

Introduction

Democracy, development and governance, it seems are at the crossroads, caught in the contradictions, some of which are new while older ones continue. Admittedly, India has joined the countries with faster economic growth evident with the rising GDP mainly in the growing services and manufacturing sectors. The slackening growth of agricultural sector on the other hand points towards a deeper malaise.

The question however is the sustainability and the wider reach of economic growth from the point of view of the desired level of social development. To what extent is the high economic development compatible with unsatisfactory social development? Credible sources like the HDR 2006 indicate that India lags behind from the point of view of a number of indicators of human development.

While the processes and institutions of democracy have existed for quite sometime and deepened, they have not been accompanied by social and economic empowerment, often giving rise to volatile situations of protests and even eruptions. This mismatch between the political environment on the one hand and the socio-economic on the other has proved to be the main challenge to make democracy more meaningful and participatory. Another development has been the ascendancy of civil society consciousness and organisations that have created a heightened sense of citizen's rights and their forceful articulation.

The contradictions and crises that the institutions of governance are faced with at the present juncture are quite complex. They have to contain and carry the demands coming from the people as well as from the civil society organisations which is not always easy and so find themselves unable to

perform at their fullest potentiality because of their own contradictions. Demands from three directions, i.e., the political, the people's rights' consciousness and the civil society have resulted in some positive initiatives (such as RTI aimed towards transparency in governance) that in a sense are aimed towards evaluating the institutions which are responsible for the administration of such initiatives. There are also some institutional initiatives that have almost been traced to the system of governance (PRI, NREGA) by the conflicting forces and situations. The reluctance of the 'managers of the system' is evident at all levels of the working of these institutions. This is the contradiction that is often reflected in remarks like the 'lack of political will' (one may add administrative as well) in the working of new institutions and other policy initiatives.

I. THE INDIAN PARLIAMENT AND THE GRAMMAR OF ANARCHY

The section on Parliament looks at the institutional dimension, explores the question of parliamentary protocol in the wake of 'opposition-speaker standoff', the issue of the Office of Profit, while taking further our previous emphasis on criminalisation and deep seated corruption among the MPs manifested in the 'cash for questions' controversy. The actual working of both the Houses is analysed from the point of view of the time lost, number of sittings, attendance of the MPs, the question hour and the working of the Committees. The section also undertakes a close scrutiny of the way some of the important Bills have been passed in the Parliament in the year 2006, e.g., the SEZ Act and the Forest and Land Owners Act.

Parliament is an institution that not only legislates but also creates a sense of representation across several layers of a multi-cultural and diverse society that is of critical importance, as the 'revolution of rising expectations' is increasingly turning out to be the 'revolution of rising frustrations'. Parliament is a crucial link between the Executive and the people and, in the process has the crucial responsibility of keeping the popular mandate alive. The discussions on the role and functioning of the Indian Parliament have been dominated by the questions raised on the issue of representation arising out of criminalisation, assured gender representation through one-third quota and increasing absenteeism of the MPs, as well as the use of protest politics inside the Houses.

Parliamentary Protocol

Parliamentary protocol, so essential for the democratic functioning, is concerned with the question of respecting and adhering to the accepted norms of protocol with regard to the Chairs of both the houses of Parliament. The recent stand-off between the Lok Sabha Speaker Somnath Chatterjee, a veteran parliamentarian and front ranking leader of the CPM, and the opposition NDA led by the BJP is important in this light. The Speaker was alleged to be biased against the Opposition, which led to the exchange of words between the two (Speaker Somnath Chatterjee and former Prime Minister Atal Bihari Vajpayee). As a result, the Opposition boycotted the House and the Speaker pondered resignation at this slur on his impartiality. The letter written to the Speaker by the Opposition leader evoked considerable criticism by the UPA partners.

It is perhaps the first time in history that the institution that the Speaker represents has been questioned in such a straightforward and blatant fashion. It is perhaps because partisanship and contestations even within the Parliament have risen very high. Slogan shouting, trooping into the well of the House, walk-outs, boycotts, etc., have become an everyday affair. It is of utmost

importance to keep the Speaker's office as a priority item on the agenda of parliamentary reform, so that a healthy consensus emerges on this issue among the political parties across the board.

Office of Profit

The Office of Profit (OoP) issue proved to be the legendary genie that had remained in the bottle of Articles 102(1)(a) and 191(1)(a) of the Constitution and was almost inadvertently let out by an innocuous looking court case instituted by a little known Congress leader from Kanpur. The Constitutional provision debarring any representative 'holds (ing) any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law...shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State', had remained a little-known provision at least in the public domain. A Court case resulting into the disqualification of Jaya Bachchan from Rajya Sabha created a flurry of activities in the Parliament and across the parties. The chain reaction brought ever new names of MPs and members of legislatures in the states, including Ms Sonia Gandhi herself, from almost all the political parties, putting the Parliament and the Election Commission under pressure. The controversy brought forth the tendency of seeking fruits of power in executive offices, beyond being people's representatives in legislatures and Parliament. In spite of this 'expose', parties across the country unabashedly joined hands in introducing the amendments in the Act (enlarging the list). When the Bill was referred to the President for his assent, it was sent back with most rational and valid questions. Instead of addressing these questions in a rational manner, the Parliament sent it back to the President for his assent without any changes.

The issue shows that instead of tackling a serious ethical question in a systematic and realistic manner, the Parliament resorts to a

quick, ad-hoc solution using the force of parliamentary majority to maintain the status quo.

Cash for Questions

The ever-pervasive tendency of corruption among the parliamentarians surfaced again by means of two sting operations, namely, Operation Duryodhana and Chakravyuh. During the Operation, 12 MPs were caught on camera receiving cash for raising questions in the Parliament in the interest of the fictitious North Indian Small Manufacturers' Association (NISMA). Operation Chakravyuh exposed the MPs accepting bribes for giving work contracts under the MPLAD scheme. Both these cases were referred to the Joint Parliamentary Committee resulting in the expulsion of the tainted MPs. The details of the sting operation, however, starkly brought out corrupt and criminalised mindset of some of the persons elected as people's representatives to the country's highest representative-legislative body.

Criminalisation

The three dimensions to criminalisation of politics that have to be kept in mind are the increasing compulsions of retaining political power at any cost with increase in corrupt practices for self-perpetuation and self-aggrandisement; the consequent blurring of the line between criminality and political goals; and some politicians becoming tainted with criminality with an increasing tendency of high profile 'dons' with political connections getting acceptance.

The debate on criminalisation of politics received a new dimension with the convictions of Shibu Soren (life term), the high profile leader of the Jharkhand Mukti Morcha and the Union Minister of coal (resigned since then), for allegedly conspiring to murder his secretary and of Navjot Singh Sidhu, the high profile ex-cricketer and a BJP MP (resigned since then), by the Punjab and Haryana High Court (three years rigorous

imprisonment). While in the first case, since the UPA constituent JMM was a small State party, the Congress maintained silence and a safe distance from the whole episode; in the other, BJP's willy-nilly damage-control justified the ex-cricketer's boisterous behaviour leading to the death of a person.

Another issue which came up during the roundtables in states on the Social Watch Report 2006 was regarding the data on criminalisation of politics, based on affidavits. Some observers felt that in 'most cases' the MPs in the list belonged to either the Scheduled Castes or the Scheduled Tribes, against whom false criminal cases were registered. Social watch proposes to explore this further in the coming years.

Parliamentary Functioning

The Houses of Parliament met for 146 days for 85 sittings during 2005 and for 82 days (Rajya Sabha for 80 days) for 57 sittings during 2006. In aggregate terms, the Lok Sabha lost 13 percent of its time and the Rajya Sabha 20 percent.

Non-financial business consumed the bulk of the time in both the Houses, followed by financial and legislative matters in the Lok Sabha and legislative and financial in the Rajya Sabha respectively. In effect, it consumed nearly 40 percent of the Lok Sabha time and over 50 percent of the Rajya Sabha time. In 2006, over 40 percent of the Bills were passed in Lok Sabha with less than one hour of debate. Further, in the two sessions in 2006, only 173 MPs in Lok Sabha actually said anything on the floor of the Parliament on legislative issues. Sadly, almost 65 per cent of MPs said nothing in Lok Sabha on a legislative issue. SEZ Act, for instance, was unanimously accepted by all the members with little to say on the quality and coverage of the debate in the Parliament.

Functioning of the Committees other than Financial and Standing Committees presents a dismal picture where average attendance in nineteen such Committees has varied between 33 per cent and 86.6 per cent.

Question Hour

A cursory reading of the questions pertaining to the social sector shows that most of the questions were for mere statistical derivations, the information which could have easily been derived from the administrative channels, and the time of the question hour could have been used for some more substantive and important issues. This could also mean that the time of the Parliament which costs Rs 26,035 per minute, was not properly utilised.

Some of the questions which were selected in the question lists were concerned with information about the schemes which were already stopped long back. For instance, a question was raised on the allocation of money for 'Operation Black Board' in 2005–06, whereas the scheme had ended in the year 2001–02. Yet another question was asked regarding a scheme on agro and rural industries which does not exist! These kinds of questions show the ignorance and complete lack of homework of our esteemed parliamentarians on the one hand and the casual treatment of the important instrument of Parliament on the other.

II. DEEPENING DISPARITIES AND DIVIDES: WHOSE GROWTH IS IT ANYWAY?

Policy orientation since the early 90s has raised some serious concerns and questions in the social and environmental realms impacting employment and distribution of income, the emergence of new forms of vulnerability, weakening state regulation, deteriorating governance patterns, paradoxical poverty statistics, imbalanced demographics with inter-regional disparities and often dismal human development indicators.

There is an absence of a strategic goal and it seems that there is no specific long-term or medium-term goal that is being pursued. No strategic objectives are pursued.

In the case of **agriculture**, the whole sector is in crisis which is evident in supply side constraints, food scarcity, import of food

often at higher rates than domestic production costs, agriculture becoming unviable, declining public investment and overall neglect of agriculture such that it has become a constraint on future growth. Added to that is the plight of farmers across the states who are forced to commit suicides facing indebtedness, depressing real wages in agriculture, frequent failure of crops and increasing vulnerability in agriculture. The total numbers of cultivators across the country have declined from 110.7 Million in 1991 to 103.63 Million. The agricultural sector has grown at a mere average of 2.3 per cent yearly during the Tenth Five Year Plan. The share of agriculture (including the allied sectors of forestry and fishery) in total GDP has seen a constant decline over the years from 25.3 percent in 1999–2000 to 19.9 percent in 2005–06.

Infrastructure

In case of infrastructure we seem to have come full circle, where private players did not come into power generation as had been hoped, the success of private players in transmission and distribution has not been phenomenal. Private players have not played the commensurate role in urban infrastructure, provisioning of basic services has still remained a dream and we are all now led to believe that the panacea lies in 'public-private partnership'.

Employment

Over the two decades of 1983–1994 and 1993–2005, the overall employment growth declined from 2.01 per cent to 1.84 per cent. National Rural Employment Guarantee Programme launched in September 2005 is perhaps the most talked about national level employment generation programme. So far the response to this programme has been mixed with varied experiences of the states in terms of its performance—for instance, Registration Percentages of 'eligible' households vary from 14.1% in Madhubani (Bihar) to 100% in Shivpuri (M.P.). In a recent

survey, it was found that close to 80 per cent of the rural households were not aware of the fact that after getting the Job Card, one had to apply for getting wage employment. Less than 50 per cent of elected representatives of Panchayats, on an average, have received any input on their roles in implementation of NREGA. In terms of the share of central government budget, the NREG scheme has made no difference to government expenditure on rural employment programmes. The enrolment for the scheme far exceeds the number of BPL households in most states. Even the fund utilisation ratio remains as low as 51 per cent even after one year of operation of the NREGA.

Health

India's performance in reducing health inequalities has remained a matter of concern. There are intra-state differences, income based variations, and caste and gender based differences in availability of health services, performance of health institutions and health outcomes.

Disparity persists not only regionally but also across socio-economic groups. A caste-wise break-up of incidences of infant and child mortality clearly shows that it is scheduled caste and the tribe households that are deprived the most. This is true for both rural and urban areas. Gender differences in health status are the most noticeable aspects of health inequality in India. Although female child is biologically stronger than the male child, the IMR figures across some states suggest differently. Rural urban disparities prevail even in the case of availability of health services. Most of the specialised health centres like district hospitals or community health centres are located in urban or semi-urban areas.

The National Rural Health Mission (2005–12) seeks to provide effective health-care to rural population throughout the country with special focus on 18 states, which have weak public health indicators and/or weak infrastructure. Although the programme has finished one year, it is still

characterised by limited awareness level and the confusion regarding the role to be played by different agencies. The health plans have remained more or less centralised. As a result of which the entire funds meant for sub centre at the village level have remained unutilised.

The Changing Nature of Centre–State Fiscal Relations

The elements of fiscal re-structuring that are particularly discernable after the initiation of economic reforms in India are—transfers based on mobilisation of own resources; economic sustainability appearing as the chief criterion for 'success' of programmes, schemes, grants; the dominant concern with efficiency in financial allocations, even in the social sector, leading to privatisation via public-private partnership; and the attempt to usher in such institutional reform that creates enabling environment to attract outside funds in support of development efforts. There is an inherent process of centralisation in place with increasing control of the Centre as reflected in the nature of grants, decline in overall transfers, increasing expenditure responsibilities of the states, increase in committed expenditures, and increase in relative command over total resources by the Central government in relation to its expenditure.

In terms of fiscal federalism this implies that, overall, there is accentuation of both vertical and horizontal imbalances especially during the period of economic reforms. The objective of fiscal transfer mechanism is to correct vertical imbalances (asymmetric assignment of functional responsibilities and financial powers between different levels of government) and horizontal inequalities (disparities in revenue capacity across constituent units of federation due to differences in level of income).

The principal reason for increasing inequality is the very mechanism of federal transfer, the nature of restructuring of public finances and the single-minded obsession with sustainability or efficiency of financial allocations.

The Right to Information Act 2005 (RTI) that came into effect on 12 October 2005 is a welcome policy initiative that fills the ‘accountability gap’ that existed between the mechanisms within the system. However, there are some issues which should be sorted out with reference to its operation and its implementation. The related problems with the Act are the appointment of the Information commissioners, the fee for the processing of the application, penalties imposed on the concerned department or officer and the amendment of the Act itself, especially from the point of view of ‘file notings’.

Since the introduction of the Act, the CIC has received 4,404 appeals and complaints of which 2,646 have been disposed of and penalties have been imposed on ten officers in eight cases ‘for not acting in accordance with the provisions’ of the Act.

The RTI act has had some notable impact on making governance more accountable, transparent and participatory. However, in order to make the Act more meaningful in terms of its delivery and effectiveness, greater interaction between the citizens and government is necessary in its process of evolution. The Act has galvanised the government as well as citizens with a renewed sense of alertness and pro-activeness.

Public Private Partnership

Many policy initiatives in the last one year, especially the ones that involve creation of infrastructure, like Bharat Nirman, Jawaharlal Nehru National Urban Renewal Mission (JNNURM), NREGP, NRHM are all based on active and participatory role of civil society actors, local representative organisations, government departments and private investors.

However, neither the central government nor the state government has tried to set up the necessary institutional framework as has been done in other countries. Where PPPs function in non-competitive environment, statutory regulatory bodies need to be set up. Bringing about model concession agreement is not sufficient as has been done by the Planning Commission.

III. ACCESS TO JUSTICE: STATE OF INDIAN JUDICIARY

The review of the most important judgments of both the Supreme Court and the High Courts in the year 2006 begins with some verdicts on civil rights and liberties or what is also referred to as the ‘first generation’ rights. The verdicts involve the rights of children in jail, custodial torture of tribals, the rights of detinue before preventive arrest and the need to balance social security with individual freedom in this regard, the cases relating to right to education and to administer educational institutions, customary rights of religious chiefs in a tribal society, the rights of functionaries working with Gram Panchayats and cases relating to political accountability and finally, the labour rights.

Entitlements of Children of Women Prisoners: SC Urges—‘Revamp Jail Manuals, Pass Necessary Legislations’

In an important case relating to the children in jail with their mothers, the Chief Justice of India in his decision held that children of women prisoners who were living in jail required additional protection and those children should not be treated as under-trials or convicts. More importantly, the Court made it clear that the Executive and the Legislature need to take quick action to frame relevant laws and guidelines and report compliance to the Supreme Court within four months which can be seen as performance bond of the legislative function.

Custodial Torture of a Tribal: Indictment of Police Authorities

A petition was filed by a poor tribal girl in the Supreme Court against the erring Police Officers (specifically named in the petition) including the State for her wrongful detention in police custody, false implication in serious offences, custodial torture and for violation of her fundamental and human rights under various laws. After thorough

survey of the facts, the court concluded that the State had acted in violation of Articles 21 and 22 of the Constitution, the Juvenile Act of 1986 and the Juvenile Justice (Care and Protection of Children) Act, 2000, with the officials having committed offences punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and for which the State was bound to compensate the victim. The Court also directed the submission of the Action Taken Report within a period of six months from the date of judgment.

Preventive Arrest for National Security: Balancing Social Security with Individual Freedom

In the context of the rights of a person arrested for terrorism or other offences, the Gauhati High Court in an important verdict in 2006 also laid down minimum standards before any preventive arrest for such offences, such as, a detenu has two rights under Article 22(5) of the Constitution: to be informed, as soon as possible, the grounds on which the order of detention is passed, and to be afforded the earliest opportunity of making a representation against the order of detention. The detaining authority is under the constitutional obligation to inform the detenu of his right to make such a representation. The failure to inform the detenu of such right to make representation by the detaining authority vitiates the detention order.

Direct Prosecution of Public Servants, Including Ministers

In a landmark decision towards the end of 2006, the Supreme Court said that public servants, including Chief Ministers, MPs and MLAs, can be prosecuted without any prior sanction and that sanction under Code of Criminal Procedure which has been used to delay and shelve many prosecutions, is not necessary for prosecuting corrupt public servants.

Education, and Establishing Educational Institutions, as Fundamental Rights

In a case related to regularisation of schools and their management in the states of Bihar and Jharkhand, the Supreme Court observed that “imparting of education is a sovereign function of the State under Article 21A of the Constitution of India”. Interestingly, the Court also suggested that standards of educational qualifications of the teaching staff could be different in both urban and rural areas while adding that there could be relaxation in the rural areas as decided by the state government. In another important decision in the year, the Supreme Court responding to the question that whether State can interfere in unaided minority or non minority institutions with regard to matter relating to admission of students, fixation of quota and fee structure made it clear that establishment of educational institution comes within the right to occupation which being a fundamental right is duly protected. While emphasising the need to devise an appropriate mechanism for the purpose, the Supreme Court also ended up virtually goading the Governments to enact legislations for the purposes of regulating admission procedure and fee structure.

Gram Panchayats and Functionaries Appointed by Government

The Supreme Court’s observation regarding the transfer of the services of the employees of eight Departments to the Gram Panchayats could be a serious roadblock for the devolution of Functions, Funds and Functionaries, so essential for the working of Panchayats. In the course of its judgment, the Supreme Court made it clear that there was no dispute that while working under Gram Panchayats, these employees continued to be paid salaries by the Irrigation Department. They were under the disciplinary control of the Irrigation Department and

also got promotions in the same department. Hence the overall control lay vested with the respective departments.

Labour Rights: Is the Supreme Court Behaving Differently from Labour Courts?

The Supreme Court's stand on Labour Rights in a particular case can be dubbed as, 'Anti worker'. A demand was made for the regularisation of temporary workers and the case went to the labour court, then to the High Court and was finally appealed in the Supreme Court. The Apex Court in its judgment made clear that these workers had no right to the post and further added that there was no right vested in any daily wagger to seek regularisation. The SC further declared that it is only a permanent employee who has the right to continue in service till the age of superannuation; for a temporary employee, there is no age of superannuation because he has no right to the post at all.

Another matter of great public concern was the SC's statement in another case regarding the constitutional Guarantee of Employment. The Supreme Court commented that "... although this Court would be very happy if everybody in the country is given a suitable job, the fact remains that in the present state of our country's economy, the number of jobs are limited. Hence, everybody cannot be given a job, despite our earnest desire. It may be mentioned that jobs cannot be created by judicial orders, nor even by legislative or executive decisions."

'Foundational Value' of All Fundamental Rights Asserted

An observation was made by the SC in another case when the court interpreted the fundamental rights thus, 'It is a fallacy to regard fundamental rights as a gift from the State to its citizens. Individuals possess basic human rights independently of any constitution by reason of basic fact that they are members of the human race.'

The Court also emphasised that "Socialism" is integral to the Indian Constitution, which, becomes important from the point of view of neo-liberal policies adopted by recent governments.

In the specific context of employment for the displaced persons due to an Indian Oil Corporation Ltd (IOC) project, the Delhi High Court held that **no Preferential Public Employment for the Displaced** should be given. This is being contrary to Articles 14 and 16 of the Constitution of India, is illegal and consequently unenforceable. Besides, the High Court also added that grant of public employment on the ground that the land of a person or his family has been acquired for a public purpose, would amount to grant of preferential treatment in the matter of public employment which would again be contrary to the Constitution of India.

The Legality of Self Help Groups' Involvement in Integrated Child Development Service (ICDS) was upheld by the SC. In a specific order, the Supreme Court made it clear that "The contractors shall not be used for supply of nutrition in *Anganwadis* and preferably ICDS funds shall be spent by making use of village communities, self-help groups and *Mahila Mandals* for buying of grains and preparation of meals..."

Mumbai High Court's judgment on the farmers' suicides in Maharashtra has done a great service in bringing this issue to the fore and in making the state government act on it. Responding to the PIL, the court took the help of Tata Institute of Social Sciences and called for a report from State and the Union Ministry of Agriculture. The Court suggested fixation of support price for a group of States and not at national level. The Court also directed the government to immediately implement the package it had announced for the farmers.

Regarding the **issues on environment**, the court's appointment of monitoring committees again surfaced in the litigation on the protection of parts of Aravalli Hills in Rajasthan. The case shows that when it comes to handling environmental litigation, it is the Court appointed Committees—with

monitoring, advising and investigative roles—which are in the business end of deciding disputes.

Another case related to the development projects by Delhi Development Authority being implemented in the Vasnt Kunj area, brings into question the issue of Public Trust. In the said case the Court pointed out the lack of transparency in the way DDA had put a site for auction by creating a false impression that all necessary clearances had been obtained where actually there was scope for litigation. The Court notices the lapses of the DDA but doesn't go further to term it as gross negligence that would have invited penalty from it. Instead, it allowed the MoEF to take a decision on the whole matter 'to avoid unnecessary delay'.

In another case, Tribal women's right to the forest produce was upheld and facilitated by the Madras High Court.

Recently, Kerala High Court intervened when a PIL was filed in it regarding the plight of people of West Kochi who had been clamouring for supply of potable drinking water to them, for the last more than three decades. The Court directed the state governments to take and complete all steps necessary for supplying drinking water to the people of West Kochi within six months from the judgment.

In a significant move to ensure **Judicial Accountability**, the Central Government is contemplating the **setting up of National Judicial Council** where the supremacy of the Chief Justice of India and the judiciary would be maintained in the matter of judicial appointments through the Council. The Judicial Council will consist of representatives of the judiciary while selecting candidates for judicial posts. The aim of setting up of a National Judicial Council is to fix the accountability of the judges of the High Court as well as of the Supreme Court.

Judicial Corruption and Whistleblower Policy

The Ministry of Law and Justice had admitted in the Rajya Sabha that '[c]omplaints

are received by Government from time to time regarding corruption in judicial system.' This assumes significance in light of the fact that a Whistleblower's protection policy for the judiciary is being contemplated.

At present there are 33,635 cases in the Supreme Court and 34,24,518 cases in High Courts reported to be pending. The Government also admitted in Parliament that more than 50 lakh civil cases were pending in various courts of the country. The extent of pendency of cases in the High Court is exemplified by the number of cases pending in one High Court—t Allahabad High Court. The Government stated in the Parliament that in the Allahabad High Court, 'out of a total 10,53,794 cases pending as on 31.3.2006, which includes 7,75,583 main cases and 278211 miscellaneous cases, 342135 cases are pending for more than 10 years.'

IV. LOCAL GOVERNANCE: HOPES, PROMISES AND PERFORMANCE

Fourteen years after the inauguration of the institutions of local governance, the institutions are in place in almost all the states with 27 lakh more elected representatives of whom 37.5 per cent are women, 16 per cent belong to the SC and 11 per cent to the ST categories. While the democratic expectations from the institutions are ever increasing, their role and responsibilities remain ambiguous. Dovetailing programmes for development under the Centrally sponsored schemes and those that form part of the Common Minimum Programmes of the government with the functioning of the Institutions remain an unfulfilled task.

The Gram Sabhas in the rural areas and the Ward Sabhas in the urban areas remain victims of governmental apathy as well as some amount of indifference from the civil society at large. Programmes of development in different fields introduced from time to time have mostly created their own institutions running parallel to the PRIs, creating problems of overlapping and conflicts in implementation. If the Gram Sabhas have to

really function as institutions of local governance, it is important to make different development delivery structures accountable to the Gram Sabhas.

Many States like Rajasthan, Madhya Pradesh, Chhattisgarh, Haryana, Karnataka, Uttar Pradesh, Kerala, Himachal Pradesh and Tamil Nadu completed their third phase of **elections to local bodies**. There are 1,042,282 women representatives at the three levels of PRIs, which works out to be 37.23 per cent of the total number of representatives in the year 2006, exceeding the 33 per cent statutory reservation. The state of Bihar took the lead in reserving 50 per cent of all seats in PRIs to women candidates during the second phase of elections to local bodies, with 54.6 per cent of elected representatives being women; the corresponding percentage in Maharashtra and Sikkim are 43.7 and 40.4 per cent respectively. Studies (conducted in West Bengal and Rajasthan) have negated the usual negative stereotypes about the leadership qualities of women representatives and have concluded that there are definite indications that reservation of electoral seats has proved to be an 'effective tool' to safeguard the interests of the weaker groups.

The state of Jharkhand however remains outside the general picture of resurgence of leadership at local level and has not been able to complete the election process. As a result, the state is losing more than Rs 800 Crores per annum of rural development funds from the Central government (because of not holding Panchayat elections).

While the democratic upsurge in the form of local elections and the large scale emergence of new leadership at these levels is in sight, certain conditionalities on qualifications to contest Panchayat elections are in a way putting limitations on giving full fledged democratic rights to the citizens, for example, two-child norm, basic education, availability of toilets in candidate's house. Questions can also be raised about undemocratic nature of programmes like Samras Gram Yojana in Gujarat which provide monetary incentives to those village panchayats where members and chairpersons are selected by consensus.

Pre-Election Voters Awareness Campaign (PEVAC) is an effective civil society initiative making people aggressively conscious about their participation in the election process both as voters and the contestants.

Capacity Building, though much talked about, remains an unfulfilled task. Each election brings about 60–70 per cent new faces in local governments. About two-third of these new members are from the marginalised sections of the society. Making them conscious of their legitimately outlined rights and duties as elected representatives is a part of enhancing their capacities but a more important part is to train them in the techno-bureaucratic details. The absence of skills continues to be used as an alibi for non-devolution or dis-empowering Panchayats and Municipalities. All this is in spite of the fact that MOPR released a sum of Rs 6,20,9200 and Rs 25,91,55,238 for the years 2004–05 and 2005–06 respectively.

As for the Trinity of Institutions, the State Election Commission (SEC); the State Finance Commission (SFC) and the District Planning Committees (DPC) themselves require strengthening before they can fulfil their constitutional obligations. While the SECs have largely been performing their functions, the SFCs have to be effective in terms of proper coordination with the Central Finance Commission (CFC) and making their Reports effective at the governmental level. The reluctance of the state governments is also visible with regard to the utilisation of grants released under the recommendations of central Finance Commissions for augmenting 'the consolidated funds of the states to supplement the resources of the panchayats on the basis of the recommendations of the SFC's'. The grant of Rs 8000 crore for the period 2000–05 and Rs 20,000 crore for the period 2005–10 was provided in the 11th and 12th Finance Commissions respectively. Moreover, grants made by the Central Finance Commission do not reach the local bodies 'in full and in time' because of bureaucratic bottlenecks. DPCs have not been constituted in all the states; so far only sixteen states have constituted the DPCs in all the districts. Even in those states where

DPCs have been constituted, they have been made dysfunctional with the hijacking of real powers from local governments. Kerala, however, stands apart with effective functioning of the DPCs. Trinity of Institutions, so important for effective and efficient local governance needs to be institutionalised in order to make decentralisation a reality.

Devolution to Panchayats and Municipalities remains a point of concern. The devolution of the funds, functions and functionaries to the Urban local bodies have been tardy. The State government has retained direct control over all the aspects of these bodies which makes governance framework really diffused. The system of finances and accounting at the municipality level is also considerably muddled. Most of them still maintain their account in a single entry system which limits their capacity to take stock of the municipal assets or to explore revenue generation potentials.

Activity mapping at the local level is important for a well defined devolution. However, only Kerala and West Bengal so far have completed activity mapping in full sense of the term.

The MOUs signed between the MOPR and different states have not been followed or implemented in its true spirit and form. So far the MOPR has entered in MOU with 15 states for time-bound and concrete action.

Certain gaps continue to exist in the functioning and implementation of **Panchayat Extension to Scheduled Areas Act (PESA)**. Most states are yet to amend the subject laws and rules, such as those relating to money lending, forest, mining and excise to harmonise with PESA. Powers statutorily devolved upon the Gram Sabha and Panchayats are not matched by the concomitant transfer of funds and functionaries resulting in the non-exercise of such powers. States have, over the years, been repeatedly urged to expedite this process, but progress has been slow and often, only symbolic, with no real intention to operationalise the provisions in spirit.

The National Rural Employment Guarantee Act, 2005 guarantying 100 days of

employment in a financial year to any rural household within the 200 backward districts identified by the planning commission clearly mentions that PRIs at the District, the Intermediate and the Village levels shall be the principal authorities for planning and implementation of the schemes undertaken under this Act. This will help in enhancing the devolution further. However, the functioning and implementation of NREGA can be questioned from many aspects—for example, a recent survey conducted by PRIA in 16 states clearly shows that majority of the households and individuals in those states are unaware of such a programme.

Jawaharlal Nehru National Urban Renewal Mission (JNNURM) was launched in December 2005 and Government of India started to implement it from April 2006. The GOI committed a sum of fifty thousand crore over a period of seven years beginning from 2005–06 for Urban Governance and Infrastructure (UIG), and Basic Services to Urban Poor (BSUP) which will be implemented in 63 identified cities. However, on probing deeper into the investment patterns, a lopsided approach towards UIG is markedly clear which can be seen from the fact that Rs 4430.23 crore were sanctioned (as on 22.9.2006) for UIG whereas only Rs 1,003.27 crore (as on 14.9.2006) have been sanctioned for BSUP. The conditionalities attached to the urban governance reform agenda has been a point of controversy from the point of view of the current scheme of decentralised local governance as also of their compatibility with the Indian socio-economic realities. The design and its implementation in the selected cities has brought in many critical issues that need to be emphasised. The UIG allocations for the infrastructural development have got their own problems in terms of the size of the cities they are meant for. Smaller cities seldom have local capacities for such huge infrastructural schemes with the result that contracts are cornered by the ‘big fish’ from bigger cities who in turn sub contract the actual work to the local level.

As a part of urban reforms agenda, there is a rapid movement towards privatisation of

public utilities like water supply and power. A case in point is the Delhi government's move towards privatisation of certain activities of Delhi Jal Board (DJB) largely on the basis of the blueprint provided by the World Bank, USAID and ADB.

LOOKING AHEAD

The review of the performance of the institutions of governance (the Parliament, the Judiciary, the institutions of Local Self Governance and the Policy making) gives out mixed signals and is in fact a symptom of how the patterns of governance and governance accountability are going to take shape in the coming years. A detailed review shows a continued dilemma between growth and

equity, intentions and reality, programmes and performances, which again brings us to the question of 'rhetoric vs reality'. The policy formulation and its performance vacillate between cross-cutting objectives indicating their indubitable impact on effective governance. While such ambiguity is perhaps understandable in the existing socio-economic realities, a continued sense of ambiguity certainly leads to some imponderable difficulties in the area of governance. The need of the hour is to work out the strategies and tactics of tackling the vexing problems in a manner that has a clear cut direction. The governance and democracy can become meaningful only when they touch the lives of millions of marginalised and the poor still existing on the periphery.