations, India has committed itself repeatedly to a development paradigms that would ensure access to basic needs for all its citizens. Provisions for most of these have been acknowledged as enforceable rights to development by the Indian judicial system.

Nonetheless, the worst manifestations of poverty continue to afflict large sections of Indian population, which has been the gravest failure of India's development strategy since independence. It also

appears that the currently ascendant neoliberal globalisation agenda is making the material and social conditions more difficult and fragile for the underprivileged economic and social groups, thus making it even for difficult for the much cherished, promised, and even constitutionally and sometime legally mandated rights to development to be realised. But then, the right to have rights (as Hannah Arendt once put it), is never given on a platter, and the history of how such rights were realised in different societies can be quite instructive in this regard. The current economic policy regime in India does not inspire the confidence that we are on the right track.



Part III

Access to Justice – Watching the Supreme Court

Article 141 of the Constitution says that the law declared by the Supreme Court is binding on all courts and authorities in the territory of India. Unwillingly Article 141 has now become the thief of Judicial Time. The Laws' proverbial delays are not because there are too many laws, but because there are just too many reported judgments and orders concerning them. Cashing in on Article 141 every single case—in the Supreme Court and even in the High Courts—is dutifully printed and reported by a variety of competing reporting agencies who want their law reports to sell as widely as possible.

The 'judgement-factory' has become over-commercialised, and quite a large number of the 30 million cases now pending in various Courts in India can be attributed—at least in part—to this peculiar Indian malady: 'case-law diarrhoea'.

—Fali Nariman

Access to Justice – Watching the Supreme Court

This part of the report focuses on judicial accountability with specific reference to the Supreme Court and its responsiveness towards the issues of social development. This report is divided into two parts. The first part is a qualitative analysis of the important judicial pronouncements (especially those having bearing on social development) of the Supreme Court in the past one year. This analysis explains the perspective that has evolved through the year, the response of the judiciary to specific social situations, the trends vis-à-vis public interest litigation, human rights and other social issues facing the country. The second part is the quantitative analysis which takes into account the actual administrative functioning of the Courts including details of the budget allocation, status of pending cases, number of cases adjudicated, the functioning of the administrative wing of the judiciary and recommendations which could lead to an improvement in the performance of the judicial system or which could influence its performance.

Part 1: Qualitative Review

Constitutional and Administrative Law

The judgments of the Supreme Court of India in the year 2002 seem to have been invigorated by views which reflect an attitudinal change, rather than any new serious theoretical approach, which may generally reflect the changed general judicial viewpoint. The rather dominant social viewpoint of the times is reflected in several judgments of the Court.

Throughout 2002, the Court wrestled with demands of developing institutional autonomy and building popular legitimacy among the public. The Supreme Court Justices indicated their sincere preferences over policy outcomes and have, at times, written judgments and expressed opinions that achieve these outcomes despite the awareness that they fell strictly within the domain of the Parliament or the Executive, and that the Parliament is likely to reverse them through legislation or amendment.

This qualitative review of the judgments of the Supreme Court has to be viewed from the standpoint of the 'doctrine of precedents' where the judgments delivered by the Supreme Court become the law of the land and are binding on all courts in the country. Needless to say, at times there may not be any strict demarcation possible between social and

other general issues, since the ramifications of a judgment in one particular field affect other areas as well. The following paragraphs provide a review of some of the important judgments of the Supreme Court of India the previous year.

a. Holding the government accountable

One of the most important functions of the judiciary is to hold the other branches of the government accountable for their actions. The year 2002 saw the Judiciary making further inroads into the domain of the Executive by exercising its powers of judicial review and rule-making powers.

In a landmark case, the Supreme Court held that candidates to an election had to disclose their criminal antecedents which voters had right to know this, and that this is in consonance with the principle that 'democracy is a basic feature of the Constitution of India'.¹

The Supreme Court dealt a blow to the high-and-mighty political classes of the country when it directed former Prime Minister Mr. Chandrashekhar to return land that he had taken incorrectly through a gift from a local panchayat administration in

1. *Union of India Vs. Association for Democratic Reforms (2002) 5 SCC 294.*

Haryana. It was proved that he had used the land for personal purposes rather than for public purpose as was intended. The Court observed that the state government had taken a rather lax view of the matter perhaps in view of the 'towering political personality' of the person involved.²

The Court castigated the approach of State Financial Corporations and Public Banks being lenient to chronic defaulters and said that in such cases, 'fairness cannot be a one way street.' According to the Court, 'indulgence shown to chronic defaulters would amount to flogging a dead horse without any conceivable result being expected.' It said that State Financial Corporations are public institutions that function on public money and have to work in a manner that is public oriented.³ In a case relating to provision of State largesse in so far as supply of free electricity, the Court categorically held that while the State Government can direct the Regulatory Commission to fix tariff rates at a subsidised level for consumers of a certain class, the State Government will have to directly bear the burden of the subsidy which the supplier company cannot be saddled with.⁴

The requirement of governmental authorities filing 'Action-taken Reports' or 'Compliance Reports' in respect of their adherence to orders passed by the Court reflected the approach of the Judiciary in following up on the progress of implementation of its judgements and orders. This trend was seen in the Tamil Nadu Mental Asylum case,⁵ the CNG matters⁶ and in the various environmental matters heard by it. This demonstrated the Court's anxiety to ensure that it has credible evidence of compliance with its orders.

b. Giving voice to the poor

Providing all citizens, particularly the poor, access to justice is one of the most essential aspects of legal

and judicial development. The Supreme Court took note of its own position as 'a sentinel of the Constitutional rights and values of the people.' It said that to discharge these obligations, it may, in an appropriate Public Interest Litigation (PIL case), issue notice to the concerned parties and enter into issues that are wider than those that have been raised before it. This is an important extension of the power of the Supreme Court to do justice in matters of public interest.⁷ In a radical decision with far-reaching social consequences, the Court decided that there is no justification for the custom that only Brahmins are allowed to perform *puja* in the Hindu temples. The court said this is not an essential feature of the Hindu religion and is, in fact, a violation of all the rights and specific guarantees in the Constitution of India.⁸ The Court granted rights to a non-Brahmin to officiate as a temple priest. The Court had earlier recognised the right of a citizen to sue the government for breach of his Constitutional rights. This was reiterated but the Court cautioned that not every minor infraction would be the subject matter of claiming compensation from the state. It would have to be proved that there was some violation and that the citizen concerned was a 'hapless victim of this sort of arbitrary and capricious action.'⁹

Along the same lines, the Court took a dim view of dispossession of a person from property in his occupation by use of force, especially when the matter was pending adjudication in the courts. The Court said that there could be no legality given to these types of actions by any person no matter how rich or powerful he may be. If this were to continue, 'no one would be able to defend their properties and the fundamental rights guaranteed under the Constitution of India would stand negated.'¹⁰

Another case that highlighted the horrific treatment of the helpless persons in the country was

2. *B L Wadhwa Vs. Union of India* (2002) 9 SCC 108.
3. *Haryana Financial Corporation Vs. Jagdamba Oil Mills* (2002) 3 SCC 496.
4. *West Bengal Electricity Regulatory Commission Vs. CESC Ltd* (2002) 8 SCC 715.
5. *Death of 25 Chained Inmates in Asylum Fire in Tamil Nadu Vs. Union of India* (2002) 3 SCC 31.
6. *M C Mehta Vs. Union of India* (2002) 4 SCC 356 (CNG).
7. *Padma Vs. Hiralal Motilal Desadra* (2002) 7 SCC 773.
8. *N Adithyan Vs. Travancore Devaswom Board* (2002) 8 SCC 106.
9. *Rabindranath Goel Vs. University of Calcutta* (2002) 7 SCC 478.
10. *S R Ejaz Vs. T N Handloom Weavers Association* (2002) 3 SCC 137.

the one regarding the death of inmates of mental asylums in Tamil Nadu. The Supreme Court took suo moto cognisance of the conditions prevailing in mental asylums due to a newspaper report of a fire in one asylum in Tamil Nadu where inmates had been kept chained and 25 of them died. The Court vigorously took the government to task, issuing a sweeping set of directions to ameliorate the conditions of these inmates. The Court also asked the government to submit a compliance report within 3 months so as to ensure effective implementation.¹¹

c. Substance over procedure

On an important point regarding the powers of the High Courts under Articles 226 and 227, the Court said that the object of these provisions is to enable the advancement of justice. The Court held that if the lower courts find that 'justice has become a by-product of an erroneous interpretation of law, then they should not overturn this justice in the name of correcting that error of law.'¹² The Court thereby gave credence to substantive justice to procedural formalities.

d. Safeguarding the independence of institutions

A case that caught the national interest was with regard to the Gujarat elections, more for its political significance rather than the issues involved. This case primarily involved the question whether there was a prescribed time limit in-built in the Constitution for the purpose of holding elections to a dissolved House. The Supreme Court pointed out that no such limit had been prescribed. However, in the interests of democracy, it read a limit of six months from the date of dissolution of the House as the period within which such elections for reconstitution of the House have to be held. Further, the Court also held that the Election Commission is independently, the supreme authority charged with the conduct of elections and government cannot interfere in its manner of holding of elections.¹³

e. Non interference on issues relating to economic policy

One of the significant judicial developments influencing a plethora cases came at the end of the year 2001 with the decision of the Supreme Court in the Balco case,¹⁴ where the Court shrunk its own jurisdiction, stating that it could decide only on Constitutional and statutory issues. The Court held that economic policy lay in the realm of the government in power, and that the Judiciary has no role in shaping the policies or testing their validity.

It has to be remembered that the disinvestment policy of the government drew a lot of criticism and attention in the year 2002. The Supreme Court indicated its reluctance to step into matters of economic policy unless it was shown to be violative of fundamental rights or patently mala fide. It came down heavily on the filing of public interest litigations and indicated that 'not every issue was a subject matter or public interest litigations.' The court also reminded that public interest litigation was devised to dispense justice only to the social and economically backward who are incapable of approaching the Courts to enforce their own rights. The possibility of misuse of public interest litigations was indicated and warned against. The Court also said that 'economic decisions taken by the government cannot be challenged in public interest litigation unless there is violation of Art 21 and adversely affected people are unable to approach the Court.' The Court reiterated that judicial review of administrative action was limited to finding out whether proper procedure in arriving at the decision had been followed and the Court will not interfere with the facts unless they were patently unacceptable.¹⁵

The Supreme Court reiterated its position that unless a policy decision is demonstrably capricious or arbitrary and not informed by reason or discriminating or infringing on any statute or the Constitution, it is not subject to judicial interference.¹⁶

11. *Death of 25 Chained Inmates in Asylum Fire in Tamil Nadu Vs. Union of India* (2002) 3 SCC 31.

12. *Roshan Deen Vs. Preeti Lal* (2002) 1 SCC 100.

13. *In re Special Reference No. 1 of 2002* (2002) 8 SCC 237.

14. *BALCO Employees Union Vs. Union of India* (2002) 2 SCC 333.

15. *Ibid.*

16. *State of Himachal Pradesh Vs. Padam Dev* (2002) 4 SCC 510.

Judiciary

a. Contempt and freedom of speech

Perhaps the case that captured public attention most and triggered innumerable rounds of debate was the contempt of court case against Arundhati Roy. The Court held her guilty of contempt following her actions in protest of the Narmada dam decision. The Court said that 'freedom of speech and expression' and the 'freedom of the press' are one and the same thing and are subject to the same restrictions. 'Fair criticism of the court and judges may be allowed if made in good faith. But every citizen cannot be allowed to do so in the name of fair criticism as that would lead to the destruction of the very faith in the court.' The Court felt that any person who lost a case would be the first to impute motives to the court and the judges. Hence there cannot be any separate guarantee for the press as opposed to freedom of speech and expression. So saying, the Court took a very strict stand as regards its contempt.¹⁷

Contrast this with a case where contempt was committed of a tribunal. The Supreme Court said that even where the order was not obeyed, the Court should show judicial restraint and magnanimity. One more chance should be given to the person concerned before any other orders were passed. Only if then the person did not obey, should any other action be considered.¹⁸

The court had no hesitation, though, in punishing an advocate in a shocking case where he assaulted a lower court judge. The Supreme Court said that while judges should normally exercise restraint in dealing with contempt cases, they were not expected to keep an angelic silence 'when such things occurred.'¹⁹

In another decision, the Supreme Court said the Contempt Act is a powerful weapon in the hands of the court and ought to be exercised with great restraint and circumspection. It should only be used in the larger public interest once the Court is

convinced about the guilt of the accused.²⁰

The Supreme Court also made important observations as regards the freedom of speech and expression in the case of an elected local body officer who had organised a protest of local citizens against the imposition an excessive house tax. He was charged with misconduct. The Supreme Court absolved him, saying that while normally a responsible elected officer should not be indulging in anti-government activities, there would be some cases where there is arbitrary action and so in such times these actions that are against the public interest may be spoken against and it would not amount to misconduct. Rather, it would be a valid exercise of the freedom of speech and expression and should not be curtailed. He 'holds office in trust for the public and is expected to exercise his duties in that manner.' In the opinion of the Court, this was a case where the freedom of speech and expression was correctly exercised.²¹

b. Subordinate judiciary

On the role of the subordinate judiciary, the Supreme Court said that 'it is the foundation of our judicial system' and should be treated as such. The Fifth Pay Commission increased the pay scale of judicial officers. The state governments said that they were not going to bear the extra cost. The Supreme Court said that it was their obligation and that they should take care to see that the funds as required are mobilised. Without a sufficient number of judges, justice would not be available to the people and the basic feature of an independent and efficient judiciary would be undermined. Infrastructure should be built and the vacancies should be filled up. Directions were issued to the state governments in this regard, and the ratio of judges to the population was also considered and directed to be increased.²²

The Supreme Court also took note of the need to

17. *In re Arundhati Roy* (2002) 3 SCC 343.

18. *Suresh Chandra Poddar Vs. Dhani Ram* (2002) 1 SCC 766.

19. *Ram Surana Vs. Additional Judicial Magistrate* (2002) 6 SCC 722.

20. *Anil Ratan Sarkar Vs. Hirak Ghosh* (2002) 4 SCC 21.

21. *Baldev Singh Gandhi Vs. State of Punjab* (2002) 3 SCC 667.

22. *All India Judges Association Vs. UOI* (2002) 4 SCC 247.

establish fast track courts to deal with the huge backlog of pending cases in the country. Directions were issued to the state governments to ensure that judges were appointed to the subordinate judiciary as soon as possible and as to the appointment of judges for these fast track courts as well.²³

c. Reforming the court procedure

The Supreme Court upheld the Constitutional validity of the Legal Services Authorities (Amendment) Act, 2002 in a landmark judgement²⁴ and dismissed petitions contending that they were anti-litigant by holding that the Act ensures that justice would be available to the litigant speedily and impartially. The Court also gave its imprimatur to the practice of taking evidence by Commissions. It held that in appropriate cases, to avoid delay, expert witnesses like doctors may be cross-examined by putting written questions to be replied by experts on affidavits. Further, even video or telephonic conference can be arranged for cross-

examination, the cost of which has to be initially borne by the party claiming such facility.²⁵

The Supreme Court also increased the scope of review of its own decisions. It held that even after a review petition had been disposed of, it was open to the parties to file a curative petition. The Court said that 'the function of the judiciary is not limited to merely to interpreting the law. It may mould and lay down formulating principles and guidelines to adapt and adjust to the changing social structure, with the objective of dispensing justice.'²⁶

The Supreme Court recognised the jurisdiction of Motor Vehicles Claims Tribunal not only in cases where the vehicle was driven not by owner or injury was caused not by driver of the vehicle but even where death or injury was caused by negligence of joint tortfeasor. The Supreme Court expressly said that 'any other interpretation would cause undue hardship to claimants.'²⁷

Labour and Service Laws

In a number of cases the Court chose not to give full relief to the concerned workers on a rather strict interpretation of legal principles. For example, in a number of cases where the lower courts have ordered full reinstatement and back wages, the Supreme Court held that the burden is upon the worker to show that he was not gainfully employed elsewhere in order to be eligible for the benefit of back wages.²⁸ In another case, the Court held that persons hired for the duration of a particular project would not be entitled to permanent employment upon the completion of the project.²⁹ At the same time the Court

has said that there should not be any arbitrary hire and fire. If the project is still going on, the employer should not fire a worker and take anyone else, except of course, in cases of grave misconduct.³⁰ An important decision that will benefit the working classes was that when a person opts for a VRS scheme, he would not be precluded from backing out of it before his termination is actually effected, if there is nothing to prohibit it in the scheme.³¹

On the right of equality, the court held that only on the grounds of disadvantage to certain individuals

23. *Brij Mohan Lal Vs. UOI* (2002) 5 SCC 1. The Fast Track Court Scheme was launched on the basis of the recommendations made by the Eleventh Finance Commission which were accepted by the Union Government on the 26 July, 2000. The Fast Track Courts were constituted with the aim of expediting the disposal of long pending sessions cases and cases involving under-trials who have been in jails for a long time. As on 30th November, 2002, 1,05,255 cases were pending in these courts. As on 30th November, 2002, 968 Fast Track Courts were functional out of the 1234 courts notified by the States. Unstarred question No. 2611 in the Rajya Sabha asked by Motilal Vora answered on 16.12.2002.

24. *S N Pandey Vs. Union of India*, Judgment dated October 28, 2002.

25. *Dr. J J Merchant Vs. Shrinath Chaturvedi* (2002) 6 SCC 635.

26. *Rupa Ashok Hurra Vs. Ashok Hurra* (2002) 4 SCC 427.

27. *Union of India Vs. Bhagwati Prasad* (2002) 3 SCC 661.

28. *Ibid.*

29. *Ibid.*

30. *Union of India Vs. Mohan Pal* (2002) 4 SCC 873, *State of West Bengal Vs. Jiban Krishna Das* (2002) 4 SCC 721.

31. *Shambhu Murari Sharma Vs. PDI Ltd.* (2002) 3 SCC 437.

or a small section of the people a public action cannot be struck down.³² A pro-labour decision was rendered as regards the interpretation of the Industrial Employment (Standing Orders) Act. The Court said that this was a welfare legislation and should be given wide interpretation in order to benefit workers. Hence, the Court allowed a higher rate of subsistence allowance than is provided for in the act to a person who had been suspended pending inquiry.³³

The Supreme Court also said that the courts have the power to interfere in appointments that have been made by educational institutions, although they would be reluctant to do so. However, where there are any irregularities, it is open to the courts to exercise the power of judicial review and set right the anomaly. There cannot, said the Court, 'be any islands of insubordination to the courts.' The rule of law must prevail, especially in the case

of educational institutions of high repute. To keep that reputation that they enjoy, there should not be any sort of arbitrary actions.³⁴

The Court carved out exceptions to the rule of *audi alterem partem* in certain service law matters. The court said that when it is seen that there is any irregular appointment of persons, or that the selection process is so badly flawed that the entire process is vitiated, the Court has the power to cancel the whole of the selection and do so without issuing notice to the selected candidates. The Court recognised that it is not possible to give individual notice and that even a validly appointed person can be terminated as a result thereof.³⁵

On the importance of merit as a selection criteria, the court held that where merit has been made the criteria, no other consideration should apply. Even seniority should not be made the basis.³⁶

Education

a. Constitutionality of a revised curriculum

A major controversy was raised as regards the insertion of a new curriculum for schools by the Central Government. This was challenged in a PIL before the Supreme Court as being bad in law and destructive of secularism. In a controversial judgement, the Court upheld the curriculum on some technical grounds, holding that there was nothing wrong in the new NCERT syllabus that had been introduced. It said that the study of any particular religion was not violative of anything in the Constitution of India. The court said 'in all religions, the philosophy of co existence is taught and that this cannot be objected to. All religions infuse a moral value and character into society. No modern society can in fact survive without these values. The word 'religion' should not be misunderstood. It does not mean that if this word is inserted into the national education policy that

the fabric of secularism is at stake. There is nothing violative of the Constitution of India here. What is prohibited by the Constitution of India is the promotion of any religion by the State and that is not what is happening here.' Hence the court upheld the Constitutional validity of the actions of the central government.³⁷

b. Private schools

The Supreme Court rendered a decision that would give major relief to the thousands of parents and children held to ransom by schools charging heavy capitation fees or donations. The Court upheld the right of the state government to make a law preventing the misuse of school administration to make profits. It said that regardless of whether it was a minority or a majority educational institution that did it or not, it is a reprehensible practice that should not be permitted in the guise of education.

32. *State of Karnataka Vs. Mangalore University Non Teaching Employees Association* (2002) 3 SCC 302.

33. *B D Shetty Vs. CEAT Ltd.* (2002) 1 SCC 193.

34. *K Shekhar Vs. Indiramma* (2002) 3 SCC 586.

35. *UOI Vs. O Chandrashekhar* (2002) 3 SCC 146.

36. *B Mohanty Vs. UOI* (2002) 4 SCC 16.

37. *Aruna Roy Vs. UOI* (2002) 7 SCC 308.

No minority educational institution can claim Constitutional protection for this. Even unaided minority schools would be covered herein.³⁸

c. Reservation in education

Another decision of the Supreme Court in the sphere of reservations reflected the change in judicial mindset with regard to reservations. In the instant case, the All India Institute of Medical Sciences had introduced reservations for the super specialisation courses and this was made the subject matter of challenge. The Supreme Court struck down this reservation as un-constitutional. It said that 'reservations are permissible in educational institutions at the lowest levels. However, at the higher levels, it should be withdrawn in the interest

of achieving the goal of excellence in education. Reservations should be reasonable, and one criterion to be considered is whether it would help in achieving the goal of excellence. Merit should not be rendered non-existent, especially in important educational institutions of national importance.'³⁹

Also, the practice of adding bonus marks to selection candidates on the basis of place of residence was frowned upon. The Court said that this did not satisfy the tests of Article 14. The Court said that 'affirmative action is meant to provide better employment opportunities, provided it seeks to achieve the goal of overall equality and is supported by scientific study and considerations germane to the notion of equality.'⁴⁰

Environmental Law

a. Judicial 'policy making'

The Supreme Court in 2002 continued to maintain a strong and sustained pro-environment stand. The Court passed a series of orders seeking to address the various aspects of environmental pollution. Social concern over deteriorating environment quality found vent in the Court of Chief Justice where both Governments and corporations were pulled up for their failure to act responsibly in relation to the environment. To improve the air quality in Delhi, the Court directed that priority in supply of gas should be given to the transport sector in Delhi at the cost of private industries outside Delhi. There was a considerable hardening of judicial attitude towards what the Court perceived as the lack of political will in implementing its orders regarding the adoption of CNG as the fuel for the transport sector in Delhi. The authorities were directed to ensure that all public transport in Delhi was shifted to CNG as fuel and no extensions in deadlines were granted. Heavy penalties were imposed on errant operators and the Court also warned the authorities against non-compliance with its orders.⁴¹

b. Protecting our inheritance

In a case involving the diversion of the natural course of the Beas river, by a holiday resort belonging to a politician, the Court further indicated its resolve. The Court imposed exemplary damages of Rs one million while still leaving the computation of damages payable under the polluter pays principle open.⁴²

In another landmark case, the Supreme Court, took suo moto cognisance of a newspaper report about commercial advertisements painted on rocks in the Himalayan region of Himachal Pradesh damaging the fragile ecology there. It directed its ire against two soft drink companies and ordered these two companies to deposit Rs two hundred thousand towards costs of conducting the study of the damage done. Seven other companies were ordered to deposit Rs one hundred thousand towards the costs. The Supreme Court also set up a special empowered committee asking it to look into the matter and ordered a video recording of the scene to estimate the extent of damage, quantity of work required for restoration and fix responsibility on erring parties. The restoration

38. *Father Thomas Shingare Vs. State of Maharashtra* (2002) 1 SCC 758.

39. *AIIMS Students Union Vs. AIIMS* (2002) 3 SCC 428.

40. *Kailash Chand Sharma Vs. State of Rajasthan* (2002) 6 SCC 562.

41. *M C Mehta Vs. Union of India* (2002) 4 SCC 356 (CNG).

42. *M C Mehta Vs. Kamal Nath* (2002) 3 SCC 653.

work was directed to be completed before the onset of winter and a fine of Rs 50 million was levied to restore the damage. The Court castigated the State of Himachal Pradesh for not safeguarding the environment and not living up to the doctrine of public trust, and ordered the State to deposit Rs 10 million towards costs. The Court further ordered that these sums were in addition to the punitive damages that may be imposed and criminal prosecution that may be launched. The Principal Conservator of

Forests was also directed to find out if such vandalism was prevalent in other States as well.⁴³

In a related judgment the conservation needs for protected monuments and religious shrines was given recognition with the Court directing the shifting of shops away to a safe distance from the Dargah in Ajmer. It clarified that this move would not be a violation of neither the religious rights of pilgrims nor rights of businessmen.⁴⁴

Redefining Criminal Law Jurisprudence

a. Pro-prosecution stand

The Supreme Court has, in a radical shift, diluted the application of the 'proof beyond reasonable doubt' doctrine. The earlier requirement that the prosecution had to prove a case beyond reasonable doubt to ensure that the accused was convicted of the offence charged was substantially diluted in its application. Moreover, the Court also eased the burden on the prosecution by stating that it was not required to do impossible things like meet every hypothesis of the accused or prove impossible things. An easing of the burden would not only counter this belief but also show that the judiciary is sensitive to the needs of society and will do its utmost to ensure that the guilty are punished.

The judgement of the Supreme Court confirming the death sentence on several Maoist Communist Centre members for murdering 35 people from another caste in Bihar, was an important judgment in view of the radical departure made by the court from application of the 'rarest of the rare' principle enunciated by the Court earlier. The Court, by majority, confirmed the death penalty and seriously questioned the 'proof beyond reasonable doubt' doctrine saying that it was leading to too many acquittals and that 'if no innocent should be punished, no guilty should also be allowed to go scot-free.' The Court held that 'proof beyond reasonable doubt' was only in the

nature of a guideline. The Supreme Court made it very flexible for the prosecution by laying down that it was not required to meet every hypothesis put forward by the accused. The Supreme Court said that while it was clear that if two interpretations were possible on given evidence, the one favourable to the accused should be adopted. But the 'acquittal of the guilty would be as serious a miscarriage of justice as conviction of the innocent' and should be avoided as far as possible.⁴⁵

In another case, the Supreme Court again pointed out the pitfalls in sticking too much to the rule of 'benefit of doubt to the accused.' The Court held that 'exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts or lingering suspicion and thereby destroy social defence.' It pointed out that justice cannot be made sterile on the plea that it is better to let a hundred guilty escape than punish an innocent.⁴⁶ The Court also continued its pro prosecution stand by stating that initial presumption of innocence of an accused disappears on his conviction after trial subject to the orders to be passed in further appeals.⁴⁷

The Supreme Court expressed its anguish over election-related violence and political crimes. It held that 'in a case linked with politically battles, stringent punishment is desirable without exception.'⁴⁸ The

43. *T N Godavarman Vs. Union of India* (2002) 6 SCALE 354; (2002) 7 SCALE 417; (2002) 7 SCALE 419.

44. *Wasim Ahmed Vs. Union of India* (2002) 9 SCC 472.

45. *Bhagwan Din Vs. State of Madhya Pradesh* (2002) 4 SCC 85.

46. *Gangadhar Behera Vs. State of Orissa* (2002) 8 SCC 381.

47. *Shamsher Singh Vs. State of Haryana* (2002) 7 SCC 536.

48. *Ruli Ram Vs. State of Haryana* (2002) 7 SCC 691.

Court in the instant case was dealing with a matter where violence during Panchayat elections in a village in Haryana led to a loss of lives.

b. Confessions

The Supreme Court in a series of judgments reiterated that ‘if prosecution evidence on the whole rings true and inspires confidence’, conviction is possible despite minor discrepancy in the evidence as the maxim of *falsus in uno falsus in omnibus* has been discarded long ago.⁴⁹ The Court cautioned resort to harsh laws like TADA, saying that even though the activities of a criminal and terrorist would overlap to a great extent, ‘provisions of TADA cannot be resorted to unless the nature of the activities of the accused cannot be checked and controlled under ordinary law.’⁵⁰

Another very progressive trend adopted towards the case was its encouraging attitude towards mechanical devices to record evidence. The Court said that as under Section 15(1) of TADA, confessions can be recorded on mechanical devices, and confessions recorded on computers were admissible. The Court also said that even though the certificate recording the confession was to be given ‘under hand’, a typed certificate would not affect trial in the absence of any prejudice to the accused since it was only a procedural lapse.⁵¹

The Court held that in the presence of convincing evidence of eyewitnesses and attending circumstances, absence of expert opinion alone would not affect trial if the other evidence was still credit worthy.⁵² The Supreme Court also cautioned that an impossible burden to prove things cannot be put on the prosecution, e.g., why the accused wanted to make a confession, as it was a matter solely within the exclusive knowledge of the accused.⁵³

c. Right to speedy trials

In a number of decisions, the right to speedy trial under the right to life was reiterated. The Supreme Court reconsidered its earlier view on laying down a timeframe for completion of trial in various offenses. While it reiterated that right to speedy trial is part of Article 21 of the Constitution, it said that no specific timeframe can be set for completion of a criminal trial as there is a possibility of delay due to various factors and all parties may be at fault. The Supreme Court also overruled certain earlier decisions to the contrary which laid down a specific timeframe for completion of a trial. It specifically pointed out that laying down of such time periods exceeded the domain of the Judiciary as it amounted to impermissible judicial legislation.⁵⁴

d. Witnesses

The Court said that it was not in favour of the number of witnesses; it was the quality of their evidence which mattered. It also stated that some discrepancy in bound to exist in the prosecution case and it should not be discarded so long as it does not materially affect the case. The Court also said that the doctrine of ‘*falsus in uno falsus in omnibus*’ is not a rule of law in India, merely a rule of caution. If grain can be separated from the chaff, falsity of a particular material witness or a material particular will not ruin it from beginning to end. The testimony may be disregarded, not that it must be disregarded.⁵⁵

The Court cautioned on placing too much reliance on the evidence of a child witness, saying that wisdom requires that it be corroborated thoroughly before relying upon it as ‘children are easy prey to tutoring and may be swayed by what others say.’ However, the Supreme Court emphasised that it was necessary for the Courts to have a ‘very sensitive approach in cases involving child rape.’⁵⁶

49. *Dharmendrasinh Vs. State of Gujarat* (2002) 4 SCC 679.

50. *Ravindra Shantaram Sawant Vs. State of Maharashtra* (2002) 5 SCC 604.

51. *Supra* note 33.

52. *State of Punjab Vs. Jugraj Singh* (2002) 3 SCC 234.

53. *Devender Pal Singh Vs. State of the NCT of Delhi* (2002) 5 SCC 234.

54. *P Ramachandra Rao Vs. State of Karnataka* (2002) 4 SCC 578.

55. *Krishna Mochi Vs. State of Bihar* (2002) 6 SCC 81.

56. *State of Rajasthan Vs. Om Prakash* (2002) 5 SCC 745.

Change in Judicial Stances

The year 2002 witnessed radical changes in the judicial stances, as is evident in the review of the various judgements relating to the criminal law, rent control law, commercial laws, minority rights, environmental law and public interest litigation. In the 'disinvestment cases', the same Supreme Court which had in earlier cases grabbed jurisdiction, instead gave up jurisdiction to adopt a attitude that was consistent with the changing needs of a liberalised economy. The Court, while balancing itself between competing interests, seemed to lean towards the pro-reformers in the disinvestment debate, towards landlords in rent control matters, towards banks and financial institutions in case relating to loan recoveries and against genuine infringers in intellectual property matters.⁵⁷

The change could not be more palpable or evident as reflected in the Rent Control matters. Earlier, the rent control law as interpreted by the Supreme Court was distinctively pro-tenant given the social welfare character of rent control legislations. The Supreme Court in several cases made it clear that 'in spite of the overall balance tilting in favour of the tenants, the Court should not hesitate in leaning in

favour of the landlords while interpreting those provisions which take care of their interests.'⁵⁸ The Court extended bona fide use to cover those situations where the need is of a person dependent on the landlord or a person whom the landlord is bound to support considering socio-economic milieu or other obligations.⁵⁹ In another case, the Court held that the doctrine of public interest cannot be invoked to stop eviction where the premises required reconstruction and population pressure in the area was growing.⁶⁰ Further, the Court justified its pro-landlord stand contending that otherwise, people would not be encouraged to build houses and that the national wealth of the country would not be augmented.⁶¹

The changing societal notions on institutions like marriage and family, and the growing acceptance accorded to divorce found reflection in judicial pronouncements. The Court held that causing repeated embarrassments in social gatherings would cause frustration, leading to mental cruelty. It also said that apart from merits of the case, 'on grounds of remarriage also the divorce decree should not be disturbed.'⁶²

Dominant Judicial Attitudes

The lack of any theoretical framework behind judges making a paradigm shift in interpreting law differently from the past has created difficulties in our analysis of judicial decision making. Needless to state, a number of factors which have influenced the Supreme Court's decision making process in the past year and will continue to do so in the future. These include the role of media in highlighting social issues, the nature and quality of appointment of judges in the court, the Chief Justice and his leadership role, the changing economic environment, the divergent nature of judges constituting a bench, the

agreement and disagreement among the judges on the Bench and finally and most important, the value orientation of respective judges, coloured as they may be by their individual experiences and reasoning.

While this section dealt with how the Qualitative aspect reflects in detail on the changing trends of judicial decisions, the same would not reflect the performance of the Judiciary in terms of its actual administrative performance. This analysis only provides an understanding of the trend of

57. *Laxmikant V Patel Vs. Chetanbhai Shah* (2002) 3 SCC 65.

58. *Joginder Pal Vs. Naval Kishore Behal* (2002) 5 SCC 397.

59. *G C Kapoor Vs. Nand Kumar Bhasin* (2002) 1 SCC 610.

60. *Harrington House School Vs. S M Isaphani* (2002) 5 SCC 229.

61. *R V E Venkatachala Gounder Vs. Venkatesha Gupta* (2002) 4 SCC 437.

62. *Parveen Mehta Vs. Inderjit Mehta* (2002) 5 SCC 706.

judgements delivered by the decision-makers in the apex court. The significance of the judgements is more or less restricted to the immediate parties and not to the large number of groups and sections of the Indian society and others.

The second part of this paper presents what has essentially been an attempt to consider the quantitative aspect of judicial activity and in particular judicial productivity and judicial benchmarking.

Part 2: Quantitative Review

Traditionally, the quality of a judicial system has been analysed by the quality of judgements delivered by the judges vis-à-vis commonly accepted benchmarks. However, any qualitative review would be meaningless, where the practical reality entails that Courts take decades to render a judgement or when over a million people are languishing in jails waiting for the trials to commence. This fact has necessitated the review of the judicial system not from the perceived quality of judgements or from the qualitative aspects of judicial behaviour but from the obligation of the Judiciary to the community.

The saying that, 'Justice is defined by the society

which it serves' could not be more axiomatic when seen in context of the functioning of the Indian judicial system and the general breakdown of the administrative machinery in the country.

For large sections of the society, 'justice delayed is justice denied.' The rate of disposal of cases is as crucial as the quality of decisions rendered. The endemic delays in the judicial system has resulted in huge backlog of pending cases and the reduced number of cases actually being adjudicated, thus affecting the quality of the judicial process. The huge backlog of cases, which are clogging the justice administration system, is probably the biggest issue confronting the judiciary.

Pendency of Cases in Various Courts

The growing inability of the courts to resolve disputes expeditiously threatens to erode the remaining legitimacy of the judicial system. Urgent steps are required to address the issue squarely.

As per the figures made available by the Supreme Court Registry, there were a total of 37,780 cases filed for admission in the Supreme Court during the year 2002, approximately 85 per cent of which got dismissed or disposed of during the year. On the whole, the Supreme Court has reduced its pendency from 1,04,936 as on 31.12.91 to 23,012 as on 31.5.2002 primarily through better use of Information Technology, bunching of similar cases, etc.⁶³

The performance of the Supreme Court is only one part of the complex reality. As on 28 November, 2002, a total of 36,40,870 cases were pending in various High Courts in the country.⁶⁴ It is estimated that there are over 20 million cases pending in the subordinate courts. Unfortunately, neither the Government nor the Supreme Court has shown any genuine concern in addressing the issue, even though both share the administrative jurisdiction over these lower courts.

A broad and inclusive perspective is extremely important to bear in mind, so that judicial development is not seen in an artificially narrow way, focusing on one part of the interlinked structure and ignoring others.

63. Reply to unstarred question No. 1303 answered on 2.12.02 by law minister in Rajya Sabha.

64. Ibid.

Reasons for Delay in Justice Delivery

The pendency of cases in courts are, inter alia, due to various factors including shortage of judges, increased institution of cases on account of increased awareness of rights on the part of the citizens, rise in population, adjournments, increased complexity of laws, industrial development in the country, increase in trade, commerce and socio-economic activities, lawyers' strike, etc.⁶⁵ The following are the main reasons of delay in the judicial system.

1. Failure to fill up vacancies in the judiciary

The shortage of judges is one of the causes of huge arrears of cases in courts. Against the approved strength of 647 judges in 21 High Courts, 505 judges were in position as on 12.12.2002 leaving 142 vacancies to be filled up.⁶⁶ The Law Commission in its 14th Report on the Reform of Judicial Administration (1958) recommended that the strength of judges of High Courts be fixed on the basis of the average annual institution of all types of proceedings in a particular High Court during the previous three years and the strength so fixed should be reviewed at an interval of two or three years. Accordingly, the judge strength is reviewed every three years. The judge strength was last reviewed in 1999 and 43 posts of judges were approved in various High Courts. The next review, due in 2002, is expected to be completed shortly.⁶⁷

In the year 2002, seven new judges were appointed to the Supreme Court due to vacancies arising out of retirements of previous judges. At present, the post of one judge is vacant, and the total number of judges in the Supreme Court is 25. Appointments of Judges of the Supreme Court of India and the High

Courts are made under Article 124 and 217 of the Constitution of India respectively, which do not provide for reservation for any caste or class of persons.

2. Poor rate of disposal of cases

The Malimath Committee has recommended that the rate of disposal of main cases per judge, per year should be 800. However, as per the latest figures (on 28 November, 2002), the estimated national rate of disposal per judge per year in the High Courts is 1745 cases, calculated on the basis of the formula suggested by the Malimath Committee.⁶⁸

As per the latest available information, the Madras High Court disposed of the highest number of cases and the Sikkim High Court the lowest number of cases during 2001-02.⁶⁹ The highest disposal rate of cases per judge per year is 2221 cases in the Madras High Court and the lowest is 831 cases per judge in the Delhi High Court.⁷⁰ It is understood that the High Courts have been requested to implement the recommendations of the Malimath Committee to streamline the procedure which will, inter alia, expedite the disposal of pending cases.⁷¹

3. Low judge to population ratio

The Eleventh Law Commission in its 120th Report on 'Manpower Planning in Judiciary: A Blue Print' in July 1987, inter alia, observed that the strength of Judicial Officers in India was far less as compared to certain other countries. The Commission recommended that the present strength of 10.5 judges per million population be increased to 50 judges per million population in a phased manner. At present, there are 14.7 judges per million population in the country.⁷²

65. Reply to unstarred question No. 1902 answered on 9.12.02 by law minister in Rajya Sabha.

66. Reply to starred question No. 372 answered on 16.12.02 by law minister in Rajya Sabha.

67. Ibid.

68. Supra, note 62.

69. Source unknown. See pg 4 of the printout. Only date given as 28.11.02. However, the Sikkim High Court has the lowest institution and the lowest pendency of cases. The disposal of cases, therefore, is the lowest in the Sikkim High Court.

70. The annual disposal rate of cases per judge in the Madras High Court is followed by 2202 cases per judge in the Karnataka High Court, 1640 cases per judge in the Patna High Court, 1581 cases per judge in the Andhra Pradesh High Court, 1477 cases per judge in the Madhya Pradesh High Court, 1447 cases per judge in the Allahabad High Court, 1368 cases per judge in the Rajasthan High Court and 831 cases per judge in the Delhi High Court. Source: PIB Press Release dated 3.10.2002.

71. The average slow pace of disposal of 1363 cases per judge per year in the High Courts has led to accumulation of arrears of more than 3.6 million cases as on date.

72. Ibid.

The Supreme Court, in its judgement of 21 March, 2002, in *All India Judges' Association & Ors Vs. Union of India & Ors*, has directed that an increase in the judge strength from the existing ratio of 10.5 or 13 per one million people to 50 judges per one million people should be effected and implemented within a period of five years in a phased manner to be determined and directed by the Union Ministry of Law. A seven member committee comprising Registrar Generals of High Courts and Law Secretaries of states/UTs has been constituted to examine and recommend norms for creation of judge strength in district/subordinate Courts keeping in view the judgment of the Supreme Court of 21st March, 2002 in the case of *All India Judges Association & Ors Vs. Union of India & Ors*.⁷³

Instead of tackling the root cause of judicial delays, the three wings of government, viz. the Legislature, Executive and Judiciary are taking potshots against each other. According to a report on 'Laws Delays' submitted to Parliament by a standing committee headed by Pranab Mukherjee in its winter session, the ball is in the court of the judiciary. 'The judiciary in whom the power and responsibility now vest has failed to fill up vacancies in judicial posts promptly and punctually and those vacancies of judges in all courts contribute to the huge pendency in a big way', the report holds. It further contends that after the judgement of the Supreme Court in the *Advocates-on-Record Vs. Union of India* case in 1993, the initiative to appoint new judges and fill up vacancies is now the responsibility of the judiciary.

The Judiciary in turn blames the government for failing to provide funds to set up more courts, contending that less than one per cent of the gross national product was spent on the Judiciary and the state would not be meeting its obligation of making justice available to the people if it failed to spend more on the Judiciary on the grounds of financial stringency. The Judiciary has upped the ante against State Governments who said that they

were not going to bear the extra cost of court infrastructure and salary costs. In this regard the court has issued directions against the state governments, making it mandatory.⁷⁴

4. Failure to adopt information technology in courts

As with all aspects of modern day life, technology has significantly advanced the ability of professionals to collect and collate data and this capacity will continue to improve. Justice Geoffrey Davies said,⁷⁵

If I were to nominate the factors which I thought would be most likely to affect both the substance and procedure in civil justice systems during the course of this century I would unhesitatingly say information and communication technology ...Technological changes in recording, storing and finding information and in communication have already had a substantial effect on procedure, and it is not difficult to see that the extent of that effect will grow rapidly.

In India, apart from the Trial Courts, there is no application of information technology for court management even in the State High Courts or the Supreme Court of India. There is no systematic database application for case retrieval, scanning of court records or electronic filing. Commenting on the similar conditions in the British justice system which existed long ago, Lord Devlin then said:

*If our business methods were as antiquated as our legal system, we would have become a bankrupt nation long back.*⁷⁶

The benefits of judges accessing internet databases for legal content could be several fold. First, it could enable judges to have access to faster, comprehensive and more economical research tools. Second, it could improve the quality of judgements delivered due to access to the latest case-law and related precedents on the subject; and third, it could increase the productivity of the judges.

73. Reply to starred question No. 277 answered on 9.12.02 by the law minister in Rajya Sabha.

74. Ibid.

75. *All India Judges Association Vs. UOI (2002) 4 SCC 247*.

76. 'Justice in the 21st Century' a paper delivered at the Family Court Conference, Sydney, 7 July 2000.

Benchmarking Productivity for Judges

Public confidence in the courts along with the legitimacy of the judicial systems are essential prerequisites of a judicial system. Public confidence is built when the courts are accountable, responsive, accessible and efficient whatever the administrative structure happens to be. This is important when one considers that the core function of the court system is to 'deliver justice according to law to the people as expeditiously and economically as it is reasonable practicable to do so.'

Judicial accountability should not only address qualitative aspects of judicial behaviour but quantitative aspects, which in turn raises consideration of productivity and benchmarking. Although it is not intended in this paper to exhaustively deal with, and attempt to answer, the questions that may be raised as a consequence of a quantitative analysis is the need for benchmarking the productivity of judges.

In 1976 Professor Ian Scott wrote:

If the resources of the court system, both human and physical, are to be used at an optimum efficiency it is essential that the administration be able to monitor its day-to-day performance. The collection of data requires the co-operation of all persons involved, judges, lesser judicial figures, administrators and supporting personnel. It is an irksome chore and some judges have resented having to participate in it

*by, for example, keeping a note of the time taken to dispose of each case and matters of that kind.*⁷⁷

What was identified as an issue in Australia in 1976 continues to be an issue in India today. The present authors found that there is no system even today for the courts in India to provide information at a glance—compiled data regarding the total cases listed for trial; total number of days listed; total actual days taken; number of trials closed and their reasons; number of trials listed that settled and when; number of trials adjourned and the reasons number of trials finished; number of judgments delivered; and time elapsing from completion of trial and delivery of judgement. This information is important because it permits identifying whether the court is accountable for judicial activity to the community. The benefits of recording such information is as much about breaking down the barriers of 'sacred cows' as they are about better planning and understanding of the needs and demands on the court.

The Judiciary must consider internal benchmarking so that there can be accountability to the public of the collective productivity of the Judiciary. The benchmarking, however, must be driven from within the Judiciary. In its absence there may be uniformed and idiosyncratic external benchmarking from the Executive, which would threaten and undermine judicial independence.

Budgetary Allocation For Judiciary

The total budget of Supreme Court for all its various activities was Rs 299.30 million in the previous financial year. This constitutes a significant share of the total budgetary allocation set aside for the Judiciary. In the year 2002, the Central allocation for the Judiciary in the states under the Centrally Sponsored Scheme had been increased to Rs 7 billion during the Tenth Five Year Plan period as compared to Rs 3.85 billion during the Ninth Five Year Plan.⁷⁸ In addition, Rs one billion has been

provided for upgradation and improvement of infrastructure of High Courts during the Tenth Plan period. Out of which, Rs 180 million has been allocated for the High Courts during the current financial year 2002-03.

No reliable formula that allocates resources among courts according to comparative workload has been noticed in the distribution of funds for the Judiciary.

77. Justice Jagannatha Shetty, *Preface of the Report of the First National Judicial Pay Commission* constituted by the Government of India on 21st March 1996.

78. 'Court Administration' (1976) 50 ALJ 30.

Conclusion

Today the Judiciary in India is regarded as the most independent and also by far the least accountable wing of the government. However, the judicial system in India still retains substantial legitimacy in the eyes of many Indians despite its politicisation in the 1970s and 1980s and recent allegations of impropriety levelled against several High Court judges. The effective use of the tool of 'public interest litigation' or 'social action litigation' has led to many Indians turning to the courts to redress grievances against the other two wings of government, viz. the Legislature and the Executive. This has in effect led to a scenario where the balance of power has shifted perceptibly to the hands of the Judiciary.

As judicial systems move into the 21st century, they must respond to new demands. Recent studies⁷⁹ have conclusively shown that legal and judicial reforms can contribute greatly to the nature and quality of economic development.

Recent trends in judicial reforms mandates that efficiency, integrity, fairness in court performance and the ability to understand the demands of law enforcement are the *sine qua non* of an effective

justice delivery system. Knowledge sharing is key to building a more responsive judicial system. There is thus an urgent need for learning, building partnerships and networking among judiciaries, NGOs, professionals, researchers and the civil society, so that judicial reform becomes a reality.

Further there is an immediate need for the judicial system to address the issue of delay in the judicial process. Is 'Dispute Resolution and Contract Enforcement' an informal mechanism or is it a general statement? The judicial system ought to address the laws and institutions, which are required to encourage informal mechanisms of the justice delivery system so that they complement the formal legal and judicial system in place.

Further, the judicial system should be geared for providing a voice to the under-privileged and the less resourceful. This would entail providing all citizens, particularly the poor, access to justice, one of the most essential aspects of legal and judicial developments to ensuring in the long run, that issues related to gender, children and indigenous people are addressed by a more responsive judicial system.

79. The annual allocation under Centrally Sponsored Scheme for the development of infrastructural facilities for the judiciary in states has been gradually increased since the Scheme was first launched in 1993-94 on a 50:50 cost sharing basis between the Centre and the States. The Central allocation under the Centrally Sponsored Scheme has been increased from Rs 480 million in 1998-99 to Rs 550 million in 1999-2000 and to Rs 749.5 million in 2000-2001. It was increased to Rs 1.08 billion during the financial year 2002-2003.



Part IV

Grassroot Democracy – Watching Local Governance

The independence of India should mean independence of the whole India... Independence must begin at the bottom. Thus every village will be a republic or Panchayat having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs. In this structure composed of innumerable villages, there will be ever-widening, ever-ascending circles. Life will not be a pyramid with the apex sustained by the bottom.

—Mahatma Gandhi

Grassroot Democracy – Watching Local Governance

After the 73rd amendment to the Constitution of India, panchayats are evolving as an important part of the decentralisation being attempted in India. It is perhaps the current accepted expression of peoples participation in governance and with time, effective devolution of power and implementation could transform into a real empowerment tool. The report looks at the constitutional evolution of the Panchayati Raj Institutions in India and the way the system has been implemented in various states, especially given the diverse political commitments towards the implementation of the system. It also takes a peep at the various hurdles that stand in the way of the proper evolution of the Panchayati Raj Institutions in India

Perspective on Decentralised Governance

The processes of globalisation, liberalisation and decentralisation are taking place in India simultaneously. It needs to be empirically tested whether there exists a positive or negative correlation, if there is any. Nevertheless, this chapter is primarily focused on mapping the trends of decentralisation, devolution of powers to local self-governance bodies and efforts made by different states to strengthen institutions of grassroot democracy. Since independence, India opted to be a democratic country where a representative form of governance was accepted. The democratic values remained operational for any citizen to exercise his/her vote once in five years to determine the fate of their representatives in the policy-making institutions. Each Member of Parliament (MP) represents approximately two million population and each member of legislative assembly in the states represents on an average 250 thousand population. The values of secularism enshrined in the constitution remained in party manifestos. However, caste, class and minority equations dominated in the determination of candidates and identity of the party. The representatives remained accountable to their party leaders on a regular basis and cut off from their constituency for a number of years. This form of indirect democracy remained far distant from the people, it could not produce local leaders, rather, it produced a few national heroes/heroines, who could not be reproduced or replicated.

Such forms of democracy in India were constantly challenged and debated. The dream of Gandhiji of

village sovereignty and local self-governance took a back seat yet has never been forgotten. The Balwant Rai Mehta study team in 1957 recommended for the constitution of statutory elective bodies with the necessary resources, power and authority devolved on them and a decentralised administrative system working under their control. This was followed by the initiatives in Rajasthan for establishing Panchayati Raj Institutions in 1959 and by Andhra Pradesh and Tamil Nadu in 1960, Assam, Karnataka, Orissa, Punjab and Uttar Pradesh in 1960-61. The states of Maharashtra, Bihar, Madhya Pradesh and Kashmir which decided not to have multi-level Panchayati Raj gave core powers to village Panchayats. There were variations in ideological stands in the devolution of powers, therefore some of the states focused on the middle level tier Panchayat Samitis and others to Zilla Parishads.

Though significant attention was given to strengthen decentralisation process as many by states appointing various committees, there were no concrete efforts made to operationalise recommendations. The Ashok Mehta committee of 1977 appointed by the Government of India provided several recommendations for strengthening PRIs. The committee agreed for stronger district level tier and Mandal Panchayats. The states of Andhra Pradesh and Karnataka implemented some of the recommendations by setting up Mandal Panchayats. Madhya Pradesh also adopted changes in 1990 in the Panchayati Raj system accordingly. The process of devolution and strengthening local

self-governance continued as various committees/teams were set up to provide directions and guidance for strengthening decentralisation. The role of village assemblies or Gram Sabhas was not envisaged and considered important, in most of

these reports, for making representatives accountable to the citizens who elect them. The inherent spirit of Article 40 of the Constitution to make local self-governance institutions as autonomous units of self-governance could not be fulfilled.

Constitutionalisation of Panchayati Raj Institutions

Various efforts made by the government at the centre as well as state governments to build a vision for grassroot governance culminated in the enactment of the 73rd Amendment. Parallel to the efforts of the government, many voluntary organisations, social workers, and Gandhians as well as Marxists attempted to build models of local self-governance at micro levels. There were examples of self-reliant villages where local bodies were at the centre of management and decision making. Enactment of 73rd Amendment was followed by constitution of a committee (Singvi Committee 1986) to suggest an appropriate constitutional format. There is history of successes and failures before the 73rd Amendment could actually come into force on 24 April 1993.

The salient features of the 73rd Amendment can be summarised as under:

- There will be a Gram Sabha in each panchayat constituted by a single or multiple villages on the basis of population. The Gram Sabha will be constituted by the voters as defined by the law.
- The three-tier structure at the district, block and village panchayats was accepted. The elections of all the members of panchayats at all the levels were considered to be direct and not by nominations.
- Reservation of seats in all the three-tier structure has been provided in proportion to their population at each level. More importantly, one-third of the total seats have been reserved for women.
- The Act ensures a five-year term for the Panchayati Raj Institutions. In the event of a supersession, election to constitute the body should be completed before the expiry of six months from the date of dissolution.
- The state legislative has been given power to

authorise panchayats to levy, collect and appropriate suitable local taxes and also provide for making grants-in-aids to the panchayats from the consolidated fund of the state.

- In every state, a State Finance Commission will be set up once in every five years to review and recommend distribution of funds between the state and local bodies.
- The state governments were expected to make state legislation in this conformity within a year from the commencement of the 73rd Amendment.
- The Act also indicates a set of items in the 11th Schedule of the Constitution which may be entrusted to the panchayats in addition to any other scheme for economic development and social justice by the state government.

The state governments in a differentiated order appreciated the Act and implemented it at some point.

The 73rd Amendment was followed by the enactment of 74th Amendment in 1993 for urban local self-governance bodies. Similarly, a special provision to the panchayats in the 5th Schedule areas, i.e., Panchayat Extension Schedule Act (PESA) was passed in 1996 to respect the tribal practices of self rule, their decision-making and management practices. Many of the states have taken cognisance and enacted PESA in their states, viz. Madhya Pradesh, Orissa, Uttar Pradesh, Rajasthan, Gujarat, etc.

Efforts are on in the direction of further decentralisation in some of the states. Madhya Pradesh passed a State Act entitled 'Panchayati Raj and Gram Swaraj' in December 2000 which further devolves powers to the Gram Sabhas empowered to constitute seven committees, viz. Village Health

Committee, Village Education Committee, Social Justice Committee, Public Resources Committee, Infrastructure Committee, Social Security Committee and Agriculture Committee. The heads of the seven committees constitute the eighth committee called the Village Development Committee headed by elected Sarpanch of the Gram Panchayat. The criteria of reservation has been

uniformly applied as per the conditions articulated in the 73rd Amendment. The quorum of Gram Sabha has been enhanced from 10 per cent to 20 per cent where 33 per cent participation of women is mandatory. The Maharashtra government has also set up a task force to move in this direction involving eminent scholars and practitioners working towards grassroot governance.

Operational Challenges in Strengthening PRIs

Enactment of provisions in the Constitution as well as creating amendments in the states legislative assemblies reflect a political will in favour of decentralisation. The format adopted by different states is demonstrated in Annexure XXXIII. This is a necessary condition rather than a sufficient one. The acid test of genuine political will in favour of decentralised democratic governance is reflected if the political leadership and bureaucratic machinery back them up with adequate funds functions and functionaries. It would be worthwhile to identify supportive and prohibitive intentions expressed by the legislative bodies, executives as well as the Judiciary for the promotion of decentralised governance. This part of the report will look into some of the examples across the states round certain areas.

Salient issues emerging for effecting grassroot governance

Establishment of institutional mechanisms for PRIs

The states demonstrated their supportive political will for strengthening decentralised governance by conducting panchayat elections. Madhya Pradesh was the first state to hold elections of Panchayati Raj Institutions in May 1994, demonstrating its commitment for decentralisation by announcing elections and conducting it in January 2000 soon after completion of the five-year term.

The states which took a reasonably long time for getting the elections done are Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Jharkhand and Punjab. The status of elections of PRIs in different states is given in Annexure XXXIV.

The state of Punjab made certain provisions contrary to the Constitutional provisions, therefore, the Punjab and Haryana High Court repeated such provisions. Andhra Pradesh and Gujarat used the conditions of drought as reasons for postponement of elections. Elections in Bihar could be held after 23 years in April 2001. The Government of Gujarat during the panchayat elections announced to reward rupees one hundred thousand for the unanimous choice of representatives, however, people exercise their democratic rights and in about 90 per cent panchayats elections were fought.

One of the newly created states Chhattisgarh, has yet to establish the State Election Commission (SEC). Article 243K has vested the SECs with the superintendence, direction and control of the conduct of panchayat elections. In the absence of such a commission, by-elections to a large number of posts in panchayats of all the three tiers are lying vacant even after six months, again violating the Constitutional provisions (Panchayati Raj Update November 2002).

In the states where elections were done, show various examples which reflect that Panchayati Raj Institutions have not been empowered. It is imperative for the state governments to form District Planning Committees under Section 243(2-D). However, in states like Andhra Pradesh, Assam, Bihar, Goa and Gujarat, these committees have yet not been formed. Establishing Zilla Sarkar in Madhya Pradesh and nominating a Minister as President of the district planning body takes away power and importance of representatives of the three tier PRI structure. Annexure XXXV provides details on the committees formed in different states.

Similarly, many of the governments have neither promoted or nor looked into the implications of creating parallel structures at the local, district and state levels. Under many development programmes, parallel committees have been formed, e.g., Janmabhoomi Programme in Andhra Pradesh, Village Development Committees in Haryana, Joint Forestry Management Committee in Gujarat, Watershed Committees in Rajasthan, Madhya Pradesh, Orissa and many other states, Water Users Committees in Uttar Pradesh etc. Such systematic efforts of promoting parallel programmes by passing the Constitutionally mandated and democratically elected bodies put question mark on the deep down commitments of the states in favour of decentralisation. The

resources transferred under such centrally sponsored or supported by bilateral and multilateral funds are many times more than received by panchayats from their regular centrally sponsored schemes and state funds.

Some of the provisions which have been contradicting the powers devolved to panchayats under rules, the PESA provisions which is a step ahead than the 73rd Amendment to recognise Gram Sabhas as the decision making and executive body. Some of the provisions of the Act and contradictions of the powers enjoyed by the government can be seen through the illustration of Madhya Pradesh. The situation is not different in other states where PESA has been enacted.

Impediments to the Implementation of PESA in Madhya Pradesh

Subject	Explanation of the Provision
Section-4 (g) of PESA	Reservation of seats in Panchayat is in proportion to the population of resident communities. This offers a chance to coexisting powerful communities (other than tribes) to supersede tribal representatives of panchayats. Therefore, the dominance of caste communities may persist even in scheduled areas.
Section-4 (i) of PESA	State still has the power to plan and implement development projects (e.g., power stations, dams, industries, mines, canals, parles, etc.). Only 'consultation' with Gram Sabha or Panchayat is necessitated prior to the acquisition of land in scheduled areas. The word 'consultation'—has always been misinterpreted and misused by state authorities while acquiring lands under the Land Acquisition Act, 1999. Development projects are still a major threat to tribal populations.
Section-4(j) PESA, Section 129(c) Clause (3) & (4) and Section 129(d) Clause (3) of Madhya Pradesh Panchayati Raj Act 1993	Management and control of 'small ponds' (<3 acre size) has been given to panchayats. The larger ponds and reservoirs are controlled by either Janpad Panchayat/Zila Panchayat or Irrigation/Fisheries Department. Moreover, no favourable Amendment has been carried over in Rule 8(1) & 9 of Madhya Pradesh Forest Rules, 1960, to give autonomy to the Gram Sabha if it uses the water bodies in reserved forests.
Section 4(k) & (l) of Extension Act, Rule-7 of Madhya Pradesh Minor Minerals Rules 1996	For minor minerals in Schedule-I, the recommendations of Gram Sabha for Panchayats are made mandatory before the grant of prospecting or mining lease. There are fears that in practice the contractors usually misuse their money power to get the lease. There is no clear rule for contractors/officials who confer leases. Moreover, nothing is said about 'major minerals' although its extraction causes major havoc on tribal lands.
Section-4 (m) Clause (ii) of PESA	In Extension Act, Gram Sabha has been given ownership over minor forest produce. But, on the other hand, no amendment has yet been made in Madhya Pradesh Forest Rules, 1960, Article 32(d) & 76 of Indian Forest Act 1927, (applicable in Madhya Pradesh too) concerning minor forest produce, which are still controlled and owned by the Department of Forests.
Section-4 (m) Clause (v) of PESA	Despite the provision to exercise control over money lending to STs, the Gram Sabhas are not yet empowered to do so in the Money Lending Act, for it is not amended so far.

Contd... Impediments to the Implementation of PESA in Madhya Pradesh

Subject	Explanation of the Provision
Section-4 (m) Clause (vi) of PESA, Section 129(C) Clause-2, Madhya Pradesh Panchayati Raj Act, '93 Section 4(m) Clause(i) of PESA, Section-61 (e) of Madhya Pradesh Excise Act 1995	Gram Sabha can exercise control over voluntary organisations in respective village, but it can face difficulty as there is no such provision in the Madhya Pradesh Societies Registration Act, 1973. Revised in 1999. Gram Sabha is not empowered to control or close down those liquor manufacturing sources that were created before the enactment of Extension Act, i.e., 1996; whereas in reality most villages have such liquor sources established before 1996.
Directive Principles (Article 39-b), Section-129 (c), clause-3 the Madhya Pradesh Panchayati Raj Act, 1993	Gram Sabha is empowered to manage and control natural resources including 'forests.' It is obviously impossible to exercise such control until a favourable amendment in the Indian Forest Act, 1997. Provisions are there in JFM Resolution of Madhya Pradesh, 1996, to accommodate panchayats in VFC/FPC, but no adequate mechanism has been developed to give full control to Panchayat or Gram Sabha for managing or using the forests or forest products.
Section-31(a) of Madhya Pradesh Village Courts Act 1996	Gram Sabha is given power to handle matters related to social justice, but it has very little power and scope. Moreover, sufficient favourable Amendments have not yet been made in the Indian Penal Code, 1860; Penal Process Code, Cattle Trespass Act, 1871; Indian Forest Act 1927; Wildlife (Protection) Act 1972; Police Act, and many others.
Section-4(m) (vii) of PESA	Gram Sabha has the power to control local plans and resources for development related activities. Plans such as watershed development, joint forest management, poverty alleviation and other externally sponsored/imposed plans do not usually take into consideration the major role of Gram Sabha. They are still being implemented in scheduled areas too as they used to be.

Source: Status of Panchayati Raj Institutions in Madhya Pradesh (1995-2000), Samarthan, 2000

Even after the 10 years of existence of PRIs in different states with the first term or second term of election, actual efforts made by the government for the transfer of funds, functions and functionaries are varying in nature. By and large, lesser proportion of funds have been transferred to the PRIs.

The Annexure XXXVI reflects the status of such efforts across the states, clearly showing that a large number of departments are yet to be transferred by the state governments. The efforts of development administration are to retain power and resources in their hands rather than trusting local institutions and devolving such powers in real terms.

Madhya Pradesh, Tamil Nadu, West Bengal, Sikkim, Karnataka and Kerala have devolved a large number of functions, but the control over the functionaries is yet to be devolved. The most crucial

aspect of the devolution depends on transferring the funds to the PRIs, which many of the progressive states have yet not done. Karnataka attains a position of devolving funds of all the departments whereas Punjab, Rajasthan, Gujarat, Haryana, Tamil Nadu have yet not begun the process of transferring departments and functions. The controls exercised in different states using either bureaucracy or legislative bodies is given in Annexure XXXV.

Women, tribals and dalits as panchayat leaders

The Constitutional conditionality of reservation of women and other disadvantaged sections on the seats elected at all the three tiers of PRIs is a path-breaking positive discrimination. A large number of women, Dalit and tribals got elected for the first time as Gram Panchayat members, heads of

Panchayats, Block and District Presidents. Emergence of such a large number of leaders from these sections has challenged the existing power centres at the local level. Moreover, the stereotypes prevalent within the top political leadership and bureaucracy is yet to change to accept them respecting and making efforts to build their capacities rather than accusing them for weak capacities.

The other decision of the Government of Madhya Pradesh enacted after February 2000 elections that Panchayat representatives will have no more than two children has serious implications for women as leaders. Shashi Yadav, 40, OBC Sarpanch of Kanawati in Neemuch district became the first victim. She gave birth to the third child on 25 September 2001 and the district administration quickly processed and disqualified her from the post (Panchayati Raj update, January 2000) In May 2002, a petition was filed by Chander Singh, Sunar Janpad Panchayat President and his wife Rukmini Bai, Sarpanch of Aroliya village of Sajapur district on a show cause notice served by the district collector for having a third child. A divisional bench of Madhya Pradesh High court, on the 17 May, stayed this provision of the Panchayati Raj. In the state of Chhattisgarh which got separated from Madhya Pradesh in November 2000, there were 106 such cases/complaints when representatives having more than two children can be declared as illegible. In the state of Himachal Pradesh, for elected panchayat representative under Himachal Pradesh Panchayat Act 1994 section 131(1) for giving birth to the third child (Panchayat update September 2002)

Creation of such provisions clearly demonstrates in sensitivity towards women representatives, especially in the context that there is no such provision created for the Members of the Parliaments or MLAs. Women being Dalit or Tribal representatives who are elected first time as leaders have been harassed by the legal provisions, attitudes of the administrative machinery and made dominated societal structures. There are several incidences of harassment in all the states.

Lata Yadav, Sarpanch of Sawamkheda village of Hoshangabad district, Madhya Pradesh is forced to live in Bhopal as she does not find her village safe. The male deputy Sarpanch resents to work under her leadership. Similarly, case of Suman Mahajan

Karkale, the youngest woman Sarpanch of Maharashtra belonging to Pethvadez village in Nanded district reflects harassment of strong feudal male forces for not functioning as a puppet in their hands. Suman got elected after previous Sarpanch Sangita Gaikwad's death under mysterious circumstances. A graduate, Suman took full charge of her duties making the local feudal male leaders restless. The local leaders are so influential that even the administrative machinery is unable to take necessary action and she knows that initiating legal proceeding against the Sarpanch and others would mean more sufferings for herself. (Panchayat Update, August 2002)

There are numerous examples of stereotype male-dominated attitudes reflected at the community level or by the administrative machinery. A study conducted by National Commission for Women, on the Participation of Women in Panchayati Raj Institutions taking a sample of six states, clearly demonstrates that many of the officials have humiliated the women representatives, demotivated and labelling them as 'illiterate.' Officials asked to send their husbands and advised them to take care of household chores and children. It is clearly perceived by the women that officials find it easy to settle commission on development grants with men comfortably (page 39).

Nevertheless, the decision of Madhya Pradesh Government was lauded that in the village Patna-Tamoli of Panna district where Sati was committed on 6 August 2002 will not receive any financial grant for the next two years. The meeting chaired by the Chief Minister of the Cabinet Committee on Political Affairs also requested the Central Government for not extending any financial assistance to that Panchayat for the next two years (Panchayat Update, August 2002).

The situation of Dalit representatives in PRIs at Gram Panchayat, Block and District level remains largely unacceptable by the upper caste and class forces with numerous examples of Dalit or tribal leaders facing insults in Gram Sabha or Block or district level meetings as well as while dealing with the government officials. The Madhya Pradesh Government demonstrated a strong political will by taking up Dalit Agenda and adopting the Bhopal Declaration in January 2002. Community land

available in Panchayats is being distributed among the landless Dalits. The conflicts and opposition becomes far more apparent and acrimonious in the areas and regions where feudal systems still exist or the proportion of Dalits is insignificant.

Devolution of financial resources to the PRIs

The test of decentralisation and strengthening decentralisation lies in the desire of the Government to transfer funds to the Panchayati Raj Institutions. The recommendation of the Eleventh Finance Commission (EC) for grant amounting to Rs 100 billion for the PRIs and Rs 80 billion for municipalities has been accepted by the Union Government for 2000-01 to 2004-05. The total expenditure of PRIs and ULBs as a percentage of GDP was 5.53 per cent in 1992-93, prior to 73rd and 74th Amendment. It jumped to 12.24 per cent in 1997-98 registering more than 117 per cent growth in five years (Oommen, Oct 2000: Page 2). Emergence of PRIs has significant implications for the allocation of development resources in centre-state relationship.

There are some of the conditions laid down by the EFC for transfer of funds with the transfer of powers and responsibilities under Act 243G and 243W of the Constitution. Some of them are the following:

- i. Local body grants shall be released to the states completing the election process of all the bodies at all the levels. In case of delay in holding local body election in time, funds will be deducted proportionately.

- ii. States are expected to devolve responsibilities, powers and resources upon the PRIs, ULBs are envisaged in schedule XI and XII respectively. This should be done by the 31 March 2002, otherwise 25 per cent of the grants meant for PRIs and ULBs will be withheld.
- iii. States should furnish a certificate stating that the grants have been released only to the selected local bodies and utilised for the determined purpose. The UBGs shall neither be diverted for any other purpose nor the grant should be withheld by the state government.
- iv. The local bodies shall raise matching resources not less than 25 per cent of the grants received from the union government in case of PRIs. In case any local bodies are unable to provide the matching contribution, the state government should provide the balance within three months to the concerned local body.
- v. These grants will be unconditional except that they should not be used for payments of salaries and wages.

Source: Panchayati Raj Update August 2001

The recommendations of the Eleventh Finance Commission are favourable to strengthening the positions of the local self governance bodies. Some of the conditionalities imposed through the financial allocations do pressurise the State Governments to take necessary actions to promote decentralisation.

The following tabulation reflects the status of revenue and expenditure of Gram Panchayats in different states. The table demonstrates the will and

Contribution of Own Revenue by the States for PRIs (1997-1998)

Nil	Proportion of own revenue and total revenue				
	0-5%	5-10%	10-20%	20-40%	40% and above
Arunachal Pradesh	Himachal Pradesh	Maharashtra	Assam	Andhra Pradesh	
Jammu & Kashmir	Madhya Pradesh	Tamil Nadu	Karnataka	Goa	Haryana
Bihar	Mizoram	West Bengal	Kerala	Gujarat	Punjab
Mizoram	Orissa		Meghalaya		
Nagaland	Rajasthan				
	Tripura				
	Uttar Pradesh				

ability of the states to mobilise their own resources and to provide financial support to the local bodies for their development efforts and administration.

The table clearly reflects that the proportion of contribution as own revenue is dependent on the economy of the state as most of the poorer states are unable to contribute more than 5 per cent of the total revenue provided to the panchayats. The variations within the category of 0-5 per cent contribution, however, reflect their commitment for PRIs. Uttar Pradesh in 1997-98 contributed 0.52 per cent whereas Madhya Pradesh contributed 3.98 per cent and Rajasthan 1.68 per cent. Maharashtra being a relatively better off state could contribute only 6.75 per cent of the own revenue in 1997-98.

There is a consistent decline in own revenue contribution in most of the states, However, the level of contribution has not significantly changed from the period 1991-92 to 1997-98, i.e., pre 73rd Amendment and Post Amendment. In some of the progressively known states for decentralisation, viz., Kerala, there is a significant drop, i.e., from 35.93 per cent in 1991-92 to 22.32 per cent in 1996-97 and to 13.31 per cent in 1997-98. There is a significant improvement in own revenue contribution in the state of Punjab where it has gone up from 21.26 per cent in 1991-92 to 38.81 per cent in 1996-97 and 45.57 per cent in 1997-98.

The pattern of expenditure of the total revenue on the core services, i.e., water supply, street lighting, sanitation and road has been assessed against the other expenses. The basic expectations of citizens expressed in many of the micro studies conducted are primarily related with the provision of the core/basic services. The following table presents

details of the states, which have invested in favour of the core services.

The table clearly reflects that limited states have focused on investing on the core services as only Tamil Nadu has made an investment beyond 40 per cent in 1997-98. Kerala, Madhya Pradesh, West Bengal, known for pro-decentralised governance, spend less than 20 per cent of the total resources on core services. This is also related with the fact that most of the department dealing with core services have yet not devolved their resources to the Panchayati Raj Institutions.

Large variations in pro-decentralised policies and income and expenditure depend on the incentives and disincentives associated with centre-state transfer of funds. The principles of interstate distribution resources to local bodies among the states is based on the criteria of 40 per cent weightage on population and only 20 per cent weightage is given to the index of decentralisation. The decentralisation index followed by per capita income (distance from the highest) 20 per cent, revenue efforts 10 per cent and geographical area 10 per cent. There is heavy weightage given to the population, therefore, efforts of decentralisation become insignificant. Kerala finds only tenth place in the EFC's decentralisation index whereas Bihar which has not responded to the conditionalities of the 73rd Amendment remain on the sixth place in the decentralisation index relating to panchayats. Owing to high weightage given to population, Bihar attains second place in the composite index. (Oommen, ISS Discussion paper, series 6, October 2000 pp. 10-11).

The ground realities of devolution of funds at the grassroot level have been studied in Gujarat by

Expenditure of the Total Revenue of the PRIs on Core Services in 1997-1998

Up to 20%	20% - 40%	40% and above
Kerala	Assam	Tamil Nadu
Madhya Pradesh	Andhra Pradesh	
Maharashtra	Goa	
Meghalaya	Gujarat	
Mizoram	Karnataka	
Orissa	Punjab	
Uttar Pradesh		
West Bengal		

Unnati in 1999 highlighting that only 12 per cent of the women and 40 per cent of the Sarpanch have good knowledge about Panchayat Finances. About 87 per cent male members do not have any understanding about Panchayat Finance.

The study of Gujarat and a similar study conducted in Madhya Pradesh in July 2000 by PRIA, Delhi based on peoples perspective recommends that:

- State and Central Government should provide untied grants to panchayats.
- Sarpanch and Panches of Gram Panchayats should be intimated separately about the amount and timing of the release of the fund.
- Complicated system of accounting of different programme should be simplified and a unified system be applied.
- The panchayat budgeting should be simplified for promotion of participation of the villages/ Gram Sabha members.
- All the social sector programmes should be implemented through panchayats. Agencies involved in social sector initiatives should work in co-ordination with the social sector committees of Gram Panchayats rather than creating parallel structures.

1. Establishment of strong leadership base and competitive politics: Strong leadership has emerged in the form of elected representatives in the three-tier structure. The reservation for the Scheduled Caste, Scheduled Tribes as well as for women has given them opportunities to acquire positions of decision making which otherwise must have been denied to them. Several examples of women taking control of Gram Panchayats management coming out of their traditional roles are becoming visible in numbers in different parts of the country.

The leadership at Zilla and Janpad level has gained strength to raise their issues and make the bureaucratic system more accountable. As the district level elections are held with clear identities of the political parties competitive politics has taken place. The leadership abilities of the representatives at all the level is assessed on the basis of capacity to mobilise government grants/subsidies in their constituency. The leadership of PRI representatives especially at the Zilla and Janpad level have started behaving like

their MLAs and MPs and viewing their careers as of MLAs or MPs.

The challenge continues to exist as to how to make elected representatives accountable to the people, where the representatives maintain constant relationship with the citizens to engage in planning and meeting their aspirations. The proximity of the local institutions with the people is the greatest strength. In order to exert pressure on the PRIs to move towards greater direct form of democracy, favourable mechanisms, citizens level become imperative.

2. Establishing grassroots governance with existing old decentralised forms of management: Over the last ten years, the government has accepted decentralisation process as enshrined in the 73rd Amendment. The states have implemented the format of devolution of powers to the local bodies in varying degrees. Some of the states appear to be quite progressive whereas others are less receptive. The overall analysis reflects that even those states where power has been devolved in letter need to translate it in true spirit. If the functions and functionaries of various departments are transferred, the funds have not been transferred. The office orders and departmental decision do not take into consideration the Constitutional provision under the Panchayati Raj Act or PESA, therefore, at times contradictory orders are the issues which disable local self governance institutions to get empowered.

There is a need to give a fresh look to build a vision of grassroots democracy and development and introduce more transformational systems adaptable to grassroots governance. Practice of local level planning, decision making, transparency and accountability has very limited meaning in the present day context, where a centralised rigid system and attitudes dominate at the local, district, state and national level. Moreover, the bureaucratic systems and procedures which provide direction to the PRIs do not demonstrate respect and recognise agrarian dominated lifestyle and management practices of the rural communities.

3. The existing agrarian economic relationship coupled with feudal social practices and attitudes are the greatest impediment for the citizen dreaming

good governance or participatory governance, especially in the underdeveloped states of the country. Those who have acquired positions as representatives in panchayats at all the three levels due to reservation have not been able to utilise their best capacities in the interest of their institutions. Creation of local self governance institutions has created necessary conditions through Constitutional provisions for people to descent and participate in collective decision making. Yet this is not sufficient. It demands enormous energy and resources parallelly deployed for strengthening citizens capacities through quality education, access to information in simplified forms, capacity building of emerging leaders in development management and States strong will to support positive initiatives of the grassroots governance. Till then, decentralised governance will be seen as a cheap substitute of relinquishing development responsibility by the state, off loading it to Panchayati Raj Institutions by devolving departments and functions. PRIs will not attain recognition as people's organisations. Participation needs to be seen beyond local contribution in cash or kind in development programmes. Promoting people plans and respect for their aspirations and building trust with them is pertinent so that they can make mistakes, learn from them and feel responsible for their own actions.

4. The civil society which includes the voluntary agencies whether involved in programme delivery mode or in support functions through capacity building and action research need to support the issues of grassroots governance. Those who are closer to the grassroots are most suited to provide support to the newly merged leaders as well as invisible citizens to define their dreams, build visions for their society and implement it. There is need for a larger fraternity of voluntary organisations to strengthen the voices of the citizen's leaders to deal with the powerful interest groups at the community level, legislative level, administrative level as well as in the Judiciary.

Media has not captured the positive side of the grassroots governance in a balanced manner rather

the cases of corruption, harassment have been the highlight more than the success stories. Public opinion is build by the media and concerns of the common citizen and their participation can be catalysed by the media more effectively. There is a need for large-scale sensitisation of the media on the matters of grassroots governance, especially of their field level staff. There is a dearth of positive examples in well documented form which the voluntary agencies and academic institutions may complement for publication and wider dissemination through mass media.

The academic institutions especially at the town and lower level, i.e., intermediate and degree colleges, have grown in a sizeable proportion in the country. These academic institutions do not pay attention to preparing concerned citizen and volunteers to support leaders of local self governance. There is a need to review the role of NSS and course curriculum of colleges and schools to include updated knowledge on grassroots democracy, provisions of 73rd Amendments and state Acts, participatory planning, social audit and principles of good governance. The trained human resources in the form of teachers and students need to focus on systematic studies on the issues of grassroots democracy as well as function as trainers/facilitators for the citizens and local leaders in conducting micro planning, providing models of conflict resolution and consensus building in Gram Sabhas.

Challenges for deepening grassroots governance are enormous as it is still in its infancy. There is a need for collectivising strength with everyone within the system and outside the system to transform it into empowerment mode building it block by block from the bottom. It is true that such a large-scale transformation and support to the institutions of local self-governance is not possible solely by the state machinery or various civil society organisations. A comprehensive effort of all the positive forces can address the concerns of grassroots governance and demonstrate that participatory or direct democracy is not a dream but a practiced reality.



Annexures

Annexure-I

Time Spent on Various Kinds of Business in Thirteenth Lok Sabha							
Session	Total time of actual sittings		Time spent on interruptions/ adjournments due to disorderly scenes		Total time		Percentage of time spent on interruptions/ adjournments due to disorderly scenes
	(a)		(b)		(a+b)		
	Hrs.	Mts.	Hrs.	Mts.	Hrs.	Mts.	
First	44	28	0	14	44	42	0.52
Second	123	33	14	38	138	11	10.58
Third	209	34	62	52	272	26	23.07
Fourth	144	40	15	28	160	8	9.65
Fifth	112	55	61	7	174	2	35.11
Sixth	109	9	74	18	183	27	40.50
Seventh	174	30	29	31	204	1	14.36
Eighth	79	37	30	32	110	9	29.93
Total	998	26	288	40	1287	6	22.40

Source: Time spent on various kinds of business in LS—an analysis, Lok Sabha Secretariat, June 2002

Annexure-IA

Representation of Women in Parliament (First to Thirteenth Lok Sabha)			
Lok Sabha	Total no. of seats	No. of women members	Percentage to the total
First	499	22	4.40
Second	500	27	5.40
Third	503	34	6.70
Fourth	523	31	5.90
Fifth	521	22	4.20
Sixth	544	19	3.40
Seventh	544	28	5.10
Eight	544	44	8.10
Ninth	529	28	5.29
Tenth	509	36	7.07
Eleventh	543	40	7.36
Twelfth	545	44	8.07
Thirteenth	543	49	9.02

Source: Ibid

Annexure-II

Educational Background of Members of Lok Sabha (First to Thirteenth Lok Sabha)														
Educational background	1st Lok Sabha		2nd Lok Sabha		3rd Lok Sabha		4th Lok Sabha		5th Lok Sabha		6th Lok Sabha		7th Lok Sabha	
	No.	%												
Under Matriculates	112	23.48	120	25.48	141	28.77	54	11.81	119	23.15	52	9.80	53	10.03
Matriculates/ Higher Secondary or Intermediate Certificate holders	88	18.44	90	19.10	87	17.75	101	22.11	82	15.95	132	24.90	118	22.35
Graduates (including those with equivalent technical qualifications)	177	37.10	160	33.97	157	32.04	172	37.63	178	34.63	205	38.70	213	40.34
Post-Graduates (including technical qualifications)	85	17.82	92	19.53	98	20.00	113	24.73	127	24.70	132	24.90	136	25.76
Doctoral Degree or other higher academic qualifications holders	15	3.16	9	1.92	7	1.44	17	3.72	8	1.57	9	1.70	8	1.52
Total number of members who supplied information	477		471		490		457		514		530		528	
Total number of seats	499		500		503		523		521		544		544	

Source: *The changing profile of LS: A Socio-Economic Study of Members (1952-2002)*. G C Malhotra, Secretary General, LS, Lok Sabha Secretariat

Contd... Educational Background of Members of Lok Sabha (First to Thirteenth Lok Sabha)

Educational background	8th Lok Sabha		9th Lok Sabha		10th Lok Sabha		11th Lok Sabha		12th Lok Sabha		13th Lok Sabha	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Under Matriculates	42	7.90	10	2.09	18	3.57	15	2.90	12	2.26	15	2.81
Matriculates/ Higher Secondary or Intermediate Certificate holders	112	21.00	94	19.66	101	20.04	102	19.73	107	20.23	90	16.90
Graduates (including those with equivalent technical qualifications)	238	44.65	233	48.75	220	43.65	222	42.94	237	44.80	256	48.03
Post-Graduates (including technical qualifications)	131	24.58	124	25.94	145	28.77	149	28.82	149	28.17	145	27.20
Doctoral Degree or other higher academic qualifications holders	10	1.87	17	3.56	20	3.97	29	5.61	24	4.54	27	5.06
Total number of members who supplied information	533		478		504		517		529		533	
Total number of seats	544		529		509		543		545		543	

Annexure-III

Occupational Background of Members of Lok Sabha (First to Thirteenth Lok Sabha)														
Prior occupation	1st Lok Sabha		2nd Lok Sabha		3rd Lok Sabha		4th Lok Sabha		5th Lok Sabha		6th Lok Sabha		7th Lok Sabha	
	No.	%												
Agriculturist	97	22.45	141	29.01	129	27.45	154	30.62	168	33.20	189	36.00	206	39.39
Lawyers	153	35.42	147	30.25	115	24.47	88	17.49	103	20.36	123	23.43	116	22.18
Political & Social Workers	–	–	–	–	88	18.72	115	22.86	96	18.97	105	20.00	90	17.21
Others	182	42.13	198	40.47	138	29.36	146	29.03	139	27.47	108	20.57	111	21.22
Total number of members who supplied information	432		486		470		503		506		525		523	
Total number of seats	499		500		503		523		521		544		544	

Contd... Occupational Background of Members of Lok Sabha (First to Thirteenth Lok Sabha)												
Prior occupation	8th Lok Sabha		9th Lok Sabha		10th Lok Sabha		11th Lok Sabha		12th Lok Sabha		13th Lok Sabha	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Agriculturist	203	38.30	230	44.14	163	32.09	207	38.98	261	49.06	230	42.67
Lawyers	101	19.06	80	15.36	83	16.34	65	12.24	54	10.15	66	12.24
Political & Social Workers	85	16.04	89	17.08	92	18.11	104	19.59	96	18.05	108	20.04
Others	141	26.60	122	23.42	170	33.45	155	29.19	121	22.74	135	25.05
Total number of members who supplied information	530		521		508		531		532		539	
Total number of seats	544		529		509		543		545		543	

Source: (The changing profile of LS) Ibid

Annexure-IV

Time Taken on Various Kinds of Business Transacted During the Ninth Session of Thirteenth Lok Sabha		
Business	Time taken H-M	% of the total time taken
Adjournment Motion	1-08	0.51
Bills		
a. Government Bills	61-13	27.71
b. Private Member's Bills	4-51	2.20
Budgets		
a. Railway Budget	15-03	6.81
b. General Budget	22-01	9.97
c. Budget in respect of State under President's Rule	0-18	0.14
Calling Attention Notices	2-14	1.01
Discussions		
a. Half-an-hour discussion (Rule 55)	2-05	0.94
b. Short Duration Discussions (Rule 193)	24-24	11.05
Matters of Urgent Public Importance Raised After the Question Hour	16-39	7.54
Matters Under Rule 377	3-48	1.72
Motions		
a. Motions under Rules 191 and 342	16-21	7.40
b. Motions under Rule 388	0-11	0.08
President's Address	12-24	5.61
Questions	24-39	11.16
Resolutions		
a. Resolution placed before the House by the Speaker	0-02	0.02
b. Statutory Resolutions	*0-02	0.02
c. Private Members' Resolutions	7-35	3.43
Statements (Rule 372)	0-43	0.32
Other Matters such as Paper Laid on the Table, Obituary References, Questions of Privileges, Points of Order, Personal Explanations, etc.	5-31	2.26
Total	220-54	100.00

*Joint discussion took place on Statutory Resolutions [vide Statement No. 18 (ii) S. No.1, 2 and 3] and Motion for consideration of connected Government Bills [vide Statement No. 3 (i) S.No. 6, 10 and 11]. Time taken on Joint discussion has been shown under Government Bills.

Annexure-V

Time Spent on Interruptions/Adjournments Due to Disorderly Scenes in the House During Ninth Session of Thirteenth Lok Sabha

Date	Time spent H-M	Time lost due to adjournment of the house following interruptions	Remarks
26.2.2002	0-38	3-45	Interruptions started at 11 a.m. and continued up to 11.20 a.m. At 11.23 a.m. interruptions against started and Lok Sabha adjourned at 11.23 a.m. to meet at 12 noon interruption started at 2.33 p.m. and continued up to 2.51 p.m. At 2.51 p.m. matters under rule 377 were laid on the Table and at 2.56 p.m. Lok Sabha adjourned for the day.
1.3.2002	0-06	5-54	Interruptions started at 11 a.m. and continued up to 11.05 a.m. Lok Sabha adjourned to meet again at 12 noon. Due to continued interruptions Lok Sabha adjourned at 12.01 p.m. for the day.
7.3.2002	0-06	5-40	Interruptions started at 11.07 a.m. and continued up to 11.10 a.m. Lok Sabha adjourned at 11.10 a.m. to meet at 12 noon. At 12 noon interruptions again started and continued up to 12.03 p.m. At 12.03 p.m. paper, etc. were laid on the Table of the House and at 12.10 p.m. Lok Sabha adjourned for the day.
8.3.2002	0-12	0-48	Interruptions started at 11 a.m. and continued up to 11.12 p.m. Due to continued interruptions in the 11.12 a.m. to meet at 12 noon.
13.3.2002	0-19	4-38	Interruptions started at 12.01 p.m. and continued up to 12.06 p.m. Lok Sabha adjourned at 12.06 p.m. to meet at 2 p.m. Interruptions again started at 2 p.m. and continued up to 2.13 p.m. to meet at 4 p.m. Interruptions again started at 4.02 p.m. and continued up to 4.03 p.m. Lok Sabha adjourned at 4.03 p.m. for the day.
14.3.2002	0-19	4-32	Interruptions started at 12.09 p.m. and continued up to 12.23 p.m. Due to interruption in the House, Lok Sabha adjourned at 12.23 p.m. to meet at 2 p.m. Interruptions again started at 2 p.m. and continued up to 2.05 p.m. Due to continued interruptions, Lok Sabha adjourned at 2.05 p.m. for the day.
18.3.2002	0-18	0-42	Interruptions started at 11 a.m. and continued up to 11.18 a.m. Lok Sabha adjourned at 11.18 a.m. to meet at 12 noon.
20.3.2002	0-01	0-22	Interruptions started at 12.37 p.m. and continued up to 12.38 p.m. Lok Sabha adjourned at 12.38 p.m. to meet at 2 p.m.

Contd... Time Spent on Interruptions/Adjournments Due to Disorderly Scenes in the House During Ninth Session of Thirteenth Lok Sabha

Date	Time spent H-M	Time lost due to adjournment of the house following interruptions	Remarks
15.4.2002	0-10	5-35	Interruptions started at 11.10 a.m. and continued up to 11.20 a.m. At 11.20 a.m. Lok Sabha adjourned to meet at 2 p.m. When Lok Sabha re-assembled at 2 p.m. interruptions again started and amongst interruption papers, etc. were laid on the Table. At 2.05 p.m. Lok Sabha adjourned for the day.
17.4.2002	0-04	5-56	Interruptions started at 11 a.m. and continued up to 11.04 a.m. Lok Sabha adjourned at 11.04 a.m. for the day.
18.4.2002	0-07	5-53	Interruptions started at 11 a.m. and continued up to 11.07 a.m. Lok Sabha adjourned at 11.07 a.m. for the day.
19.4.2002	0-06	5-54	Interruptions started at 11 a.m. and continued up to 11.06 a.m. Lok Sabha adjourned at 11.06 a.m. for the day.
22.4.2002	0-08	5-52	Interruptions started at 11 a.m. and continued up to 11.08 a.m. Lok Sabha adjourned at 11.08 a.m. for the day.
2.5.2002	0-10	1-01	Interruptions started at 11.49 a.m. and continued up to 11.59 a.m. Lok Sabha adjourned at 11.59 a.m. to meet at 2 p.m.
8.5.2002	0-14	0-33	Interruptions started at 12.13 p.m. and continued up to 12.27 p.m. Lok Sabha adjourned at 12.27 p.m. to meet at 2 p.m.
9.5.2002	0-03	0-37	Interruptions started at 12.20 p.m. and continued up to 12.23 p.m. Lok Sabha adjourned at 12.23 p.m. to meet at 2 p.m.

Time calculated on the basis of normal time of the house, i.e., from 11 a.m. to 1 p.m. and 2 p.m. to 6 p.m.

Source: Lok Sabha Secretariat.

Annexure-VI

Time Spent on Interruptions/Adjournments Due to Disorderly Scenes in the House During Tenth Session of Thirteenth Lok Sabha

Date	Time spent H-M	Time lost due to adjournment of the house following interruptions	Remarks
22.7.2002	0-26	4-49	Interruptions started at 11 a.m. and continued up to 11.12 a.m. Interruptions again started at 11.15 a.m. and continued up to 11.23 a.m. Interruption started at 12.04 p.m. and continued up to 12.05 p.m. Lok Sabha adjourned at 12.05 p.m. to meet at 2 p.m. When the House re-assembled at 2 p.m. interruptions again started and continued up to 2.05 p.m. Amidst interruptions matters under Rule 377 were treated as laid on the Table and Lok Sabha adjourned for the day at 2.06 p.m.
1.8.2002	0-32	0-38	Interruptions started at 11.53 a.m. and continued up to 12.03 p.m. Lok Sabha adjourned for 15 mts. when the House met at 12.18 p.m. interruptions again started and continued up to 12.22 p.m. At 12.22 p.m. Lok Sabha adjourned to meet at 12.45 p.m. When House re-assembled at 12.45 p.m. interruptions again started and continued up to 13.03 p.m. at 12.03 p.m. Lok Sabha was adjourned to meet at 2 p.m.
2.8.2002	0-25	-	Interruptions started at 11.04 a.m. and continued up to 11.29 a.m.
5.8.2002	0-14	5-22	Interruptions started at 11 a.m. and continued up to 11.13 p.m. Amidst interruptions Questions were asked and replied. At 11.35 a.m. Lok Sabha adjourned for 15 mts. At 11.52 a.m. when Lok Sabha reassembled interruptions again started and continued up to 11.53 a.m. Lok Sabha adjourned at 11.53 a.m. for the day.
6.8.2002	0-05	5-52	Interruptions started at 11 a.m. and continued up to 11.05 a.m. Amidst interruptions some of Questions were asked and replied. Lok Sabha adjourned at 11.08 a.m. for the day.
7.8.2002	0-03	5-54	Interruptions started at 11 a.m. and continued up to 11.03 a.m. Amidst interruptions some of Questions were asked and replied. Lok Sabha adjourned at 11.06 a.m. for the day.
8.8.2002	-	5-52	Interruptions started at 11.04 a.m. Amidst interruptions some of Questions were asked and answered. Lok Sabha adjourned at 11.08 a.m. for the day.

Contd... Time Spent on Interruptions/Adjournments Due to Disorderly Scenes in the House During Tenth Session of Thirteenth Lok Sabha

Date	Time spent H-M	Time lost due to adjournment of the house following interruptions	Remarks
9.8.2002	–	5-43	Interruptions started at 11.02 a.m. Amidst interruptions some of Questions were asked and replied. Lok Sabha adjourned at 11.03 a.m. to meet at 12 noon interruptions again started. Amidst interruptions papers, etc. were laid on the Table. Lok Sabha adjourned at 12.14 p.m. for the day.

Time calculated on the basis of normal time of the house i.e., from 11 a.m. to 1 p.m. and 2 p.m. to 6 p.m.

Source: Lok Sabha Secretariat.

Annexure-VII

Time Taken on Various Kinds of Business Transacted During Tenth Session of Thirteenth Lok Sabha

Business	Time taken H-M	% of the total time taken
Adjournment Motion	7-18	8.19
Bill		
a. Government Bills	12-07	13.60
b. Private Member's Bills	5-03	5.67
Budgets		
a. Railway Budget	0-03	0.06
b. General Budget	4-25	4.96
Calling Attention Notices	3-06	3.48
Discussions	29-23	32.97
Short Duration Discussions (Rule 193)		
Matters of Urgent Public Importance Raised after the Question Hour	8-25	9.44
Matters Under Rule 377	1-17	1.44
Motions		
Motions under Rule 388	0-01	0.02
Questions	13-18	14.92
Resolutions		
a. Government Resolutions	0-02	0.04
b. Private Members' Resolutions	2-29	2.79
Statement (Rule 372)	0-34	0.63
Other Matters such as Paper Laid on the Table, Obituary References, Questions of Privileges, Points of Order, Personal Explanations, etc.	1-36	1.79
Total	89-07	100.00

Annexure-VIII

Time Spent on Interruptions/Adjournments Due to Disorderly Scenes in the House During Tenth Lok Sabha

Session	Total time of actual sittings		Time spent on interruptions/ adjournments due to disorderly scenes		Total time		Percentage of time spent on interruptions/ adjournments due to disorderly scenes
	(a)		(b)		(a+b)		
	Hrs.	Mts.	Hrs.	Mts.	Hrs.	Mts.	
First	345	50	12	53	358	43	3.59
Second	141	40	2	25	144	5	1.68
Third	309	12	14	49	324	1	4.57
Fourth	163	54	39	20	203	14	19.35
Fifth	101	43	26	42	128	25	20.79
Sixth	313	23	12	51	326	14	3.94
Seventh	162	5	0	46	162	15	0.47
Eighth	94	17	22	2	116	19	18.94
Ninth	246	6	6	32	252	38	2.59
Tenth	17	49	–	–	17	49	–
Eleventh	128	40	22	10	150	50	14.70
Twelfth	52	14	27	31	79	45	34.50
Thirteenth	245	25	15	35	261	0	5.97
Fourteenth	113	45	2	30	116	15	2.15
Fifteenth	43	22	58	17	101	39	57.34
Sixteenth	48	27	15	2	63	29	23.68
Total	2527	52	279	25	2807	17	9.95

Source: Time spent on various kinds of business in LS – an analysis, Lok Sabha Secretariat, June 2002

Annexure-IX

Bills Passed and Introduced During Budget Session of Parliament, 2002

Thirty-four Bills were passed, 37 Bills including 31 in Lok Sabha and 6 in Rajya Sabha introduced and three Bills withdrawn in Rajya Sabha during the Budget Session of Parliament, which ended on 17 May, 2002.

The Bills that were passed are: the Passport (Amendment) Bill, 2002, the Institutes of Technology (Amendment) Bill, 2002, the Jute Manufacturers Cess (Amendment) Bill, 2002, the Prevention of Terrorism Bill, 2002, the Appropriation (Vote on Account) Bill, 2002, the Appropriation Bill, 2002, the Appropriation (No. 2) Bill, 2002, the Uttar Pradesh Appropriation (Vote on Account) Bill, 2002, the Uttar Pradesh Appropriation Bill, 2002, the Appropriation (Railways) Bill, 2002, the Appropriation (Railways) Vote on Account Bill, 2002, the Appropriation Railways (No. 2) Bill, 2002, the Appropriation (No. 3) Bill, 2002, the Tea Districts Emigrant Labour (Repeal) Repealing Bill, 2002, the All India Institute of Medical Sciences (Amendment) Bill, 2002, the St. John Ambulance Association (India) Transfer of Funds (Repeal) Bill, 2002, the India Succession (Amendment) Bill, 2002, the Finance Bill, 2002, the Constitution (Scheduled Castes and Scheduled Tribes) Order (Amendment) Bill, 2002, the Constitution (Scheduled Castes) Order (Amendment) Bill, 2002, the Multi-State Cooperative Societies Bill, 2002, the Vice-President's Pension (Amendment) Bill, 2002, the Salaries and Allowances of Officers of Parliament and Leaders of Opposition in Parliament (Amendment) Bill, 2002, the Salaries and Allowances of Officers of Parliament (Second Amendment) Bill, 2002, the Patents (Amendment) Bill, 2002, the Constitution (Ninety-third Amendment) Bill, 2002, the Delimitation Bill, 2002, the Sugar Development Fund (Amendment) Bill, 2002, the Legal Services Authorities (Amendment) Bill, 2002, the Foreign Aircraft (Exemption from Taxes and Duties on Fuel and Lubricants) Bill, 2002, the Haj Committee Bill, 2002 and the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 2002.

Out of 37 Bills introduced, 31 were introduced in the Lok Sabha and six Bills in the Rajya Sabha. These were: the Finance Bill, 2002, the Salaries and Allowances of Officers of Parliament and Leaders of Opposition in Parliament (Amendment) Bill, 2002, the Prevention of Terrorism Bill, 2001, the Protection from Domestic Violence Bill, 2001, the Infant Milk Substitute Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Bill, 2001, the Constitution (Scheduled Castes) Order (Amendment) Bill, 2002, the Vice-President's Pension (Amendment) Bill, 2002, the Election and Other Related Laws (Amendment) Bill, 2001, the Appropriation (Vote on Account) Bill, 2002, the Appropriation Bill, 2002, the Appropriation No. 2 Bill, 2002, the Uttar Pradesh Appropriation Bill, 2002, the Appropriation (Railways) Bill, 2002, the Appropriation Railways (Vote on Account) Bill, 2002, the Sugar Development Fund (Amendment) Bill, 2002, the Legal Services Authorities (Amendment) Bill, 2002, the Appropriation (Railways) No. 2 Bill, 2002, the Banking Services Commission (Repeal) Bill, 2002, the Appropriation (No. 3) Bill, 2002, the Delimitation Bill, 2002, the Petroleum Regulatory Board Bill, 2002, the Salaries and Allowances of Officers of Parliament (2nd Amendment) Bill, 2002, the Delhi Municipal Corporation (Validation of Electricity Tax) Act and Other Laws (Repeal) Bill, 2002, the Repatriation of Prisoners Bill, 2002, the Refugees Relief Tax (Abolition) Repeal Bill, 2002, the Salary Allowances and Pension of Members of Parliament (Amendment) Bill, 2002, the Cable Television Networks (Regulation) Amendment Bill, 2002, the Indian Post Office (Amendment) Bill, 2002 and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2002, the Passport (Amendment) Bill, 2002, the Delhi University (Amendment) Bill, 2002, the Homeopathy Central Council (Amendment) Bill, 2002, the Petroleum (Berar Extension) Repeal Bill, 2002, the Medical Termination of Pregnancy (Amendment) Bill, 2002, and the Payment of Wages (Amendment) Bill, 2002.

The Government also withdrew three Bills in the Rajya Sabha during the Session. These were: the Passports (Amendment) Bill, 2001 (Withdrawn on 7.3.2002), the Delhi University (Amendment) Bill, 2000 (Withdrawn on 13.3.2002) and the Indian

Post Office (Amendment) Bill, 1986 (Withdrawn on 21.3.2002).

—*Press Release, Ministry of Law, Justice and Company Affairs, 23 May, 2002.*

Bills Passed and Introduced During Monsoon Session of Parliament, 2002

Ten Bills were passed and 15 Bills introduced during the Monsoon Session of Parliament, which ended on 12 August, 2002.

The Bills that were passed are : the Delhi Municipal Corporation (Validation of Electricity Tax) Act and Other laws (Repeal) Bill, 2002, the General Insurance Business (Nationalisation) Amendment Bill, 2002, the Insurance (Amendment) Bill, 2002, the Coast Guard (Amendment) Bill, 2002, the Delhi University (Amendment) Bill, 2002, the National Co-operative Development Corporation (Amendment) Bill, 2002, the Appropriation (Railways) No. 3 Bill, 2002 (Passed by Lok Sabha on 9.8.2002 Deemed to have been passed by the Houses on 24.8.2002), the Appropriation (Railways) No. 4 Bill, 2002, the Appropriation (No. 4) Bill, 2002 (Passed by Lok Sabha on 31.7.2002. Deemed to have been passed by the Houses on 16.8.2002) and the Appropriation (No. 5) Bill, 2002.

The 15 Bills that were introduced during the Monsoon Session are: the Securitisation and Reconstruction of Financial Assets and Enforcement

of Security Interest Bill, 2002, the Prevention of Food Adulteration (Extension to Kohima and Mokokchung Districts) Repeal Bill, 2002, the Negotiable Instruments (Amendment and Miscellaneous Provisions) Bill, 2002, the Suppression of Unlawful Acts Against Safety on Maritime Navigation and Fixed Platforms on Continental Shelf Bill, 2002, the Imperial Library (Indentures Validation) Repeal Bill, 2002, the Indian Medicine Central Council (Amendment) Bill, 2002, the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Bill, 2002, the Appropriation (Railways) No. 3 Bill, 2002, the Appropriation (Railways) No. 4 Bill, 2002, the Merchant Shipping (Amendment) Bill, 2002, the Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Bill, 2002, the Supreme Court Judges (Salaries and Conditions of Service) Second Amendment Bill, 2002, the Appropriation (No. 4) Bill, 2002, the Appropriation (No. 5) Bill, 2002 and the High Court Judges (Salaries and Conditions of Service) Amendment Bill, 2002.

—*Press Release, Ministry of Law and Justice, 20 August, 2002.*

Bills Passed and Introduced During Winter Session of Parliament, 2002

The Winter Session of Parliament 2002 witnessed highest number of Bills passed. Accordingly, a record number of 42 Bills were passed and of the Bills introduced during the Session, five Bills remained pending.

Of the Bills passed, the Constitution (Ninety-third Amendment) Bill, 2002, renumbered as the Constitution (86th Amendment) Act, 2002 which makes education as a Fundamental Right for Children between 6 and 14 years, tops the list. The

other Bills are: the Wild Life (Protection) Amendment Bill, 2002, the Securities and Exchange Board of India (Amendment) Bill, 2002, the Unit Trust of India (Transfer of Undertaking and Repeal) Bill, 2002, the Countess of Dufferin's Fund Act (Repeal) Bill, 2002, the Mysore State Legislature (Delegation of Powers) Repeal Bill, 2002, the Representation of the People (Amendment) Bill, 2002, the Representation of People (Second Amendment) Bill, 2002, the Transfer of Property (Amendment) Bill, 2002, the Indian Evidence (Amendment) Bill, 2002, the Delhi Metro

Railway (Operation and Maintenance) Bill, 2002, (Ordinance Replacement), the Salaries and Allowances of Officers of Parliament and Leaders of Opposition in Parliament (Second Amendment) Bill, 2002, the Homeopathy Central Council (Amendment) Bill, 2002, the Medical Termination of Pregnancy (Amendment) Bill, 2002, the Petroleum (Berar Extension) Repeal Bill, 2002, the Prevention of Money Laundering Bill, 2002, the Prevention of Food Adulteration (Extension to Kohima and Mokokchung Districts) Repeal Bill, 2002, the Indian Medicine Central Council (Amendment) Bill, 2002, the Refugee Relief Taxes (Abolition) Repeal Bill, 2002, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002, the Negotiable Instruments (Amendment and Miscellaneous Provision) Bill, 2002, the Biological Diversity Bill, 2002, the Cable Television Networks (Regulation) Amendment Bill, 2002, the Consumer Protection (Amendment) Bill, 2002, the Offshore Areas Mineral (Development and Regulation) Bill, 2002, the Constitution Scheduled Castes Orders (Second Amendment) Bill, 2002, the Imperial Library (Indentures Validation) Repeal Bill, 2002, the Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms of Continental Shelf Bill, 2002, the North-Eastern Council (Amendment) Bill, 2002, the Supreme Court Judges (Salaries and Conditions of Service)

Amendment Bill, 2002, the High Court Judges (Salaries and Conditions of Service) Amendment Bill, 2002, the Appropriation (Railways) No. 5 Bill, 2002, the Merchant Shipping (Amendment) Bill, 2002, the Representation of the People (Third Amendment) Bill, 2002, the Freedom of Information Bill, 2002, the Companies (Amendment) Bill, 2002, the Companies (Second Amendment) Bill, 2002, the Appropriation (No. 6) Bill, 2002, the Control of National Highways (Land and Traffic) Bill, 2002, the Scheduled Castes and Scheduled Tribes Order (Amendment) Bill, 2002, the Competition Bill, 2002, and the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse Amendment) Bill, 2002.

The Bills that were introduced and remained pending are: the Actuaries Bill, 2002 (Introduced and Pending in Lok Sabha), the Constitution (Ninety-fourth Amendment) Bill, 2002 (Introduced and Pending in Lok Sabha), the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002 (Introduced and Pending in Lok Sabha), the Special Protection Group (Amendment) Bill, 2002 (Introduced and Pending in Lok Sabha) and the Emigration (Amendment) Bill, 2002 (Introduced and Pending in Lok Sabha).

—*Press Release, Ministry of Law and Justice,*
24 December, 2002

Annexure-IXA

List of Some Important Bills Passed by Parliament During the Year

The Freedom of Information Act, 2003

From a citizen's point of view, this is by far, one of the most important Bills passed by Parliament during 2002. The Bill, passed during the Winter Session of Parliament, has its flaws and is certainly not perfect, but it is a beginning, a first step towards introducing transparency and accountability in the administration. Following the President's assent, the Bill has been notified in the Gazette of India as Act No 5 of the year 2003.

The Freedom of Information Act, 2003, gives every citizen the right to information under the control of public authorities or the government. Under the law, it is obligatory on the part of every public authority to provide information demanded by the citizens and to maintain all records consistent with its operational requirements duly catalogued, indexed and published at such intervals as may be prescribed by the competent authority. There will, however, be exemption from disclosure of information in eight areas: defence, securities, intelligence agencies related information, Cabinet papers, minutes of advice including legal ones relating to decision making, trade or commercial secrets, information likely to breach privileges of Parliament and state legislature etc. In order to attend to citizens' requests for official information, the law provides for appointment of Public Information Officer (PIO) in every Ministry and Department of the Government.

The Constitution (86th Amendment) Act, 2002

The Constitution (Ninety-third) Amendment) Bill, 2002, notified and renumbered in the Gazette of India as the Constitution (86th Amendment) Act, 2002, makes right to education for children between the age group of 6 to 14 years, a fundamental right within the meaning of Chapter III of the Constitution of India. Accordingly, Article 21 providing for Fundamental Right to Life and Personal Liberty has been amended to make education up to high school level as a fundamental right for all citizens of India. The amendment is to be enforced by all the states

and Union Territories from a date to be notified by the Ministry of Human Resource Development.

The Representation of the People (Second Amendment) Act, 2003

This is another important Bill passed during the Winter Session of Parliament. Following the President's assent to the Bill, this has also been notified in the Gazette of India as Act No. 6 of 2003.

The Act seeks to amend Section 8 of the Representation of the People Act 1951, to include period of conviction plus period of disqualification for six years, fine plus six years of disqualification, conviction under the Prevention of Corruption Act, 1988, the Commission of Sati (Prevention) Act, 1987 and for offences under the Prevention of Terrorism Act, 2002 in order to wean electoral policies from criminalisation. Hereafter, no one from behind the bar or prison will contest elections to the Parliament or the state legislatures. This amendment has come into force with immediate effect.

The Legal Services Authorities (Amendment) Act, 2002

This is another extremely important legislation that seeks to provide compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services. In other words, the Act, makes it mandatory for public utilities to provide alternate dispute resolution mechanism for quick, simple and inexpensive settlement of complaints or disputes.

Till now, the 'Lok Adalats' organised under the Legal Services Authorities Act, 1987, had a limited role in that they could only try to settle disputes on the basis of a compromise formula, which did not always work. If the parties failed to arrive at a settlement, the case was either returned to the court of law or the parties advised to seek remedy in a court of law. Recognising this as a major drawback, the

amendments seek to give Lok Adalats adjudicatory powers too. That is, if conciliation fails, the Lok Adalat will dispose of the matter on merits of the case. The award or the decision given by the Lok Adalat, headed by a judicial and two non-judicial members, will be deemed to be a decree of civil court and will be final and binding.

These permanent Lok Adalats will deal with cases pertaining to public utility services including posts and telegraph, water supply, sanitation and health. However the law keeps out two services—railways and banking—from the purview of the Lok Adalats. The pecuniary jurisdiction of these Adalats will however be limited to Rs 10 lakh.

The Competition Act, 2003 (Act No. 12 of 2003)

The Act seeks to ensure fair competition in the market by prohibiting trade practices which distort or adversely affect competition. The Act seeks to repeal the Monopolies and Restrictive Trade Practices Act, 1969 and dismantles the MRTP Commission created under it and instead set up a Competition Commission of India (CCI), a regulator whose job is to prevent practices having adverse effect on competition, to promote and sustain competition in the market, to prevent abuse of dominance, to ensure quality of products and services, to protect the interest of consumers and to ensure freedom of trade carried on by other participants in markets in India. The provisions of the Act will be implemented in three phases so as to give the corporate sector adequate time frame to acclimatise themselves to the new scenario.

Cable Television Networks (Regulation) Amendment Bill, 2002

The Bill empowers the government to mandate, through notification in a phased manner, installation of addressable systems or 'set top box' as they are called, to view pay channels.

It also empowers the government to prescribe from time to time, the maximum amount to be paid by the subscriber to the cable service operator for the basic tier consisting of a bouquet of 'free to air' channels notified by the government. The government also has the power to determine the number of channels to be included in the basic tier.

The government, in the statement of objects and reasons, says '...The subscription rates are being fixed arbitrarily by broadcasters and cable service providers in almost an area specific monopolistic distribution system and the subscriber has no choice to ask and pay for the channels he wishes to view. Further, there is no reliable record of actual viewership leading to under-reporting of the number of subscribers by the cable service providers, Multi Service Operators and broadcasters, which in turn, is also affecting revenues due to the government. The public demand for government intervention is such that it needs to be addressed on a priority basis...'

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

The Bill, passed in the Winter Session of Parliament and notified in the Gazette (Act No. 54 of 2002), enables banks and financial institutions in the country to realise long-term assets, manage problem of liquidity, asset liability mismatches and improve recovery by exercising powers to take possession of securities, sell them and reduce non-performing assets by adopting appropriate measures for reconstruction or recovery.

The Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002

Seeks to provide stringent punishment for offences relating to bouncing of cheques. It also provides for summary trial to ensure speedier punishment to those found guilty. The Act comes into force from a date to be notified by the Government.

The Patents (Amendment) Act, 2002

The extensive amendments to the principal Act of 1970 is meant to prepare India to meet the challenges of globalisation under the World Trade Regime and the Intellectual Property Rights Agreements on Trade Related Aspects of the WTO. The Act provides for a Controller to issue or cancel licenses for patents, besides regulation of patent regime in the country in keeping with the global standards to maintain quality of products and services.

The Medical Termination of Pregnancy (Amendment) Act, 2002

The amendments to the principal Act of 1971 are aimed at preventing unauthorised and illegal

termination of pregnancies by unregistered medical practitioners or quacks by prescribing deterrent punishment.

The Consumer Protection (Amendment) Act, 2002

The comprehensive amendments to the principal Act of 1986 seek to overcome a number of shortcomings noticed during the implementation of the law and provide for quicker and more effective resolution of consumer disputes brought before the consumer forums constituted under the law.

The Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002

It replaces an Ordinance promulgated to this effect in October 2002, and seeks to bifurcate the assets and liabilities of UTI into two parts, namely, specified undertaking and the specified company, thereby distancing the central government from the UTI and mutual fund activities. The Act seeks to provide for the transfer and vesting of the undertaking (excluding the specified undertaking) of the UTI to the specified company to be formed and registered under the Companies Act, and the transfer and vesting of the specified undertaking of the UTI in the Administrator to be appointed by the central government, It also repeals the UTI Act of 1963.

The Indian Medicine Central Council (Amendment) Bill, 2002

It seeks to amend the Indian Medicine Central Council Act, 1970 in order to empower the Central Government to regulate opening of new colleges in the Indian Systems of Medicine like Ayurveda, Siddha and Unani, introduction of new or higher courses of study and increase in the admission capacity of the institutes imparting education in Indian Systems of Medicine. It will also ensure objectivity and uniformity in their functioning and standards of medicine.

The General Insurance Business (Nationalisation) Amendment Act, 2002

It amends the General Insurance Business (Nationalisation) Amendment Act, 1972, seeks to delink the General Insurance Corporation (GIC) from its four subsidiaries: the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance

Company Limited and the United India Insurance Company Limited. While the four companies are to do general insurance business, GIC will carry on re-insurance business.

The Prevention of Terrorism Act, 2002: The Act, passed in a joint session of Parliament, is meant to prevent and deal with terrorist activities. It replaces the Ordinance first promulgated on 24 October, 2001 and re-promulgated in December 2001. While arming the administration with special powers to deal with crimes such as subversion, insurgency and terrorism, the Act provides certain safeguards to prevent the possibility of its misuse by official agencies. The Act, says the government, meets the requirement of the United Nations Resolution calling upon member nations to enact a model deterrent law to curb the growing menace of internal and global terrorism.

The Biological Diversity Bill

It seeks to effectively curb biopiracy by regulating access to biological resources of the country with the purpose of securing equitable share in benefits arising out of the use of biological resources and associated knowledge relating to biological resources. It also attempts to conserve biological diversity, protect and rehabilitate threatened species, while at the same time respecting and protecting knowledge of local communities related to biodiversity. It envisages setting up of National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees for these purposes.

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Bill, 2002

The bill prohibits determination of sex of the foetus and restricts pre-natal diagnostic techniques for detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders. The person conducting the diagnostic procedure shall not communicate the sex of the unborn child to the pregnant woman or her relatives, the Bill says. It also prohibits advertisements relating to the pre-natal determination of sex.

Annexure-X

Working of Various Standing Committees									
S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken		Remarks
1.	Committee on Agriculture	1.1.2002	8	17-20	45.60%	-	5	5	*
2.	Committee on Defence	1.1.2002	3	11-00	65.00%	1	1	1	-
3.	Committee on Energy	1.1.2002	8	13-00	40.65%	-	6	6	-
4.	Committee on External Affairs	1.1.2002	6	10-20	36.00%	-	@1	@@1	-
5.	Committee on Finance	1.1.2002	11	20-30	41.35%	-	5	1	-
6.	Committee on Food, Civil Supplies and Public Distribution	1.1.2002	5	84-10	40.20%	-	3	-	-
7.	Committee on Labour & Welfare	1.1.2002	5	10-30	48.10%	-	3	-	One Report on Bill
8.	i. Committee on Petroleum and Chemicals	1.1.2002	9	12-05	48.80%	-	4	-	-
	Sub-Committees -IV	28.1.2002	1	01-00	*62.55%	-	-	-	*Number of Members - 8
9.	Committee on Railways	1.1.2002	7	11-50	45.00%	-	1	-	One Action Taken Statement
10.	Committee on Urban and Rural Development	1.1.2002	11	19-30	48.71%	1	5	5	-
11.	Committee on Information & Technology	1.1.2002	19 4	36-05 7-00	37.30% 65%	-	5 -	4 -	Sittings of Sub-Committee

* Two action taken statements of the Government were laid on the Table.

@ Report on Demands for Grants of MEA for the year 2002-2003.

@@ Report on Action Taken Replies of the Government on Recommendations contained in 5th Report of CEA on Demand for Grants of the Ministry of External Affairs for the year 2001-2002.

The Committee also laid a statement showing Action Taken Replies of the Government on Recommendations contained in Chapter I of the 6th Report on Action Taken on Recommendations contained in 3rd Report of the Committee on India's Role in United Nations with particular reference to her claim for permanent membership of security council.

Annexure-XI

Working of Financial Committees									
S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken		Remarks
1.	Committee on Estimates	1.5.2002	5	6-65	45.33% 31.6%	#2	2	1	-
2.	Committee on Public Undertakings	1.5.2001	3	2-15	45%	-	*13	-	@Study Tour Reports
3.	Committee on Public Accounts	**27.4.2001 ***6.5.2002	6	8-25	53%	@1	6	3	-

One Local Visit and One weekend tour in two study groups.

** For 2001-2002

*** For 2002-2003

@ One weekend Study Tour on 28.4.2002.

Annexure-XII

Working of Committees Other Than Financial and Standing Committees								
S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
1.	Business Advisory Committee	20.11.2001	8	4-35	71.66%	-	7 -	Re-constituted
2.	Committee on Privileges	13.3.2002	2	2-40	57%	-	- -	Re-constituted
3.	Committee	16.6.2002	1	0-35	33%	-	- -	-
4.	Committee on Absence of Members from the sittings of the House	25.1.2002	1	1-00	60%	-	1 -	-
5.	Committee on Government Assurances	16.1.2002	2	1-20	50%	-	3 -	-
6.	Committee on Papers Laid on the Table	25.1.2002	3	1-45	70.33%	-	1 1	-
7.	Committee on Petitions	22.1.2002	4	2-10	56%	-	3 -	-
8.	Committee on Private Members' Bills and Resolutions	16.1.2002	3	4-00	38%	-	3 -	-
9.	Joint Committee on Offices of Profit	27.12.1999	2	1-10	36.67%	-	1 -	-
10.	Committee on the Welfare of Scheduled Castes and Scheduled Tribes	4.5.2002	5	10-00	46.67%	-	- -	Two Tour Report
11.	Rules Committee	16.1.2002	-	-	-	-	1 -	-
12.	i. House Committee	27.11.2001	1	1-30	70%	-	- -	-
	ii. Sub Committee	5.12.2001	1	1-00	50%	-	- -	-

Contd... Working of Committees Other Than Financial and Standing Committees

S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
	of House Committee on Furnishing iii. Study Group of House Committee to examine matters relating to misuse of motor garages	5.12.2001	1	1-30	75%	-	- -	-
13.	Committee on Subordinate Legislation	30.1.2002	2	1-15	40%	-	1 -1	-
14.	Joint Committee on Salaries and Allowances of Members of Parliament	16.1.2002	2	3-45	50%	-	1 -	-
15.	General Purposes Committee	21.2.2000	-	-	-	-	- -	-
16.	Railway Convention Committee	21.1.2000	4	4-00	50%	-	2 -	-
17.	Joint Committee on Food Management in Parliament House Complex	12.5.2000	5	5-30	36%	-	- -	-

The First Report of the Committee on Ethics which was laid on the Table of the House on 22.11.2001, on a motion moved by Shri Somnath Chatterjee, MP was adopted by the House on 16.5.2002.'

Annexure-XIIA

Working of Various Standing Committees (Monsoon Session)								
S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
1.	Committee on Agriculture	01.01.2002	2	4-00	51.00%	-	- -	-
2.	Committee on Defence	01.01.2002	3	6-40	41.60%	-	- -	-
3.	Committee on Energy	01.01.2002	6	14-35	41.00%	-	- -	-
4.	Committee on External Affairs	01.01.2002	2	2-40	35.00% (approx.)	-	- -	-
5.	Committee on Finance	01.01.2002	2	1-55	47.72%	-	- -	-
6.	Committee on Food, Civil Supplies and Public Distribution	01.01.2002	1	0-30	35.60%	-	1 -	-
7.	Committee on Labour and Welfare	01.01.2002	2	2-10	50.00%	-	- -	-
8.	Committee on Petroleum and Chemicals (Main Committee)	01.01.2002	1	1-00	55.00%	-	- -	-
	Sub-Committees/ Study Group							
	i. Petroleum	28.1.2002	1	0-30	56.00%	-	- -	-
	ii. Chemicals and Petro-Chemicals	28.1.2002	1	0-30	31.00%	-	- -	-
	iii. Fertilisers	28.1.2002	-	-	-	-	- -	-
	(iv) Sub-Committee constituted to look into the complaints on non-observance of guidelines	28.1.2002	1	0-30	50.00%	-	- -	-

Contd... Working of Various Standing Committees (Monsoon Session)

S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
	laid down by the Government in allotting Retail Outlets and LPG distributorships by Dealer Selection Boards (DSBs)							
9.	Committee on Railways	1.1.2002	2	1-15	27.80%	-	- -	-
10.	i. Committee on Urban and Rural Development	1.1.2002	2	2-00	42.00%	-	- -	
	Sub Committee							
	Sub-Committee-I to examine the subject implementation of Part IX of the Constitution	16.5.2002	1	2-30	54.55%	-	- -	-
	Sub-Committee-II to examine implementation of Part IX A of the Constitution	16.5.2002	-	-	-	-	- -	-
11.	i. Committee on Information & Technology	01.01.2002	3	4-45	33.64%	-	- -	One ATR laid in Rajya Sabha on 12.8.2002
	ii. Sub-Committee on Information and Technology	01.01.2002	2	2-30	62.50%	-	- -	-

Annexure-XIII

Working of Financial Committees (Monsoon Session)								
S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
1.	Committee on Estimates	1.5.2002	3	5-00	49.80%	-	- -	-
2.	Committee on Public Undertakings	1.5.2002	-	-	-	-	@1 -	@Laid one Study Tour Report pertaining to Coal India Limited on 18.7.2002
3.	Committee on Public Accounts	6.5.2002	-	-	-	*1	- -	*Local Tour on 10.8.2002

Annexure-XIV

Working of Committees Other Than Financial and Standing Committees (Monsoon Session)

S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
1.	Business Advisory Committee	20.11.2001	4	1-30	76.66%	-	3 -	-
2.	Committee of Privileges	*13.32002	-	-	-	-	- -	*Re-constituted
3.	Committee on Ethics	16.6.2002	-	-	-	-	- -	-
4.	Committee on Absence of Members from the sittings of the House	25.1.2002	1	1-00	33.30%	-	- -	-
5.	Committee on Government Assurances	16.1.2002	2	2-10	56.60%	-	- -	-
6.	Committee on Papers Laid on the Table	25.1.2002	3	3-00	9.00%	-	- -	-
7.	Committee on Petitions	22.1.2002	3	4-50	52.00%	-	- -	-
8.	Committee on Private Members' Bills and Resolutions	16.1.2002	2	1-20	50.00%	-	2 -	-
9.	Joint Committee on Offices of Profit	27.12.1999	2	1-00	7.00%	-	- -	-
10.	Committee on the Welfare of Scheduled Castes and Scheduled Tribes	04.05.2001	3	6-00	55.56%	-	- -	-
11.	Rules Committee	16.01.2002	-	-	-	-	- -	-

Contd... Working of Committees Other Than Financial and Standing Committees (Monsoon Session)								
S. No.	Name of committee	Date of constitution	No. of sittings	Duration H-M	Average percentage of attendance by members	Study tours/ local visits undertaken	Reports presented original action taken	Remarks
12.	House Committee	27.11.2001	–	–	–	–	–	–
13.	Committee on Subordinate Legislation	30.1.2002	1	1-00	46.00% (approx.)	– 1	– *	–
14.	Joint Committee on Salaries and Allowances of Members of Parliament	16.1.2002	1	1-15	40.00%	–	–	–
15.	General Purposes Committee	21.2.2000	–	–	–	–	–	–
16.	Railway Convention Committee	21.1.2000	2	1-20	50.00%	–	–	–
17.	Joint Committee on Food Management in Parliament House Complex	12.5.2000	–	–	–	–	–	–
18.	The Committee on Installation of Statues/ Portraits of National Leaders/ Parliamentarians in Parliament House Complex	8.6.2000	–	–	–	–	–	–

* 2 Reports of the Committee, i.e., 7th and 8th were scheduled for presentation during the 10th Session of 13th Lok Sabha but the said reports could not be presented owing to consequent adjournments of the House.

Annexure-XV

Government Assurances (Rajya Sabha) Session

Session	Fully IMP	Dropped	Pending	Total
135	0	1	0	1
141	0	0	1	1
143	1	3	0	4
144	1	1	2	4
145	0	1	1	2
147	0	0	1	1
148	0	2	2	4
149	1	0	2	3
150	1	0	0	1
151	0	1	1	2
152	0	1	4	5
153	1	1	11	13
154	1	1	1	3
155	0	1	0	1
156	0	1	3	4
157	2	0	0	2
158	0	1	1	2
159	0	3	1	4
160	1	2	1	4
161	5	2	3	10
162	3	1	2	6
163	5	1	1	7
164	7	2	5	14
165	1	0	3	4
166	4	0	2	6
167	1	5	0	6
168	5	2	3	10
169	2	2	3	7
170	15	9	5	29
171	9	2	6	17
172	6	3	3	12
173	21	3	11	35
174	8	0	4	12
175	13	2	2	17
176	11	1	2	14
177	3	4	3	10
178	11	3	4	18
179	12	0	2	14
180	30	3	2	35
181	19	3	15	37
182	21	4	5	30
183	34	3	2	39
184	54	5	22	81

Contd... Government Assurances (Rajya Sabha) Session				
Session	Fully IMP	Dropped	Pending	Total
185	75	5	27	107
186	120	23	32	175
187	1	0	0	1
188	115	2	25	142
189	320	7	61	388
190	177	4	48	229
191	248	12	64	324
192	233	5	83	321
193	207	5	115	327
194	202	7	113	322
195	242	3	280	525
196	50	0	245	295
197	0	0	431	431
Total	2,299	153	1,593	4,045

Annexure-XVI

Position Regarding Receipt of Replies from Ministries Concerned During Thirteenth Lok Sabha as on 2.7.2002			
	Total no. of matters raised	No. of replies sent to members by ministers and copies endorsed to LSS	Percentage of replies sent to members by the ministers
First Session (20.10.1999 to 29.10.1999)	49	43	89.58
Second Session (29.11.1999 to 23.12.1999)	174	138	79.31
Third Session (23.2.2000 to 17.5.2000)	225	159	70.67
Fourth Session (24.7.2000 to 25.8.2000)	163	125	76.69
Fifth Session (20.11.2000 to 22.12.2000)	188	149	79.26
Sixth Session (19.2.2001 to 27.4.2001)	249	190	76.30
Seventh Session (23.7.2001 to 31.08.2001)	277	185	66.79
Eighth Session (19.11.2001 to 19.12.2001)	148	92	62.16
Ninth Session (25.2.2002 to 17.5.2002)	314	116	36.94

Annexure-XVII

A Comparison of the Public Expenditure on Health in Different Countries

Country	Public expenditure on health as a share of the GDP (1990–1998*) (in %)
Germany	8.30
Cuba	8.20
France	7.10
United States	6.50
Canada	6.40
United Kingdom	5.90
Japan	5.90
Australia	5.50
Brazil	3.40
China	2.00
Thailand	1.70
Sri Lanka	1.40
Bangladesh	1.60
Pakistan	0.90
India	0.60

* Data are for the most recent year available.

Source: The World Bank, 'World Development Indicators 2000'.

The 'World Development Indicators 2000' defines Public Expenditure on Health as consisting of recurrent and capital spending from 'government (central and local) budgets, external borrowings and grants (including donations from international agencies' and 'non-governmental organisations), and social (or compulsory) health insurance funds.'

Annexure-XVIII

Availability of Doctors and Hospital Beds per Lakh of Population		
Year	No. of doctors (Allopathic doctors registered with the Medical Council of India) per lakh of population	No. of beds (in both government and private hospitals registered with health authorities) per lakh of population
1971	27	64.0
1976	31	78.9
1981	39	83.0
1982	38	82.0
1983	39	82.0
1984	40	84.0
1985	41	88.0
1986	41	91.0
1987	42	91.0
1988	44	95.0
1989	46	97.0
1990	46	97.0
1991	47	95.0
1992	48	97.0
1993	49	95.0
1994	49	94.0
1995	51	93.0
1996	51	94.0
1997	52	93.0
1998	52	—

Source: CSO, 'Selected Socio-Economic Statistics of India 2000'.

Note: In the decade of the 1990s, the number of doctors per lakh of population continued to increase at a very slow rate, but the number of hospital beds per lakh of population actually decreased. This is yet another proof of the fact that in the decade of the 1990s the negligence of the health sector by the State in India became more acute than ever before.

Annexure-XIX

State-wise Share of Expenditure on Health to Total Public Expenditure

State	Public expenditure on health as a share of total public expenditure (in %)	
	1980-81	1998-99
Tamil Nadu	6.56	8.32
Andhra Pradesh	7.63	8.45
Arunachal Pradesh	5.43	–
Goa	–	5.11
Mizoram	–	4.93
Meghalaya	15.34	7.22
West Bengal	9.07	6.49
Rajasthan	10.21	6.42
Himachal Pradesh	10.65	6.38
Madhya Pradesh	7.59	5.80
Orissa	6.70	5.58
Kerala	9.57	5.47
Gujarat	6.08	5.41
Nagaland	9.57	5.39
Jammu & Kashmir	11.82	5.16
Maharashtra	6.53	4.84
Bihar	5.49	4.81
Punjab	6.52	4.73
Tripura	4.57	4.69
Manipur	8.66	4.67
Assam	5.23	4.65
Uttar Pradesh	5.89	4.10
Haryana	6.51	3.84
Sikkim	5.65	2.84

Source: Draft Tenth Five Year Plan, Vol. III, Planning Commission.

Annexure-XX

A Comparison of the Private Expenditures on Health in Different Countries	
Country	Private expenditure on health as a share of the GDP (1990–1998*) (in %)
United States	7.50
Thailand	4.50
India	4.10
Brazil	4.00
Pakistan	3.00
Canada	2.80
Australia	2.80
China	2.60
France	2.50
Germany	2.50
Bangladesh	2.00
Japan	1.40
Sri Lanka	1.20
United Kingdom	1.00

* Data are for the most recent year available.

Source: The World Bank, 'World Development Indicators 2000'.

The 'World Development Indicators 2000' defines Private Expenditure on Health as consisting of direct household (out-of-pocket) spending, private insurance, charitable donations, and direct service payments by private corporations.

Annexure-XXI

Differential in Health Status Among the States					
	IMR/1000 live births (1999 SRS)	Under 5 mortality per 1000 (NFHS II, 1998-1999)	MMR/lakh* (in 1997)	Leprosy cases per 10,000 population	Malaria +ve cases in thousands (in 2000)
India	70	94.9	408	3.70	2200
Better Performing States					
Kerala	14	18.8	195	0.90	51
Maharashtra	48	58.1	135	3.10	138
Tamil Nadu	52	63.3	76	4.10	56
Low Performing States					
Orissa	97	104.4	361.0	7.05	483
Bihar	63	105.1	451.0	11.83	132
Rajasthan	81	114.9	677.0	0.80	53
Uttar Pradesh	84	122.5	707.0	4.30	99
Madhya Pradesh	90	137.6	498.0	3.83	528

Source: Draft National Health Policy, 2001

*Source: Annual Report 1999-2000, Ministry of Health and Family Welfare

Annexure-XXII

Budgetary Allocation Under Health Sector During 1992-93 to 1999-2000 for the States of Which the Central Government's Budgetary Assistance for Health Sector Increased Consistently Over the 1990s

State	1992-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Andhra Pradesh	14.0	27.6	32.6	41.0	61.1	139.4	200.4	280.3
Gujarat	40.9	41.3	48.4	71.0	90.0	220.9	235.5	251.0
Jammu & Kashmir	32.0	36.0	38.7	49.6	57.7	74.5	113.8	119.7
Karnataka	56.4	112.4	107.7	114.7	191.4	183.6	195.4	227.7
Uttar Pradesh	90.6	98.3	110.9	129.9	182.0	173.1	405.5	428.1
West Bengal	41.1	29.0	31.6	33.3	74.8	206.3	192.8	235.0
Delhi	65.0	72.1	91.2	100.5	142.7	152.4	197.0	273.4

Source: Ministry of Health and Family Welfare, Central Bureau of Health Intelligence, 'Health Information of India 1997 & 1998'.

Annexure-XXIII

Budgetary Allocation Under Health Sector During 1992-93 to 1999-2000 for the States of Which the Central Government's Budgetary Assistance for Health Sector Showed no Significant Increase Over the 1990s

State	1992-93	93-94	94-95	95-96	96-97	97-98	98-99	99-2000
Assam	37.0	39.2	45.2	65.5	63.9	65.6	71.9	77.4
Bihar	114.3	120.1	120.1	120.1	66.1	72.4	121.7	127.6
Madhya Pradesh	75.8	76.4	84.5	77.0	107.1	93.3	173.5	135.2
Rajasthan	44.5	56.2	71.9	141.5	176.3	139.2	152.9	172.6
Sikkim	13.4	13.7	13.4	12.6	11.0	8.6	8.1	15.6
Tripura	8.5	8.8	9.0	12.0	12.0	13.7	14.1	13.5

Source: Ministry of Health and Family Welfare, Central Bureau of Health Intelligence, 'Health Information of India 1997 & 1998'.

109

Annexure-XXIV

Health Status of the Socially Marginalised Groups (1999)

	Infant mortality/1000	Under 5 mortality/1000	% Children underweight
India	70.0	94.9	47.0
Scheduled Castes	83.0	119.3	53.5
Scheduled Tribes	84.2	126.6	55.9
Other Disadvantaged	76.0	103.1	47.3
Others	61.8	82.6	41.1

Source: Draft NHP, 2001

Annexure-XXV

Average Hospital Charge per Inpatient Day by Public and Private Hospitals Across Different States (in the year 2000)

State	Average hospital charge per inpatient day by public hospitals (in Rs/day)	Average hospital charge per inpatient day by private hospitals (in Rs/day)
Tamil Nadu	16	297
Maharashtra	26	269
Gujarat	13	251
Kerala	40	203
Rajasthan	12	158
Madhya Pradesh	11	154
Uttar Pradesh	28	140
Orissa	4	115
Himachal Pradesh	4	51
All India	24	201

Source: Draft Tenth Five Year Plan, Vol. II, Planning Commission.

Annexure-XXVI

Progress of Literacy

Year	Male	Female	Total	Rural	Urban
1951	27	9	18	–	–
1961	40	15	28	13	24
1971	46	22	34	28	34
1981	57	30	41	34	65
1991	64	39	52	45	73
2001	76	54	65	–	–

Source: Censuses of India

Annexure-XXVII

School Drop Outs in India from Class I to VIII

Class I to VIII	1990-91	1993-94
Boys	69.6	50.0
Girls	67.6	56.8
Total	63.4	52.8

Source: CMIE, India's Social Sectors, February, 1995, Mumbai

Annexure-XXVIII

Percentage of Children of the School-going Age Out of Schools, 1999-2000						
States/UT	% 6–14 years old out of school			% contribution of state/UT to total out-of-school children		
	Rural	Urban	Total	Rural	Urban	Total
Andhra Pradesh	26.3	14.9	22.9	6.8	10.1	7.2
Arunachal Pradesh	30.7	16.0	29.3	0.1	–	0.1
Assam	20.0	11.0	19.2	2.2	0.8	2.0
Bihar	48.4	29.0	45.9	22.6	12.5	21.2
Goa	13.1	5.4	9.9	–	0.1	–
Gujarat	23.0	11.6	19.6	3.4	4.5	3.6
Haryana	14.5	13.2	14.2	1.1	2.1	1.3
Himachal Pradesh	4.8	2.0	4.5	0.1	–	0.1
Jammu & Kashmir	19.0	10.7	17.5	0.5	0.4	0.5
Karnataka	22.6	10.2	19.8	4.1	3.5	4.0
Kerala	2.5	1.9	2.4	0.2	0.3	0.2
Madhya Pradesh	31.6	13.8	27.9	10.7	7.6	10.3
Maharashtra	14.0	6.8	11.4	3.9	6.7	4.3
Manipur	12.8	1.9	9.7	0.1	–	0.1
Meghalaya	13.0	3.7	11.3	0.1	–	0.1
Mizoram	9.3	4.4	7.3	–	–	–
Nagaland	10.1	5.8	8.7	–	–	–
Orissa	29.9	16.8	27.7	4.4	3.1	4.2
Punjab	14.4	11.1	13.4	1.1	2.2	1.2
Rajasthan	30.6	14.7	27.4	6.5	4.9	6.3
Sikkim	5.0	16.7	6.0	–	–	–
Tamil Nadu	10.1	7.8	9.3	1.5	4.0	1.9
Tripura	9.6	9.0	9.5	0.1	0.1	0.1
Uttar Pradesh	28.6	22.5	27.4	21.5	26.1	22.1
West Bengal	26.4	18.2	25.1	8.7	7.1	8.5
Andaman & Nicobar Islands	7.4	4.5	6.7	–	–	–
Chandigarh	5.1	6.2	6.1	–	0.1	–
Dadra & Nagar Haveli	30.5	6.4	28.7	–	–	–
Daman & Diu	7.3	3.9	5.8	–	–	–
Delhi	1.7	13.5	10.6	–	3.6	0.5
Lakshadweep	1.6	3.8	2.9	–	–	–
Pondichery	1.9	7.1	5.0	–	0.1	–
Total	26.9	14.4	24.0	100	100	100

Source: Srivastava, Ravi, 2002

Annexure-XXIX

Compulsory Education Acts in Force in States and UTs of India

States/UT	Name of act
1. Andhra Pradesh	Andhra Pradesh Education Act 1982 (Act No. 1 of 1982).
2. Assam	The Assam Elementary Education (Provincialisation) Act, 1974. (Assam Act No. 6 of 1975).
3. Bihar	Bihar Primary Education (Amendment) Act, 1959 (Bihar and Orissa Education Act No. 1 of 1919) as amended by Bihar Act XVI of 1939 and Bihar Act XVII of 1946 and IV of 1959).
4. Goa	The Goa Compulsory Elementary Education Act, 1995 (Goa Act No. 4 of 1996).
5. Gujarat	Gujarat Compulsory Primary Education Act 1961 (Gujarat Act No. XLI of 1996).
6. Haryana	Punjab Primary Education Act 1960.
7. Himachal Pradesh	The Himachal Pradesh Compulsory Primary Education Act 1953 (Act No. 7 of 1954).
8. Jammu & Kashmir	The Jammu Kashmir Education Act 1984 (Act No. XI of 1984).
9. Karnataka	The Karnataka Education Act 1983 (Karnataka Act No. 1 of 1995) (First published in the Karnataka Gazette Extraordinary on the 20th day of January, 1995).
10. Kerala	The Kerala Education Act 1958 (Act No. 6 of 1959) (As amended by Acts 35 of 1960, 31 of 1969 and 9 of 1985).
11. Madhya Pradesh	The Madhya Pradesh Primary Education Act 1961 (Madhya Pradesh Act No. 33 of 1961).
12. Maharashtra	The Bombay Primary Education Act 1947 (Bombay Act No. LXI of 1947) (As modified up to 30 April 1986).
13. Orissa	Orissa Primary Education Act 1969 No. 15.
14. Punjab	Punjab Primary Education Act 1960, No. 39.
15. Rajasthan	The Rajasthan Primary Education Act 1964 (Act No. 31 of 1964).
16. Tamil Nadu	The Tamil Nadu Compulsory Elementary Education Act 1994 (Act No. 33 of 1995).
17. Uttar Pradesh	United Provinces Primary Education Act 1919* (UP Act No. 7 of 1919).
18. West Bengal	West Bengal Primary Education Act 1973 (West Bengal No. 43 of 1973).
19. Delhi	The Delhi Primary Education Act 1960. Act No. 39 of 1960.

(As per information available till November, 1996)

Source: CMIE, India's Social Sectors, February, 1995, Mumbai

Annexure-XXX

Rates of Growth of Employment at all India Usual Status by NSS

a. For Rural and Urban Areas

	1977-78 to 1990-91	1990-91 to 1999-2000
Agriculture	1.12	1.17
Non-agriculture	4.13	2.12
All Sectors	2.16	1.55

b. For Rural Areas

	1977-78 to 1990-91	1990-91 to 1999-2000
Agriculture	1.06	1.27
Non-agriculture	4.75	0.99
All Sectors	1.84	1.20

Source: Sen & Jha (2001)

Annexure-XXXI

State Wise List of Suicides in India Due to Poverty, Unemployment and Failure of Agriculture (in 1999)

States	Poverty				Unemployment				Farming/agriculture			
	M*	F**	T***	%****	M	F	T	%	M	F	T	%
Andhra Pradesh	604	221	825	7.94	114	40	154	1.48	1604	370	1974	19.01
Arunachal Pradesh	1	0	1	1.35	-	-	-	-	3	3	6	8.11
Assam	201	57	258	10.18	133	42	175	6.90	68	14	82	3.23
Bihar	15	4	19	1.06	25	4	29	1.62	101	26	127	7.08
Goa	1	-	1	0.39	10	3	13	5.08	5	-	5	1.95
Gujarat	83	65	148	2.97	220	33	253	5.07	405	95	500	10.03
Haryana	33	1	34	1.48	38	11	49	2.13	170	35	205	8.92
Himachal Pradesh	4	3	7	2.15	4	1	5	1.53	39	-	39	11.96
Jammu & Kashmir	-	-	-	-	5	2	7	7.14	1	2	3	3.06
Karnataka	339	140	479	3.84	161	39	200	1.60	2002	377	2379	19.05
Kerala	7	2	9	0.09	239	68	307	3.14	1291	140	1431	14.63
Madhya Pradesh	88	18	106	1.09	82	12	94	0.97	2055	599	2654	27.82
Maharashtra	202	56	258	1.90	173	28	201	1.48	2050	373	2423	-
Manipur	-	-	-	-	-	-	-	-	-	-	-	-
Meghalaya	1	2	3	5.36	-	-	-	-	3	2	5	8.93
Mizoram	-	-	-	-	-	-	-	-	-	-	-	-
Nagaland	-	-	-	-	-	-	-	-	-	-	1	6.67
Orissa	6	4	10	0.27	29	1	30	0.82	259	6	265	7.26
Punjab	27	6	33	3.35	11	-	11	1.12	87	-	87	8.82
Rajasthan	56	26	82	2.19	68	11	79	2.11	583	141	724	19.34
Sikkim	6	2	8	7.41	-	-	-	-	15	2	17	15.74
Tamil Nadu	231	125	356	3.11	188	43	231	2.02	635	169	804	7.02
Tripura	20	20	40	4.26	-	-	-	-	97	-	97	10.34
Uttar Pradesh	99	33	132	2.41	137	6	143	2.61	726	119	845	15.43
West Bengal	30	13	43	0.31	121	22	143	1.03	917	323	1240	08.93

*M Male; **F Female; ***T Total; ****% Grand total

Source: Compiled from 'Accidental Deaths and Suicides in India - 1999', Ministry of Home Affairs, GOI.

Annexure-XXXII

Per Capita Net Availability of Food Per Day			
Year	Cereals	Pulses	Total
1951	334.2	60.7	394.9
1952	325.4	59.1	384.5
1953	349.9	62.7	412.6
1954	388.1	69.7	457.8
1955	372.9	71.1	444.0
1956	360.4	70.3	430.7
1957	375.3	71.8	447.1
1958	380.5	58.5	439.0
1959	393.4	74.9	468.3
1960	384.1	65.5	449.6
1961	399.7	69.0	468.7
1962	398.9	62.0	460.9
1963	384.0	59.8	443.8
1964	401.0	51.0	452.0
1965	418.5	61.6	480.1
1966	359.9	48.2	408.1
1967	361.8	39.6	401.4
1968	404.1	56.1	460.2
1969	397.8	47.3	445.1
1970	403.1	51.9	455.0
1971	417.6	51.2	468.8
1972	419.1	47.0	466.1
1973	350.5	41.1	421.6
1974	410.4	40.8	451.2
1975	365.8	39.7	405.5
1976	373.8	50.5	424.3
1977	386.3	43.3	429.6
1978	422.5	45.5	468.0
1979	431.8	44.7	476.5
1980	379.5	30.9	410.4
1981	417.3	37.5	454.8
1982	415.6	39.2	454.8
1983	397.8	39.5	437.3
1984	437.8	41.9	479.7
1985	415.6	38.4	454.0
1986	434.2	43.9	478.1
1987	435.4	36.4	471.8
1988	411.8	36.7	448.5
1989	452.6	41.9	494.5
1990	435.3	41.1	476.4
1991	468.5	41.6	510.1
1992	434.5	34.3	468.8
1993	427.9	36.2	464.1
1994	434.0	37.2	471.2
1995	457.6	37.8	495.4
1996	442.5	32.7	475.2
1997	466.0	37.1	503.1
1998	414.2	32.8	447.0
1999	429.2	36.5	465.7
2000	422.0	31.8	454.4
2001	385.1	29.1	414.1

Source: Economic Survey 2003

Annexure-XXXIII

Number of Eleventh Schedule Subjects Transferred to Panchayats by State Governments (as on 11 July, 2001)

States/UTs	No. of departments/subjects transferred to panchayats with			No. of departments/subjects yet to be transferred to panchayats with		
	Funds	Functions	Functionaries	Funds	Functions	Functionaries
Andhra Pradesh	5	13	2	24	16	27
Arunachal Pradesh	–	–	–	29	29	29
Assam	–	–	–	29	29	29
Bihar	–	–	–	29	29	29
Chhattisgarh	10	23	9	19	6	20
Goa	–	–	–	29	29	29
Gujarat	–	–	–	20	29	29
Haryana	–	16	–	29	13	29
Himachal Pradesh	15	15	15	14	14	14
Jharkhand	–	–	–	29	29	29
Karnataka	29	29	29	–	–	–
Kerala	15	15	15	14	14	14
Madhya Pradesh	10	23	9	19	6	20
Maharashtra	18	18	18	11	11	11
Manipur	–	22	4	29	7	25
Orissa	5	25	3	24	4	26
Punjab	–	7	–	29	22	29
Rajasthan	–	29	–	29	22	29
Sikkim	29	29	29	–	–	–
Tamil Nadu	–	20	–	29	17	29
Tripura	–	12	–	29	17	29
Uttaranchal	12	13	9	17	16	20
Uttar Pradesh	12	13	9	17	16	20
West Bengal	12	29	12	17	–	17
Andaman & Nicobar Islands	–	–	–	29	29	29
Chandigarh	–	–	–	29	29	29
Dadra & Nagar Haveli	–	3	3	29	26	26
Daman & Diu	–	29	–	29	–	20
NCT of Delhi	Panchayat system suspended in 1989					
Pondichery	–	–	–	29	29	29
Lakshadweep	–	6	–	29	23	29

Source: Ministry of Rural Development Panchayat Update – July 2001

Annexure-XXXIV

States Where Panchayat Elections Have Been Held		
S.No	States/UTs	Election last held
1.	Andhra Pradesh	3 July, 1995
2.	Arunachal Pradesh	1995
3.	Assam	1992
4.	Bihar	1978
5.	Goa	February-1997
6.	Gujarat	May-June 1995
7.	Haryana	December-1994
8.	Himachal Pradesh	December-1995
9.	Jammu & Kashmir	1980
10.	Karnataka	December 29th, 1993 (GP) 13 & 15 March, 1995 (Taluk & ZP)
11.	Kerala	23-25 September, 1995
12.	Madhya Pradesh	May-June 1994
13.	Maharashtra	25 October, 1997
14.	Manipur	1997
15.	Orissa	11 to 25 January, 1997 18 April 1994 (GP & PS)
16.	Punjab	21 June, 1998
17.	Rajasthan	January-February 1995
18.	Sikkim	6 October, 1997
19.	Tamil Nadu	9 & 11 October, 1996
20.	Tripura	August-1994
21.	Uttar Pradesh	April-1995
22.	West Bengal	28 May, 1998

Source: From Status of Panchayat: A Participatory perspective, PRIA, New Delhi

Annexure-XXXV

State-wise Committee Systems in Panchayats				
S.No.	State	Gram Panchayat	Intermediate tier	District/Zilla Panchayat
1.	Andhra Pradesh	Agricultural Committee	(Mandal Praja Parishad) No provision provided for standing committee in the statute	Rural Development Committee
		Public Health and Sanitation Committee		Education and Medical Service Committee
		Communication Committee		Social Welfare Committee
				Women Welfare Committee
				Works Committee
				Finance and Planning Committee
				Agricultural Committee
2.	Assam	Known as the GAON panchayat	Known as ANCHALIK panchayat	General Standing Committee
		Development Committee (looks into the agricultural production, animal husbandry, rural in industries and poverty alleviation)	General Standing Committee	Finance and Audit Committee
		Social Justice Committee (concerned with education for SC/ST, protection)	Finance, Audit and Planning Committee	Social Justice Committee
		Social Welfare Committee (concerned with public health, public works)	Social Justice Committee	Planning and Development Committee
3.	Bihar	Production Committee (concern with agricultural production, animal husbandry, rural industries and poverty alleviation)	General Standing Committee	General Standing Committee
		Social Justice Committee (concerned with education for SC/ST, and their protection)	Finance, Audit and Planning Committee	Finance, Audit and Planning Committee
		Amenities Committee (concern with education, public health, public works)	Social Justice Committee	Social Justice Committee

Contd... State-wise Committee Systems in Panchayats				
S.No.	State	Gram Panchayat	Intermediate tier	District/Zilla Panchayat
				Education and Health Committee
				Agriculture and Industries Committee
4.	Gujarat	Village level	Taluk Panchayat, it has the discretion to constitute other committee not exceeding five	Education Committee
		Executive Committee (Agriculture/Animal husbandry/poverty alleviation)	Education Committee	Public Works Committee
		Social Justice Committee	Executive Committee	Executive Committee
			Public Works Committee	Appeal Committee
			Health Committee	Social Justice Committee
			Cooperation Committee	Public Health Committee
			Social Justice Committee	A committee for implementation and review of the 20-point programme
5.	Haryana	Production sub-committee	General Committee	ZP may constitute such committees as it may deem necessary
		Social Justice sub-committee	Finance, Audit and Planning Committee	
		Amenities sub-committee	Social Justice Committee	
		Executive committee		
		Gram Vikas Samiti (New)		
		Shiksha Samiti (New)		
6.	Himachal Pradesh	Production Committee	General Standing Committee	General Standing Committee
		Social Justice Committee	Finance, Audit and Planning Committee	Finance, Audit and Planning Committee
		Amenities Committees	Social Justice Committee	Social Justice Committee
		Vigilance Committee (New)		Education and Health Committee
				Agriculture and Industries Committee
7.	Karnataka	Production Committee	General Standing Committee	General Standing Committee
		Social Justice Committee	Finance, Audit Planning Committee	Finance, Audit, Planning Committee
		Amenities Committees	Social Justice Committee	Social Justice Committee
				Education and Health Committee

Contd... State-wise Committee Systems in Panchayats

S.No.	State	Gram Panchayat	Intermediate tier	District/Zilla Panchayat
				Agricultural and Industrial Committee
8.	Kerala	Functional committee (for different subjects like agriculture, sanitation, communication, public health and education)	Standing Committee	Standing Committee
9.	Madhya Pradesh	General Administration Committee	General Administration Committee	General Administration Committee
		Construction and Development Committee	Agriculture Committee	Agriculture Committee
		Education, Health and Social Welfare Committee	Education Committee	Education Committee
			Communication and Works Committee	Communication and Works Committee
			Co-operation and Industries Committee	Co-operation and Industries Committee
10.	Maharashtra	May constitute committee to exercise the function	Consultation and Advisory Body	
		Education, Health and Sanitation including Rural Water Supply	Education, Health and Sanitation including Rural Water Supply	
		Welfare of weaker section	Welfare of weaker section	
		Communication and Work	Communication and Work	
12	Punjab	Production Committee	General Committee	General Committee
		Social Justice Committee	Finance, Audit and Planning Committee	Finance, Audit and Planning Committee
		Amenities Committee	Social Justice Committee	Social Justice Committee
				Education and Health Committee
				Agriculture and Industry Committee
13.	Rajasthan	Not mentioned in the Act	Administration, finance and Taxation Committee	Administration, Finance and Taxation Committee
		Agriculture, Animal Husbandry, Irrigation, Co-operation	Production Programme Agriculture, Animal Husbandry, Irrigation, Co-operation	Production Programme of Agriculture, Animal Husbandry, Irrigation, Co-operation
			Education and Social Education Committee	Education and Social Education Committee
			Social Service and Social Justice	Social Service and Social Justice
			Others subjects	Others subjects

Contd... State-wise Committee Systems in Panchayats

S.No.	State	Gram Panchayat	Intermediate tier	District/Zilla Panchayat
14.	Tamil Nadu	No provision	Agriculture Production Committee	Food and Agriculture Committee
			Education Committee	Industries and Labour
			General Purpose Committee	Public Works Committee
				Health and Welfare Committee including Prohibition
15.	Uttar Pradesh	Samta Samiti (Welfare)	Karya Samiti	Karya Samiti
		Vikas Samiti (Development)	Vitta Evam Vikas Samiti	Vitta Evam Vikas Samiti
		Gram Shiksha Samiti (Education)	Shiksha Samiti	Shiksha Samiti
		Administration Committee		Krishi Udyog Evam Niranman Samiti
		Water Management Committee		Samta Samiti
		Construction Works Committee		
16.	West Bengal	Not mentioned	Artha, Sansha Unnayan O Parikalpana Sthayee Samiti	Artha, Sansha Unnayan O Parikalpana Sthayee Samiti
			General Health	Public Health
			Purtakarya Sthayee Samiti (old works)	Public Works
			Krishi Sech O Sanaabaya Sthayee Samiti	Agriculture, Irrigation Co-operation Committee
			Small Industry Committee	Education Committee
			Samanvay Samiti	Cottage Industry, Relief and Social Welfare Committee
			Shiksha Sthayee Samiti	Other Samities Samanvay Samiti (Coordination)

Annexure-XXXVI

State-wise Position of Panchayati Raj

A. Panchayat at Village Level

S.No.	State	Control over chairperson		Control over Panchayat		Power dissolution	Arrangement in case of dissolution
		Power of suspension	Power of removal	Power of inspection	Power of suspension		
1.	Andhra Pradesh	District Collector	District Collector	Commissioner/ Government	Government	Government	Government
2.	Assam	–	Anchalik Panchayat (with the approval of ZP)	Officer empowered by the Government	ZP (with confirmation from Government)	Government	Government
3.	Bihar	–	Government	Government	–	ZP or Government	A Person Empowered by ZP or Government
4.	Gujarat	District Development Officer (DDO)	Competent Authority	Office Bearers of Panchayat of Higher Level/ Government	Taluka Development Officer or DDO	Government	A Person/ Persons Empowered by Government
5.	Haryana	Director or Deputy Commissioner	Director or Deputy Commissioner	Director/ Chief Executive Officer (CEO)	DDO, Panchayat Officer or SDO (Civil)	Government	–
6.	Himachal Pradesh	Prescribed Authority	Government or Prescribed Authority	Government	Government or Prescribed Authority	Government or Prescribed Authority	Government
7.	Karnataka	–	Commissioner	CEO	CEO (with confirmation of Commissioner)	Commissioner	A Person/ Persons Empowered by ZP or Government
8.	Kerala	–	Government	Commissioner (not below the rank of Secretary of State Government)	Government	Government	Administrative Committee, or special officer appointed by Government

Contd... State-wise Position of Panchayati Raj

A. Panchayat at Village Level

S.No.	State	Control over chairperson		Control over Panchayat		Power dissolution	Arrangement in case of dissolution
		Power of suspension	Power of removal	Power of inspection	Power of suspension		
9.	Madhya Pradesh	Prescribed Authority (with confirmation from Government)	Government or prescribed Authority	Government	Government or Prescribed Authority	Government or Prescribed Authority	A person or persons Authorised by Government
10.	Maharashtra		Standing Committee	CEO	Standing Committee	Commissioner	–
11.	Punjab	Director (at any time) Deputy Commissioner DDPO (during enquiry)	Director	Government	Director	Government	–
12.	Rajasthan	Competent authority	Competent authority	Government	Immediate CEO Ultimate Government	Government	An Administrator Empowered by Government
13.	Tamil Nadu	–	Inspector	Inspector/Collector/Government	Inspector	Government	Government may Empower Panchayat Union Council to Act for Village Panchayat
14.	Uttar Pradesh	–	Government	Government	Government	Government	A Person/Persons appointed by Government
15.	West Bengal	–	Government	Government	Inspector of Panchayats	Government	–

State-wise Position of Panchayati Raj

B. Panchayat at Intermediate Level

S.No.	State	Control over chairperson		Control over Panchayat		Power dissolution	Arrangement in case of dissolution
		Power of suspension	Power of removal	Power of inspection	Power of suspension		
1.	Andhra Pradesh	Government	Government	Government	Government	Government	A Person/ Persons Empowered by Government
2.	Assam	–	ZP (with approval of Government)	–	Government	Government	A Person/ Persons Empowered by Government
3.	Bihar	–	Government	Government	–	ZP or Government	A Person/ Persons Appointed by ZP or Government
4.	Gujarat	Competent Authority	Competent Authority	Office Bearers of Panchayat of Higher Level/ Government	DDO/ Collector	Government	A Person/ Persons Appointed by Government
5.	Haryana	Government	Government	Director/CEO	Government	Government	A Person/ Persons Appointed by Government
6.	Himachal Pradesh	Prescribed Authority	Government or Prescribed Authority	Director/CEO Government	Government or Prescribed Authority	Government or Prescribed Authority	A Person/ Persons Committee Authorised by Government
7.	Karnataka	–	Government	CEO	Commissioner	Government	A Person/ Persons Appointed by ZP or Government
8.	Kerala	–	Government	Commissioner	Government	Government	Administrative Committee, or an Officer Appointed by Government

Contd... State-wise Position of Panchayati Raj

B. Panchayat at Intermediate Level

S.No.	State	Control over chairperson		Control over Panchayat		Power dissolution	Arrangement in case of dissolution
		Power of suspension	Power of removal	Power of inspection	Power of suspension		
9.	Madhya Pradesh	Prescribed Authority (with confirmation from Government)	Government/ Prescribed Authority	Government	Government Prescribed Authority	Government or Prescribed Authority	A Person Appointed by Government
10.	Maharashtra	–	Government	Commissioner/ Government	DM/ Commissioner	Government	A Person/ Persons Subcommittee Authorised by Government
11.	Orissa	Government	Government	–	–	–	–
12.	Punjab	Government	Government	Government	Director	Government	A Person/ Persons Appointed by Government
13.	Rajasthan	Competent Authority	Competent Authority	Government	Immediate CEO Ultimate Government	Government	Powers and Duties Exercised by an Administrator
14.	Tamil Nadu	–	Government (after the enquiry made by the revenue divisional officer)	Inspector/ Collector/ Government	Inspector	Government	Inspector May Appoint a Person not Below the Rank
15.	Uttar Pradesh	–	Government	DM or Prescribed Authority	Prescribed	Government	A Person Appointed by Government
16.	West Bengal	–	Government	Inspector of Panchayat	Government	Government	A Person/ Persons Authority Appointed by Government

State-wise Position of Panchayati Raj

C. District Panchayat

S.No.	State	Control over chairperson		Control over Panchayat		Power dissolution	Arrangement in case of dissolution
		Power of suspension	Power of removal	Power of inspection	Power of suspension		
1.	Andhra Pradesh	Government	Government	Government	Government	Government	A Person Appointed by Government from Time to Time
2.	Assam	–	Government	Government	–	Government	A Persons Appointed by Government from Time to Time
3	Bihar	–	Government	Government	–	Government	A Person Appointed by Government from Time to Time
4.	Gujarat	Competent Authority	Competent Authority	Government	Any officer authorised by Government Collector	Government	A Person Appointed by Government from Time to Time
5.	Haryana	Government	Government	Government	Government	Government	A Person Appointed by Government from Time to Time
6.	Himachal Pradesh	Prescribed Authority	Government or Prescribed Authority	Government	Government or Prescribed Authority	Government or Prescribed Authority	A Person Appointed by Government
7.	Karnataka	–	Government	CEO	Commis-sioner	Government	Administra-tive Committee, or an Officer Appointed by Government
8.	Kerala	–	Government	Commis-sioner	Government	Government	Administra-tive Committee, or an Officer Appointed by Government

Source: *The State of Panchayats : A Participatory Perspective*, PRIA, New Delhi

People Involved

Centre for Youth & Social Development (CYSD) works with the deprived and the disprivileged towards the goal of people-centred development. Its participatory development action enables people to pursue their need-fulfilment through their own institutional means. Its training and capacity building support to development organisations produced a cascade of effective learning at the grassroots and increasing professional efficiency in development action at all levels. By building up alliances with agencies of shared intent it attempts to bring on a pro-poor agenda in the mainstream of development policies and practices.

National Centre for Advocacy Studies (NCAS) is a membership-based organisation that has been working on various people centred advocacy initiatives across the country. NCAS has a decade long history of training people on advocacy and undertaking people-centred advocacy initiatives, NCAS works on various socio-economic rights essentially from the perspective of the marginalised. NCAS also is involved in Media Advocacy initiative, Advocacy Learning and Praxis and Governance and Advocacy. The theme in NCAS work is bridging people and building ideas. NCAS sees the Social Watch process as an essential component towards this end.

John Samuel is the Executive Director of NCAS. He is also a visiting fellow at IDS, Sussex.

Jagadananda is the Member Secretary of CYSD. He is a member of the Civil Society Advisory Committee of the Commonwealth Foundation.

Bobby Kunhu co-ordinates the National Social Watch Coalition, He is a human rights lawyer with NCAS.

Gnanaprakasam is the Programme Co-ordinator with NCAS. He is an Anthropologist by profession.

A Surya Prakash has been reporting Parliament for the past couple of decades and has served in various capacities with print and visual media. At present he is the Director of the Film and Media School attached to the Institute of Integrated Learning in Management, New Delhi.

Praveen Jha is an Associate Professor in the Centre for Economic Studies and Planning at the Jawaharlal Nehru University, New Delhi. He is also the Economic Advisor of Centre for Budget Accountability, New Delhi.

Joseph Pookkatt is an Advocate practising in the Supreme Court of India. He runs a law portal called Indlaw.com. He was assisted in the compilation of the Judiciary part of this report by Rohan Thawani and Rahul Aggarwal.

Yogesh Kumar works with Samarthan, an institution working on grassroots democracy in Bhopal.

The research team comprises NCAS governance unit and Central for Budget Accountability (CBA) team.

List of References

1. A Surya Prakash, *What Ails Indian Parliament*, Indus, 1995
2. Accidental Deaths and Suicides in India-1999, Ministry of Home Affairs, GOI
3. Census of India, NSS, 2001
4. Court Administration, ALJ, 1976
5. Draft National Health Policy, 2001
6. Draft Tenth Five Year Plan, Planning Commission
7. Economic Survey of India, 2003
8. G C Malhotra, *The changing profile of Lok Sabha: A Socio-Economic Study of Members (1952-2002)*, Lok Sabha Secretariat, 2002
9. Hand Book for Members, Lok Sabha Secretariat, 1991
10. Health Information of India, Ministry of Health and Family Welfare, GOI, Central Bureau of Health Intelligence, 1997&1998
11. Human Development Report UNDP, 2002
12. India's Social Sectors, CMIE, February 1995
13. John Samuel, *Questioning the Question Hour*, National Centre for Advocacy Studies, 2001
14. Justice Jagannatha Shetty, *Report of the First National Judicial Pay Commission*, Government of India, 1996
15. *Members of the Twelfth Lok Sabha—A Socio-Economic Study*, LARRDIS
16. Ravi Duggal, *Right to Health* (Mimeo), CEHAT, Mumbai, 2002
17. Selected Socio-Economic Statistics of India 2000, CSO
18. Status of Panchayati Raj Institutions in Madhya Pradesh (1995-2000), Samarthan, 2000
19. Twenty-Third Report, Standing Committee on Labour and Welfare, Lok Sabha Secretariat, 2002
20. The Marginalised Matter, Centre for Budget Accountability, 2003
21. World Development Indicators 2000, World Bank
22. *Panchayati Raj Update*, ISS, January-December, 2002