

Karnataka Social Watch Report 2009-2010

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1 Preface

Institutions of governance become a crucial link in maintaining the equilibrium rendering democracy more stable and meaningful. We are aware that these institutions themselves are under various pulls and pressures, and have become the 'weakest link' in the crucial process. The health of these institutions, therefore, is of great significance to sustain the twin challenges of democracy and development.

It is at this crucial juncture that the National Social Watch Coalition in India initiated a process that has expressed its commitment to contribute and intervene in the form of a 'Citizens' Report on Governance and Development'. The Report looks at the performance of the four nodal institutions of governance, namely; the Parliament, the Executive, the Judiciary and the institutions of Local Self Governance. The Report seeks to create an alternate governance discourse by putting the knowledge and information about the performance of these institutions in the public domain. The Report is presented to the citizens as an advocacy tool in the hope that it will empower civil society to ask relevant questions thereby giving a push towards people oriented governance.

The Karnataka Social Watch process began a few years ago, when it brought out a report on the Primary Education in 2009. Encouraged by this feedback, the Karnataka Social Watch decided to publish the Karnataka Social Watch Report – 2009-2010. Keeping in mind the enormity of the functioning of the government and equally the interventions by the civil society, it is a difficult task to understand its depth on one side and document the performance of the institutions of governance on the other. To achieve this, the Karnataka Social Watch organized a one day workshop in March 2010 to have a discussion on the select themes, followed by defining the scope and methodology for preparing this report.

It meant a series of meetings, identifying who would work on the identified issues and monitor the government and its processes. Though not a detailed analytical research, this report attempted to bring together those working and monitoring to contribute to this process. However, we could not cover everyone, due to constraints on time, energy, resources, etc. This report presents analyses of key topics such as Review of Democracy and Performance of the Government of Karnataka, Parliamentarians of 14th Lok Sabha (2004-2009) Karnataka, Status of children right's in Karnataka, Status of women – Domestic workers, Urban Governance, Governance, Police Reforms: Non compliance of Karnataka to the Supreme Court Directives, Is the Government of Karnataka Committed to an effective State Human Rights Commission?, Karnataka Lokayukta,

Karnataka witnessed both natural and human made disasters during 2009 – 2010. Several people died, and property and crops were destroyed by monsoons in various parts of North Karnataka. The destruction of natural resources by mining in Bellary district is a clear case of connivance by a few members of the Cabinet, officials and the mining lobby. Acquisition of fertile lands for special economic zones (SEZ) in Dakshina Kannada, airport in Bellary, etc shows a lack of public consultation approach by the government. The House Committee report on BIAL brings out the nexus between the 'so called' elite nominated decision makers inditement. The skewed development focusing only on Bangalore, rise of the Sri Rama Sene as a moral police brigade in Dakshina Kannada, attacks on minorities, etc highlights the development path that the state has chosen.

Since Karnataka is 'one' of the 'economic reform' focused states in India, the influence of such process and the impact on policies, legislations and actions of the government cannot be undermined.

From this experience, we hope to bring out a much informed report for the year 2010-2011 examining institutions of governance, assembly, executive, judiciary and the local governments.

Gururaja Budhya

2 Review of Democracy and Performance of the Government of Karnataka

This SUMMARY REPORT focuses on assessing the overall functioning of the government which came to power in June 2008 and encompasses issues pertaining to the period between June 2008 and November 2009. The details in this report are collected from an analysis of data from the Government via RTI, annual reports of various departments, newspaper reports and topical reports and reviews by various national agencies and NGOs.

This Summary Report consists of three sections:

1. Performance of MLAs in the Legislative Assembly
2. Review of Administration, Policies and Programmes
3. Citizens' Perceptions of Important Issues and Performance of Elected Representatives: A Survey

2.1 Performance of MLAs in the Assembly

DAKSH has obtained information regarding attendance of, and questions asked by Members of the Legislative Assembly ("MLA") in the Legislative Assembly to understand the functioning of the Legislative Assembly and the contributions of individual MLAs to the legislative and hence the democratic processes. The information reveals the following:

The Legislative Assembly has met for 3 sessions comprising 46 days until July 2009. In addition there was a special session on agriculture in September 2009. We have not received the attendance records for the special session. As regards to questions asked, we have received information only for the sessions held until February 2009.

The Legislative Assembly has considered and passed less than 30 statutes. Most of the statutes are financial in nature and no significant policy reform has occurred in the form of legislation.

We have obtained the attendance records for the sessions until July 2009. The attendance records for each MLA are available and will be available on our website- www.dakshindia.org shortly. However, we find that the attendance records do not correctly reflect the happenings in the Assembly. Any casual visitor to the Assembly will confirm that the Assembly is largely empty for most of the time, except when "sensational" issues are being discussed. Members essentially record their attendance even if they come into the Assembly for a minute and then disappear. This results in most MLAs getting 100% attendance record, although the Assembly itself appears deserted for long periods of time. Further, attendance records are not maintained for a few MLAs including ministers, the leader of the opposition, the speaker, the deputy speaker and the chief whip.

As per the attendance records of the remaining MLAs, 12 have a 100% attendance record, 132 have a record of more than 75%, 32 have a record between 50% and 75% and 9 have a record of less than 50%. There are 3 members who have attended the sessions for less than 15 days.

The data on the questions asked is more revealing. There are 78 MLAs who have never asked a question, whether starred or unstarred¹ during the 46 days. This constitutes nearly 40% of the MLAs for whom records are kept. A further 31 MLAs have asked less than 5 questions each. Only 35 MLAs

¹ Starred questions need to be answered by the relevant minister on the floor of the house and supplementary questions can be asked by any member of the house in relation to that question. Unstarred questions can be answered by the Minister in writing, without discussion in the House.

have asked 20 or more questions; and only 9 of these 31 have asked 50 or more questions. Only a single MLA has asked more than 100 questions!

More questions have been asked in relation to the departments of Public Works, Urban Development and Municipality, Social Welfare, Revenue, Rural Development and Panchayati Raj, Primary and Secondary Education and Health and Family Welfare than other departments.

2.2 Review of Administration, Policies & Programmes

This section contains a broad review of some policies, programmes and processes by which the Government functions and an assessment of the impact of the government's administration on the larger public.

The format is based on asking a number of questions to which answers are drawn from the performance records of the government.

What have been the major achievements of the government for the period?

1. In an attempt to streamline administration, the Government has sanctioned the formation of 43 new talukas and one new district (Yadgir). This is an important process that will facilitate decentralized administration. The formation of Yadgir as a new district, bifurcated from Gulbarga district, was long overdue. Its formation and allocation of funds should see an improvement in life conditions and administration in the otherwise very poor region.
2. Establishment and activating a commission (the High Power Committee to Implement the D.M.Nanjundappa Commission's Recommendations) to oversee the implementation of Special Development Plan for 'Backward Talukas'.
3. Establishment of additional CET Counselling at Hubli and Gulbarga. This has eased the burden on several thousands of people who have had to travel to Bangalore for the CET Counselling.
4. Establishment of Janaspandana programmes to facilitate administration and development works at hobli and village levels. According to the official rules, every last Saturday of the month is to be devoted to open and public reviews of all programmes. People's grievances are to be addressed immediately. This is being done in some areas but its conduct in all the hoblis and its frequency need to be improved.
5. The hosting and management of the unveiling of the statues of Sarvajna and Tiruvalluvar in Chennai and Bangalore, respectively, have been a positive contribution of the BJP government. By managing dissent of varied regional linguistic groups, the government facilitated the unveiling of these statues, thereby contributing to regional and inter-group harmony.
6. Enhanced State Allocations for Elementary Education: The state has allocated a sum of Rs (16613 lakhs) in the 2009-2010 budget to the Sarva Shiksha Abhiyan as its contribution to the programme and has therefore met the requirements of contributing 35 percent of the state's share.
7. Free Bus Passes have been provided to students upto the high school level, thereby facilitating travel to schools in rural areas.
8. Based on increased fund allocation from the central government, the state has also enhanced funds and programmes for the Department of Social Welfare which caters primarily to the social (educational) needs of disadvantaged caste groups. Altogether 12 new programmes have been initiated and the overall budget for the dept has increased. A Hostel Management Committee (to oversee functioning of nearly 5000 hostels) and Best Hostel Award have been set up.

9. The State has also initiated recruitment for teachers in both government and aided colleges. This is significant as all recruitment for full-time faculty had been stopped for several years.

What have been the financial priorities of the government?

Despite its election time and manifesto promises to support agriculture, the BJP government has not prioritized the needs of the rural and agrarian sectors. Urban, infrastructure, and commercial interests receive more financial allocation than rural, agricultural, and social sectors.

In its first full budget (for 2009-2010), the BJP government has made the following allocations:

1. Urban Vs Rural Financial allocations. The outlay for Rural Development (Rs. 1070.27) is 4.00 % of the total plan. The outlay on Urban Development (Rs 4162.40 lakhs) is 16 % of the total plan. Agriculture and allied activities receive a total of 6 percent of the budget or a total of Rs. 1517.21 lakhs. Transport receives 14 percent of the budget accounting for Rs 3758.70 lakhs. The largest increments over the previous budget have been for commerce and industries which have received an increment of 136.9 percent.

2. The focus on 'infrastructure' development as the key commitment of the government has meant that the allocations for Bangalore alone exceed most other allocations. Some key allocations include the following:

- Monorail : about Rs 4000 crores
- Metro Phase I-about Rs 14000 crores
- BDA's 51 kms ORR -about Rs 800 crores
- BDA's PRR (including land acquisition in PPP model) - about Rs 5000 crores
- BMTC (for next 2 years) - about Rs 1000 crores.
- The Department of Infrastructure Development has declared (on Nov 27th, 2009) that a sum of Rs one lakh crores will be available for infrastructure projects in the state.

3. Focus on Commercialised Public Private Partnerships (PPP). The PPP Cell formed in June 2007 to mainstream PPPs in infrastructure sectors sits within the Department of Infrastructure Development. In June 2008 at the start of the new administration there were 39 PPP projects valued at Rs 6000 crores. In Nov 2008, 166 PPP projects had been proposed at a capital cost of Rs 109,329cr. The success or failure of these PPP projects will have to be evaluated in the future.

4. Expenses for Personal Life Styles of Chief Minister and Ministers. The BJP Government sanctioned a total of Rs. 10 crores for the Chief Minister and some other ministers to renovate and refurbish their homes in Bangalore. The amounts that were spent were:

- Chief Minister: Rs. 1.7 crores.
- Residence of home minister V S Acharya - Rs 61.30 lakh
- Former Speaker (and now minister) Jagadish Shettar - Rs 24.83 lakh
- Shobha Karandlaje, former RDPR minister - Rs 38.05 lakh
- Karunakara Reddy, revenue minister - Rs 88.26 lakh.

5. Expenditure on Farmers' visit to China for 'Exposure' to Agricultural training and development: A total of 633 farmers visited China and the total cost was Rs. 423.79 lakhs.

How strong is the Law and Order situation in the state?

Mangalore and Mysore have experienced major conflagrations of communal violence. In addition to this, there have been sporadic and targeted forms of intimidation, threats, and erosion of human rights which have marked the first 18 months of the BJP government.

1. Within a month of coming to power, police fired on a farmers' demonstration in Haveri regarding shortage of fertilizer. One farmer died and an enquiry committee was constituted. The final report of the committee is pending.

2. Assault on Human Rights Activists: On 20th October, 2009 Bengaluru police brutally attacked five sexual minority activists and arrested them on false charges when they tried enquiring about the illegal detention of five hijras. Police illegally detained and assaulted a large number of human rights defenders when they held a peaceful protest against the illegal police actions. Police also arrested 31 human rights defenders on false charges.

3. The Bangalore City Police have come out with a notification on the 'Licensing and Controlling of Assemblies and Processions (Bangalore) Order', 2008. The notification proposes a system of regulation of processions and assemblies through a method of licenses and views democratic protest as a law and order problem.

4. Attacks on Churches. Several churches were attacked and vandalized between the months of September and October 2008.

On 1st January 2009, the Resurrection God's Ministries Church, in village Malebennur was set on fire and completely gutted.

A church was vandalized and desecrated in October 2009, in Bangalore rural district.

5. Targeting of Newspaper: The newspaper Karavali Ale was targeted by right-wing elements including the Bajrang Dal for its reporting on the attacks on churches in August/September 2008, in which it reported the role of the Bajrang Dal in these attacks.

6. Withdrawal of Cases: Cases filed against members of the Bajrang Dal, VHP, BJP and Sri Rama Sene in regard to their illegal activities around the Baba Budangiri shrine in Chikmagalur were withdrawn in the last week of December 2008.

7. Violation of the Supreme Court Order (on December 2008) on Prohibiting the Conduct of worship in the Bababudan/Dattatreya complex in Chikmagalur. The government's decision to conduct puja has led to a law and order problem providing grounds for abetting communal riots.

How have democratic structures and processes been sustained?

1. The office of the state ombudsman, the Lokayukta, continues to function in a manner in which it lacks powers. Most cases of corruption by officials remain ignored and little legal and punitive actions are taken against them.

2. The functioning of the Karnataka State Human Rights Commission (KSHRC) has been stalled by the state government. Inadequate financial support, failure to appoint adequate staff and, provision of a full-fledged investigative wing and independent office space have been reasons for hindering the full functioning of the KSHRC.

3. The government and its administration have made little effort to disseminate information on the status of JNNURM infrastructure projects or their nature and likely impact of urban reforms being undertaken as part of JNNURM. This has resulted in widespread violation of basic rights and safety of residents in cities.
4. Processes such as demolition of illegal and encroached constructions in Bangalore have often been undertaken without due notice and process. This has been specially so in the slum and urban poverty areas. In addition, akrama/sakrama schemes (or legalizing of encroachment) have been introduced without any thought to impact on urban planning and governance.
5. Bypassing processes and the concerned institutions, the government attempted to 'declare' all Lingayat sub castes as Backward Classes. This has been done twice and submitting to the uproar and criticisms the government has had to revoke the order.
6. Details related to the selection of the corporate groups and the religious organizations which were selected to build homes and shelter for victims of the floods in North Karnataka have not been transparent.
7. Nominations to committees, missions, and to be 'partners' and agencies in various development schemes and programmes have not been open and transparent. Membership of organic agricultural missions, allocations of rights to distribute flood relief, selections of persons for benefits such as traveling to China for training, etc are examples.
8. Karnataka is also faring poorly in the implementation of the Right to Information Act ("RTI"). Several Government departmental websites are not in compliance with the RTI requirements. Further, Karnataka ranks very low in a survey conducted by independent NGO's on the rate of satisfactory responses. Karnataka scored 29% on the response satisfaction levels and finished second last among the states, centre and the National Agencies surveyed.

What has been the impact of the government on the administration of the state as a whole and on decentralization of administration (Panchayats and Nagar Palike)?

1. There has been a serious slippage in the administrative machinery of the state. Frequent transfers of key officials, including those with excellent records, have made many departments slack.
2. Plans to appoint panchayat development officers by the Dept of Rural Development and Panchayat Raj remain delayed. Panchayat Jamabandi (open social audits of the fund allocations and its utilization) by the people have largely been discontinued.
3. The Government has delayed the conduct of elections to the Bangalore Corporation (despite the court and the State Election Commission sending in three reminders) until February 2010. But details about notification of reserved wards and other processes remain contested. The ABIDE group has formulated the 'Draft Bengaluru Region Governance Act (2009)' which has been uploaded on its website but no public discussions have been held.
4. There is a serious lack of internal accountability within the Government. Our request for information regarding functioning of the Govt., revealed that key departments do not have updated information on various administrative aspects, like funds utilization, implementation of programmes and effectiveness of administration.

How have calamities, such as drought and the floods, in the state been handled by the government?

2009 has seen unprecedented disasters and calamities in rural Karnataka. Both drought and floods have wrecked havoc on the lives of people.

Droughts: Since summer 2009, 86 taluks in 20 districts have been declared as drought hit. Standing crops on 16 lakh hectares were damaged on account of deficit rains since June. The crop loss in rain-fed areas has been estimated at Rs. 720.20 crore and horticultural crops on over 60,000 hectares have been ruined due to scanty rains.

All reports from media and from visitors to the districts indicate the absence of strong and effective drought relief programmes. Loss of crops, unemployment, underemployment, distress migration, low food security, and overall poor economic and social conditions continue to mark the affected districts and regions.

Floods: Between September end to first week October, rain and floods affected large parts of North-East Karnataka, leaving behind unprecedented damage to lives, crops, homes and cattle. 350 villages were affected, 116,000 homes damaged, 139 people died. Nearly 583 relief camps were set up.

The Chief Minister and the government announced through an advertisement that the people of Karnataka had 'donated' an amount of Rs 1000 crores, this in addition to the amount sanctioned by the state and central governments. However, by all reports, the measures undertaken to provide relief for the areas which have been affected by either have been inadequate.

The Governor of Karnataka has, in public, called upon the BJP government to undertake and improve the conditions of the flood-affected persons in the state. A recent report by Kannada University on the flood affected districts indicates problems in distribution of relief amounts, delay and failure to provide rehabilitation, inadequate and unsanitary conditions of the relief camps, inadequate attention to medical and educational needs of the people, and to overall conditions of distress among the people. The most severely affected are members of the Dalit caste groups.

How adequately have schemes and programmes from the central government been implemented?

The NREG is a flagship programme from the centre and is meant to alleviate rural and agrarian problems.

National Rural Employment Guarantee Scheme (NREGS). The programme has not been adequately supported. As a result, Karnataka has not utilized the scheme as effectively as it should have.

- The recent report conducted by NCAER and the Public Interest Foundation (PIF) indicate that of all the states, Karnataka stood last in terms of transparency, vigilance, and social audit.
- Less than 20 percent of the eligible households completed 100 days of work in 2008-09 in the state.
- For the year 2008-09, funds were underutilized and only Rs 353 crores were spent when Rs. 637.96 crores were allocated.
- The proportion of households that have accessed the NREGS has decreased. For eg, in 2006-07, it was 58 %, in 2007-08 it was 48 % and it was 40 % for 2008-09 (until October 2008).
- Karnataka compares poorly when we look at the number of people benefiting from the NREGS. For 2008-09, the maximum number of jobs cards were provided in Madhya Pradesh (112 lakhs),

followed by Andhra Pradesh (109 lakhs), and Uttar Pradesh (102 lakhs). Karnataka's was a mere 29 lakhs.

- Since September 2009, some details for the state are uploaded on the national NREGS monitoring website on a daily basis. But, the sections on complaints, details on Social Audit reports, etc are not available.

What 'vision' is guiding the state's policies and programmes?

In addition to the formation of a 'Karnataka Vision Group', a number (eleven in total) of Missions and Task Forces such as the Agricultural Mission, Karnataka Education Mission, ABIDE (Agenda for Bengaluru Infrastructure Task Force) have been formed to oversee the development of the State. However, most of these are not representative of various groups (such as Dalits, agriculturists, religious minorities et al), are largely dominated by corporate interests and those close to the BJP and its affiliated groups, and the functioning of most of these groups is irregular. In addition, there are at least two one-man committees that have been established.

What is the environmental record of the government?

Several violations of environmental safeguards and concerns continue to be perpetrated. The most glaring of these are:

1 The continuation of **illegal and open cast mining in the Tumti forest areas in the Bellary region**. Despite the Lokayukta's reports on this issue, no action has been taken. In addition to the violations of environmental safety, issues related to labour regulations (including use of child labour and working conditions and payment), human rights, encroachment on forests, and revenue generation and collection remain unresolved.

2 **Clearance and felling of thousands of trees in Bangalore** for either road widening projects and or the construction of the Metro railway have been unprecedented. Lack of clarity in planning has been compounded by lack of environmental sensitivity and bypassing citizens' interests and safety.

3 **Inauguration of the Gundia hydel project** in Hassan district which was conducted without receiving clearance and certification from the Ministry of Environment and Forests (a violation of Forest Conservation Act, 1980).

2.3 Citizens' Perceptions of Important Issues and Performance of Elected Representatives – A Survey

To understand the issues that are important to people across the State and to gather people's perceptions about the functioning of their MLAs, DAKSH conducted a 'Perceptions Survey' across 218 Legislative Assembly constituencies (the 6 constituencies where by-elections were held recently were excluded from the survey).

The survey was conducted in October and November 2009 and the opinion of more than 8000 respondents was obtained.

A questionnaire containing a host of issues, including provision of health facilities and education, infrastructure, governance, employment-generation, etc, was issued to each respondent. In respect of such issues, the respondent was asked two basic questions:

(a) Which, among them, was important to the respondent when choosing a candidate to vote for?
and

(b) What, in the respondent's opinion, was the performance of the MLA, in respect of such issues?

Each respondent was asked to rate the issues as important, not important or very important. The respondent was also asked to indicate the representative's performance in respect of the chosen issues by grading performance as bad, average or good.

Survey Results

Some salient features of the results obtained from the survey are set out below.

1. General performance: The results from the survey reflect a stark gap between people's expectations and their perception of representatives' performances: the average performance index of all legislators across the state is a mere 2.84 (on 5) - just over 50%!

2. Performance on most important issues: The survey results indicate that the six most important issues for people, across the state, are:

1. Better electric supply
2. Better water supply
3. Better employment opportunities
4. Training for jobs
5. Reservation for jobs and education
6. Better educational facilities.

On these issues, the average performance of the elected representatives is 3.23 out of 5 – that's around 60%.

Contrary to popular propaganda, the six most important issues for people do not vary significantly between respondents in urban and rural areas. Issues that people focus on, when it comes to expectation from their representatives and government, whether in urban or rural Karnataka are much the same, being one or more of the issues enumerated above. However, we notice that there is a wide gap in people's perceptions in performance across districts, and across urban and rural areas. This can broadly be correlated to the gap between the more developed regions in the state against the less developed regions.

3. Candidates and political parties: There is a similarity in the gap between expectation and performance of all the three major political parties. However, it should be noted that on an average the independent candidates have a better perceptions image than political party candidates when it comes to performance.

In terms of accessibility to their constituents of the MLAs, on an average, MLAs earned a marking of 2.96 out of 5 – a mere 59%.

2.4 Parliamentarians of 14th Lok Sabha (2004-2009) Karnataka

Karnataka has 40 Members (28 Lok Sabha and 12 Rajya Sabha members).

Party-wise representation

B.J.P.	=	15
INC	=	10
JDS	=	2
SP	=	1

Debates: The average participation of Karnataka MPs on debates is 23%

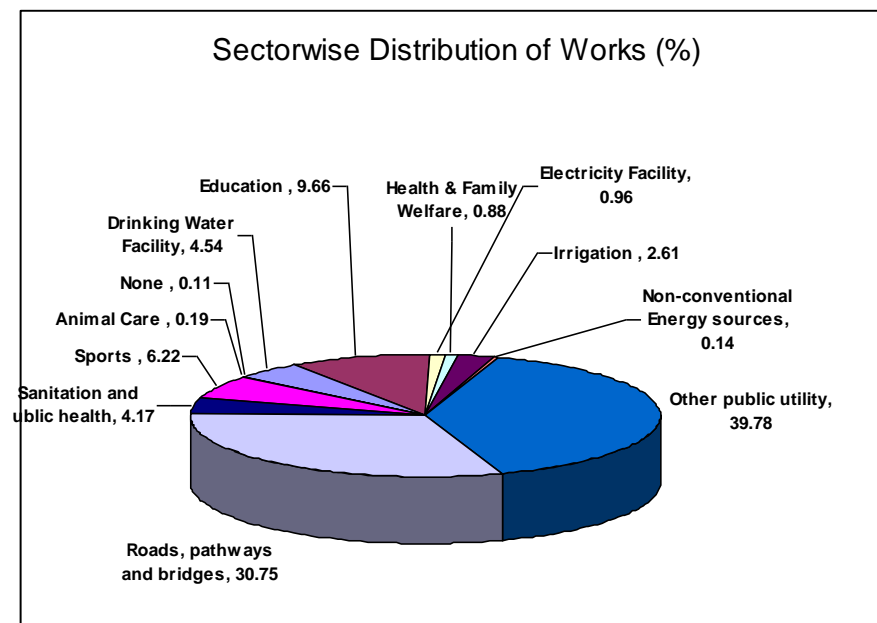
Attendance: Total valid days are calculated from the 'actually sitting days' of the session rather than from the total days for the session. The scheduled days were 630. The actual sitting days for 14th Lok Sabha were 322 i.e. a little over 50% of the scheduled days. Almost half the time was lost on interruption and other closure.

MPLAD Expenditure: During the year 2007-08, Rs. 71.00 crores has been released and expenditure of Rs. 70.73 crores has been occurred upto 31-03-2008. The percent utilization over release is 99.61%.

Out of the 3373 works sanctioned, maximum works sanctioned for other public facilities (39.78%) followed by Roads, Pathways and Bridges (30.75%) and Education (9.66%).

No. of Questions raised by each political party

Sl No	Party	Total Questions	Child Centred Question	%
1	B.J.P.	2767	140	5.05
2	Congress	1327	46	3.4
3	JDS	429	17	3.9
4	SP	0	0	0
	TOTAL	4523	203	4.4



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2.5 Attendance

Name	Constituency	Party	Number of terms in Lok Sabha	DEBATES Participated	Pvt Member Bills Introduced	ATTENDANCE				
				Total		Days signed attendance register	Actual Sitting Days	Total Session Days	Attendance as (%) of Actual Sitting	Attendance as (%) of Session Days
P.C. Gaddigoudar	Bagalkot	BJP	1	7	0	171	322	630	53%	27%
H.T. Sangliana	Bangalore North	BJP		4	0	248	306	562	81%	44%
Ananth Kumar	Bangalore South	BJP	4	62	0	230	322	630	71%	37%
Suresh Chanabasappa Angadi	Belgaum	BJP	1	13	0	150	322	630	47%	24%
Karunakara G. Reddy	Bellary	BJP		50	0	170	304	560	56%	30%
Narsing Hulla Suryawanshi	Bidar	INC		3	0	223	291	568	77%	39%
Basangouda Patil	Bijapur	BJP	2	1	0	104	322	630	32%	17%
M. Shivanna	Chamrajanagar	JD(S)	1	108	1	225	322	630	70%	36%
R.L. Jalappa	Chikballapur	INC	4	9	0	156	322	630	48%	25%
Ramesh Chandappa Jigajinagi	Chikkodi	BJP	3	1	0	170	322	630	53%	27%
D.C. Srikantappa	Chikmagalur	BJP		0	0	159	306	562	52%	28%
Y. N Hanumanthappa	Chitradurga	INC	1	7	0	164	322	630	51%	26%
Gowdar Mallikarjunappa Siddeswara	Davangere	BJP	1	12	0	154	322	630	48%	24%
Prahalad Venkatesh Joshi	Dharwad North	BJP	1	46	0	179	322	630	56%	28%
Kunnur Manjunath Channappa	Dharwad South	BJP		54	0	223	310	566	72%	39%
Iqbal Ahmed Saradgi	Gulbarga	INC	2	50	8	212	322	630	66%	34%
H.D. Devegowda	Hassan	JD(S)	4	6	0	125	322	630	39%	20%
Tejasvini Gowda	Kanakapura	INC	1	75	0	211	322	630	66%	33%
Anant Kumar Hegde	Kanara	BJP	3	3	2	196	322	630	61%	31%
K.H. Muniyappa	Kolar	INC	5	54	*	*	*		*	
K. Virupakshappa	Koppal	INC	1	0	0	165	322	630	51%	26%
M.H. Ambareesh	Mandya	INC	3	0	0	55	206	313	27%	18%
D.V. Sadananda Gowda	Mangalore	BJP	1	18	0	140	322	630	43%	22%
C.H. Vijayashankar	Mysore	BJP	2	5	0	129	322	630	40%	20%
A. Venkatesh Naik	Raichur	INC	4	3	0	233	322	630	72%	37%
S. Bangarappa	Shimoga	SP	3	3	0	113	290	558	39%	20%
S. Mallikarjunaih	Tumkur	BJP	3	35	0	260	322	630	81%	41%
Manorama Madhvaraj	Udupi	INC		17	0	212	314	568	68%	37%

2.6 Utilisation of MPLAD funds from 1993 to 05/03/2009

Name	Constituency	Party	MPLAD Funds Cumulative Expenditure since 1993 as of 05/03/2009					MPLAD Expenditure for financial year 2007-08	
			Amount Sanctioned	Expenditure Incurred	% age Utilisation of amount Available	%age utilization of entitlement (26.05/cons)	Unspent Balance	Amount Available (Released by GoI + Interest)	Expenditure Incurred
			In Rs. Crore					In Rs. Crore	
P.C. Gaddigoudar	Bagalkot	BJP	24.33	23.29	87.75%	89.40%	3.25	3.06	2.35
H.T. Sangliana	Bangalore (N)	BJP	24.8	24.52	93.37%	94.13%	1.74	2	2.52
Ananth Kumar	Bangalore (S)	BJP	21.89	19.81	91.67%	76.05%	1.8	2.12	0.96
Suresh Chanabasappa Angadi	Belgaum	BJP	24.95	23.96	92.08%	91.98%	2.06	2	1.96
Karunakara G. Reddy	Bellary	BJP	23.01	21.85	92.16%	83.88%	1.86	1	0.65
Narsing Hulla Suryawanshi	Bidar	INC	22.25	19.6	88.09%	75.24%	2.65	2	0.56
Basangouda Patil	Bijapur	BJP	26.89	24.98	93.14%	95.89%	1.84	2.03	2.61
M. Shivanna	Chamrajanagar	JD(S)	24.41	22.78	89.47%	87.45%	2.68	2.03	1.89
R.L. Jalappa	Chikballapur	INC	25.05	24.34	93.08%	93.44%	1.81	2	1.99
Ramesh Chandappa Jigajinagi	Chikkodi	BJP	25.38	23.6	89.02%	90.60%	2.91	3	1.44
D.C. Srikantappa	Chikmagalur	BJP	26.16	25.43	98.45%	97.62%	0.4	2	2.24
Y. N Hanumanthappa	Chitradurga	INC	25.77	24.88	92.84%	95.51%	1.92	3.06	2.49
Gowdar Mallikarjunappa Siddeswara	Davangere	BJP	26.17	25.37	94.84%	97.39%	1.38	2	2.66
Prahalad Venkatesh Joshi	Dharwad North	BJP	22.55	21.81	91.26%	83.72%	2.09	3.9	2.66
Kunnur Manjunath Channappa	Dharwad (S)	BJP	24.13	22.36	95.15%	85.83%	1.14	2.09	2.11
Iqbal Ahmed Saradgi	Gulbarga	INC	26.79	23.84	94.30%	91.52%	1.44	0	1.9
H.D. Devegowda	Hassan	JD(S)	25.61	20.99	89.36%	80.58%	2.5	2.04	1.39
Tejasvini Gowda	Kanakapura	INC	22.88	22.88	94.70%	87.83%	1.28	2.01	3.44
Anant Kumar Hegde	Kanara	BJP	24.88	23.95	91.34%	91.94%	2.27	0.01	1.02
K.H. Muniyappa	Kolar	INC	25.32	25.32	95.37%	97.20%	1.23	1.13	2.02
K. Virupakshappa	Koppal	INC	23.27	22.68	85.52%	87.06%	3.84	3	0.48
M.H. Ambareesh	Mandya	INC	21.7	19.74	95.09%	75.78%	1.02	1.01	0.75
D.V. Sadananda Gowda	Mangalore	BJP	24.63	24	94.12%	92.13%	1.5	1.01	1.76
C.H. Vijayashankar	Mysore	BJP	26.05	25.28	95.18%	97.04%	1.28	2	2.02
A. Venkatesh Naik	Raichur	INC	24.94	23.15	89.18%	88.87%	2.81	1	2.05
S. Bangarappa	Shimoga	SP	26.14	19.05	96.07%	73.13%	0.78	1.06	2.09
S. Mallikarjunaih	Tumkur	BJP	20.83	20.83	80.64%	79.96%	5	3	0.25
Manorama Madhvaraj	Udupi	INC	17.13	16.81	71.87%	64.53%	6.58	1.03	2.84

2.7 No. of Questions raised by Individual State MPs

Name	Constituency	Party	Total Questions Raised	Child Centred Question	Remarks
P.C. Gaddigoudar	Bagalkot	BJP	77	6	Re-elected in 2009 Loksabha election
H.T. Sangliana	Bangalore North	BJP	11	0	Ceased to be a member from 03-10-2008 and lost the 2009 Loksabha election
Ananth Kumar	Bangalore South	BJP	93	3	Re-elected in 2009 Loksabha election
Suresh Chanabasappa Angadi	Belgaum	BJP	191	6	Re-elected in 2009 Loksabha election
Karunakara G. Reddy	Bellary	BJP	975	43	Resigned on 03-6-2008 and not contested in 2009 Loksabha election
Narsing Hulla Suryawanshi	Bidar	INC	5	0	Not contested in 2009 Loksabha election
Basangouda Patil	Bijapur	BJP	3	1	Not contested in 2009 Loksabha election
M. Shivanna	Chamrajanagar	JD(S)	428	17	Not contested in 2009 Loksabha election
R.L. Jalappa	Chikballapur	INC	9	0	Not contested in 2009 Loksabha election
Ramesh Chandappa Jigajinagi	Chikkodi	BJP	1	0	Re-elected in 2009 Loksabha election
D.C. Srikantappa	Chikmagalur	BJP	1	0	Passed away on 4-8-2008
Y. N Hanumanthappa	Chitradurga	INC	0	0	lost the 2009 Loksabha election in Bellary
Gowdar Mallikarjunappa Siddeswara	Davangere	BJP	965	36	Re-elected in 2009 Loksabha election
Prahalad Venkatesh Joshi	Dharwad North	BJP	319	26	Re-elected in 2009 Loksabha election
Kunnur Manjunath Channappa	Dharwad South	BJP	156	11	Resigned on 20-10-2008 and reelected in 2009 Loksabha election
Iqbal Ahmed Saradgi	Gulbarga	INC	960	29	Not contested in 2009 Loksabha election
H.D. Devegowda	Hassan	JD(S)	1	0	Re-elected in 2009 Loksabha election
Tejasvini Gowda	Kanakapura	INC	1	0	lost the 2009 Loksabha election
Anant Kumar Hegde	Kanara	BJP	20	0	Re-elected in 2009 Loksabha election
K.H. Muniyappa	Kolar	INC	0	0	Members who are Ministers/ having Minister's Rank, Leader of the Opposition, Deputy Speaker do not sign the Attendance Register and do not ask questions. Reelected in 2009 Loksabha election
K. Virupakshappa	Koppal	INC	41	1	lost the 2009 Loksabha election
M.H. Ambareesh	Mandya	INC	0	0	Became minister on 25-Oct-06 and lost the 2009 Loksabha election
D.V. Sadananda Gowda	Mangalore	BJP	135	6	Re-elected in 2009 Loksabha election
C.H. Vijayashankar	Mysore	BJP	34	0	lost the 2009 Loksabha election
A. Venkatesh Naik	Raichur	INC	36	2	lost the 2009 Loksabha election
S. Bangarappa	Shimoga	SP	0	0	Resigned on 10-Mar-05 and became a member again on 27-jul-05; resigned on 12-Feb-2009 and lost the 2009 Loksabha election
S. Mallikarjunaih	Tumkur	BJP	56	2	Not contested in 2009 Loksabha election
Manorama Madhvaraj	Udupi	INC	275	14	Resigned on 20-Oct-08 and lost the 2009 Loksabha election

Sources: www.loksabha.nic.in; <http://www.prsindia.org> ; www.mplads.nic.in and from MPLAD Annual Reports 2007-08

3 Status of Children's Rights in Karnataka

3.1 Introduction

Karnataka, noted as one of the more developed states in India, lags far behind most other states similarly labeled. Rather, most indicators of the status of its children hover around the national average, which is itself unsatisfactory [Annex 1: Summary table on Child Rights Status]. Moreover, in both the country and the state, the improvements over the past decade have not been commensurate with various Millennium Development Goals (MDGs), national and state goals that call for rapid rates of improvement. For some indicators, a worsening has also occurred. Moreover, there are large inter-district differences [for those indicators for which we have fairly reliable data], with the bleakest figures being from Uttara Karnataka [though there are sometimes other individual districts also at such low levels].

3.2 Child Survival, Health and Nutrition.

The Infant Mortality Rate [IMR] in the state was 43 in 05-06 [NFHS 3], 14 percentage points [%pts.] below India's figures. But in both, the decline over the past decade has been minimal. Most of these deaths occur within the first month or even the first week; and most are preventable.

The poor health and nutritional status of women, especially during pregnancy, is a major cause of these deaths as children born to them have low birth weight or are vulnerable to disease and infection. Anaemia among women increased from 42 to 50 % from '98-'99 to '05-'06 [NFHS]!

Poor delivery and breast-feeding practices, and lack of attention to post-natal care including routine immunisation, compound the problem.

U5MR [Under Five Mortality Rate] Levels: state 70; India 95, best state is Kerala - 19 per 1000 live births

Social Factors Impinging on survival:

It is well known that early marriage and pregnancy lead to higher child and maternal mortality and morbidity, including poor nutritional status. The proportion of girls married before 18 yrs is 22% for the state, 11 districts being higher; highest being Bagalkote - 48% [DLHS-RCH 07-08].

Not surprisingly, births to women/girls below 19 years are high – 20% at state level; 14 districts are above that; Gulbarga worst at 32%.

Service Delivery: Lacunae in health inputs such as Ante-Natal Care (ANC), Iron Folic Acid [IFA] tablets, safe deliveries, immunisation, Vitamin A, and nutritional supplements have also been found. Sensitisation and information about good health and nutrition practices are as important as service delivery, but seem to be neglected.

Ante-natal & post-natal services, interventions of trained health personnel for cases at risk of severe complications and such measures can help bring down IMR:

The state average for ANC is high [83%], but 12 districts are worse off; Raichur is only 56%.

IFA 33%; 14 districts have lower coverage; and Davangere only 12 %.

The rates of pregnant women receiving at least one dose of TT – 83%; 7 districts have lower levels, with Raichur only 61% [Actually, 2 doses are needed but no data are available for that].

Delivery assisted by skilled personnel – average is 67%, but 12 districts are lower, Koppal being lowest – 37%.

No information on other key factors such as birth order, space between births and low birth weight is available.

MMR data are very unreliable [SRS: 228, but dept: 123].

Juvenile sex ratio [0-6 years]

While the overall sex ratio [number of females to every thousand males] was 974 in the last census, the Juvenile Sex ratio was much lower [952]. Further, it had declined from the previous census levels in almost all districts. Thus despite the PNDT Act that prohibits sex selective abortions and scanning for such purposes, female foeticide seems to be rising.

Equally alarming is the sex ratio among the 15-19 age group of girls, which is the lowest among all age groups for both sexes. This may be due to the toll caused by early pregnancy leading to maternal mortality, harassment of young brides, despite the Dowry Act and the Domestic Violence Act, or a higher age being given to mask a child marriage.

Full immunisation against the 6 killer childhood diseases that are preventable: The figures are 80 for state; 50 for Raichur, 8 in all below average [DLHS]. According to NFHS 3 [2 years earlier], it is only 55, having gone up to 60 in round 2, from 52 in NFHS 1. It is averred by some that the strong campaigns for Polio have detracted from the focus on the other preventable diseases. Hence, full immunization figures are lower than acceptable.

42 % of children affected by diarrhoea received ORS [oral rehydration salts], with 8 districts having lower levels, the worst – Chamarajanagar – 21%. Dehydration due to diarrhoea, if not treated with simple home-made remedies or with some form of ORS, is a major contributor to child mortality and morbidity.

Acute Respiratory Infection [ARI] treatment was obtained for 74% cases state-wide; 8 districts with less; lowest - 65% [Belgaum]. ARI is another major cause for child mortality and morbidity [It is difficult to monitor the incidence rates of these two major diseases, as often, they are taken as a normal part of childhood. Hence only the treatment aspects are reported but incidence must be much higher than these rates].

Nutrition [district data not available for many nutritional indicators].

This data gap is serious as malnutrition in children under three has life-long deleterious effects on growth and all aspects of development:

Underweight children below 3 years of age: The rate for Karnataka is 41%; India 46% - the rate of decline has slowed down of late.

Stunting in state: 18%; India 19% - slight decline since NFHS 2.[Stunting denotes chronic malnutrition]

Wasting: both state and country levels are the same – 38% [state level up from 37% in NFHS 2, though better than in NFHS 1][Wasting denotes acute malnutrition, which in severe forms is starvation]

Anaemia in children 6-35 months old: Karnataka is the third worst state – a whopping 83%, up from 70% in NFHS 2; India is at 79%.

Less than half of the newborns were breast-fed within one hour of birth, but in the worst district, Gadag only a fourth were, and 11 districts were below the state average [DLHS]. Exclusive breast-feeding rates were even lower -state: 36%; 12 districts worse, lowest is Bangalore Urban – 19.

Colestrom given: state average 46%; 13 districts are lower; Mysore lowest with 24%.

Nutritional supplements for children:

Vitamin A drops – 1 dose + given to children 9 - 35 months of age : State 72%; 11 districts with lower levels; lowest Bijapur – 37%. By age 21 months, only 18% received 3 doses with 13 districts faring worse, & Haveri only 9%.

ICDS supplements: Take-home packets for children under 3 and pregnant/lactating women given through the ICDS [Integrated Child Development Services] are rarely consumed by them [anecdotal evidence].

State has shifted to ready-made snacks rather than hot meals in ICDS; these are not often liked/eaten.

The Mid-Day Meal (MDM) scheme in schools is more satisfactory, but by this age, the damage will already have been done. However, MDM is useful for other reasons such as better attendance, attention, and stemming further nutritional deficiencies.

A recent move to bar PDS [Public Distribution System] rations to children under six on the ground that they get what they need in ICDS, is to ignore realities such as: the ICDS supplement is only that, a supplement, and too for only one of the six meals that such young children are supposed to get in a day; poor coverage of ICDS; low acceptance of take-home foods; etc. Only 23% of households in the state use iodised salt; 15 districts have lower figures; in Dharwad only 1% use it.

To sum up, Nutritional deficiencies in children under three are alarming but do not receive the attention that they deserve, given that their impact irrevocably curtails children's growth and development and affects their health and performance throughout life.

3.3 Environmental Issues

The coverage of drinking water in the state is considered satisfactory except for remote or disadvantaged hamlets and urban slums. However, issues of lowering of the groundwater table, distance to other sources, and frequency, timing and quality of available water are a causes for worry. The number of locations where water has turned non-potable is increasing.

Sanitation coverage even in urban areas is very low though some NGOs have made great strides in their limited areas of operation towards total sanitation villages.

In Bangalore, and to a lesser extent in other cities, air pollution has increased the propensity to childhood respiratory infections including asthma [KPCB]. Noise pollution also in the cities has exceeded permissible standards. Water and soil pollution are not being monitored regularly.

The 2001 Census gives data on household availability of 3 facilities - Safe drinking water +Electricity + Toilet as 35% for the state, with Bangalore Urban at 83 and Bijapur at 11%; 19 districts are below the state average.

Solid waste management is totally out of control in most urban areas, posing health hazards to all, especially children.

In the name of development, natural resources such as water bodies, forests, tree cover in urban areas, etc. are over-exploited or destroyed, increasing health hazards and contributing to micro- and meso- climate changes.

ECCD

Children out of anganwadis: The figures are - state 61%; 14 districts worse; Bangalore Urban 91% [alternatives do not cover them fully; nor are there any regulations or minimum standards that they are bound by].

Anganwadi workers are burdened with other tasks leaving them with less time to attend to children in their care; too much paperwork and no time for home visits.

Apart from good health and nutrition, a child under six, especially in the first three years, needs care and stimulation, to achieve his/her full potential. These are not ensured if children are in poorly run facilities or in the care of untrained family members.

In the name of school readiness, children as young as 3 and 4 are drilled in the 3 Rs, which is detrimental to the proper development of a child's multiple intelligences [all forms of development – cognitive, motor, emotional and social] that should flower at these tender ages.

3.4 Education

In Karnataka, though initial enrollment is almost universal [99% when compared to India's 93%], and dropouts up-to class 5 as low as 7% for both boys and girls, they are about 50% by class 8 [EFA]. District levels are very close to the average with the lowest being Gulbarga at 93%. ASER however gives state enrollment level as 75% (ASER 2007) and NFHS 3 gives it as 77%. Five districts in the state have more than 4% of 6-14 years children out of school (ASER Report, 2007). Raichur is highest with 18.7% . The XI Plan sets a target of dropout reduction from 45.53 to 24.72% for the country.

While absenteeism is recorded as low, civil society estimates show that this is also high.

Learning achievements are among the lowest in the country: 4th lowest at 56% for reading and lowest [46%] for arithmetic; some states are in the nineties [ASER].

These various educational indicators depict that Karnataka has still far to go to achieve universal quality education even upto class 8.

The secondary school enrollment average is 93%[of those who completed class 8], and district levels range from 92 in Gulbarga to 99 in Udupi. These figures also run counter to civil society estimates and the high prevalence of child labour, that often starts when the child has either completed this level, if he/she has not dropped out between classes 5 and 8.

Most [92%] teachers are qualified; in the country as a whole it is 78%. School facilities vary widely. Main problems being lack of drinking water, toilets [especially separate ones for girls], computers, ramps and playgrounds. Fire safety measures are not mandated in schools [or in anganwadis or alternative institutions] despite fire incidents in the past.

3.5 Child Protection

Information about exploitation of children and other protection issues is difficult to get, as they are often hidden/invisible. Where some official data are available, they are based on reported or apprehended cases that are usually much lower than the actual incidence.

However recent national studies on child abuse [physical and sexual] and violence against children[including corporal punishment] show high incidences nationally [The former study did not include Karnataka in its sample of studies, while the latter does not have state-specific information. One has to presume that the state picture is not substantially different from the national or other states [till proven otherwise]].

Official definitions of Child Labour also give a false picture – when seen against the number of children out of school [dropouts and never enrolled]:

Child Labour: 39,300 in state, 7,112 in hazardous jobs; [32,188 in other jobs [Census 01]

Out of school children in the age group 7-14 are 75,825. This is nearly double the CL figure. The question then is, if these are not child labourers in the official sense, are they working in non-hazardous sectors or doing nothing? – the latter is a rather untenable idea. The principle of UEE [universal elementary education], even before the RTE Act came into force in April 2010, calls for all these children to be in full time school.

Reported no. of missing children in state in '06: 3,631 up from '05; Bangalore city – 2,316. These are felt by civil society to be underestimates

3.6 Child Participation

The concept of child participation in the sense of taking part in discussion/decisions on a child's own future, or being heard, or having access to information is absent in the country as a whole²⁴

Major Child Rights Concerns

- Sex Ratio
- Infant Mortality Rate, especially Neonatal/Perinatal mortality rates.
- Maternal Mortality Rate
- Malnutrition – Especially among children under three.
- Anaemia(Woman and Children)
- Safe Delivery
- Breast Feeding
- Immunization
- Dropouts
- Absenteeism

District Disparities

- Poverty
- Institutional Delivery
- Sex Ratio
- Missing Children
- Marriages below 18 years
- Facilities

Quality Issues are difficult to pinpoint, but anecdotal evidence indicates need for improvements on many fronts.

Summary Table on Status of Child Rights Indicators in Karnataka, 2010

Table 1: Summary Table on Karnataka CR Status*

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
IMR	57	43	30	30	Reduce by 2/3	40??	NA
NNMR	39	29	18	> 15	Reduce by 2/3		NA
U5MR	74	55	>31	40	Reduce by 2/3		NA
Literacy Rate	65	67			promote gender equality and empower women	Mangalore (83) / Raichur (49)	15
Sex Ratio	933	964		975	promote gender equality and empower women	Mangalore (1022) / Bangalore U (908)	17
0-6 yrs Sex ratio	937	949	to stop sex selection, female foeticide and infanticide		promote gender equality and empower women	Kodagu (977) / Belgaum (921)	15

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
% of HHs having 3 facilities (Safe drinking water + Electricity + Toilet)		35				Bangalore U (83) / Bijapur (11)	
% of girls married below 18 yrs	44	22	to prevent and progressively eliminate child marriage by enforcing Child Marriage Restraint Act		promote gender equality and empower women	Uttara Kannada (2) / Bagalkote (47)	16
% of Births to woman aged 15-19 years out of the total		20	to prevent and progressively eliminate child marriage by enforcing Child Marriage Restraint Act		promote gender equality and empower women	Udupi (3) / Gulbarga (32)	13
3 ANC %	51	83	100%		Reduce MMR by 3/4	Bangalore U (8) / Raichur (56)	12
Institutional Delivery (%)	41	68	80%	100%	Reduce MMR by	Mangalore (96) / Koppal (25)	13

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
					3/4		
Received Adequate IFA (%)		33			Reduce MMR by 3/4	Bangalore U (57) / Davanagere (12)	14
Received TT Injection (%)	74	83			Reduce MMR by 3/4	Bangalore U (98) / Raichure (61)	07
Full Immunisation (%)	44	80	100%	100%	Reduce by 2/3	Kodagu (96) / Raichur (50)	10
Children received polio – 3 (%)		90			Reduce by 2/3	Kodagu (100) / Bijapur (74)	11
Children received measles (%)		88			Reduced by 2/3	Chickamagalore (98) / Bijapur (62)	09
Children received 1 dose of Vitamin A (%)		72			Reduced by 2/3	Hassan (92) / Bijapur (37)	11
Households using adequate iodised salt (%)	49	23			Reduced by 2/3	Bangalore U (60) Dharwad (3)	16
Breastfeeding within 1 hour (%)	37	45	100%		Reduce by 2/3	Mangalore (69) / Gadag (25)	11

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
Exclusive breast feeding (%)	46	36	100%		Reduce by 2/3	Bagalkote (62) / Bangalore U (19)	12
Stunted Children (%)	46	41	by half		To halve, between 1990 and 2015, the proportion of people whose income is less than 1\$ or Rs 43 per day.		
Wasted Children (%)	38	38	by half		To halve, between 1990 and 2015, the proportion of people whose income is less than 1\$ or Rs 43 per day.		
Underweight Children (%)	19	18	by half		To halve, between 1990 and 2015, the proportion of people whose		

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
					income is less than 1\$ or Rs 43 per day.		
Anaemic Children (%)	79	83	by half	reduced by 40%	To halve, between 1990 and 2015, the proportion of people whose income is less than 1\$ or Rs 43 per day.		
Anaemic Woman (%)	56	50	by half	reduced by 20%	Reduce MMR by 3/4 between 1990 & 2015		
Out of ICDS service (%) #	NA	61	100%	90%		Chamarajanagar (43) / Bangalore Urban (91)	15
Net Enrolment (Primary)	93	99	All children to be in school by 2005	Universalisati on of the education		Udupi (99.78) / Gulbarga (93.15)	9

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
Net Enrolment (Secondary)	91	98	All children to be in school by 2005	Universalisati on of the education		Udupi (99.32) / Gulbarga (92.14)	
% Std 3-5 children who can read Std 1 text or more	67	56	To provide free and compulsory education of good quality to all children.				
% std 3-5 children who can do subtraction or more	71	46	To provide free and compulsory education of good quality to all children.				
Child Labour *	NA	39,300	All children to be in school by 2005 and universal retention by	100% elimination of child labour	By 2015 all children everywhere will be able to complete 5 years of primary	Udupi / Davanagere	

Indicator	Natio- nal Average	State Average	NPAC [National Plan of Action for the Child] Goal (2005-10)	SPAC [State Plan of Action for the Child] Goal (2003-10)	MDG [Millenium Development] Goal (1990-2015)	Best /Worst District	No. districts worse than average
			2010		schooling.		
15-49 years age groups ever married women underwent test for HIV/AIDS (%)		25	Take steps to prevent transmission of HIV/AIDS to children including from mother to child	Reduce the proportion of infants infected with HIV by half	By 2015, halt & begin reversing spread of HIV/AIDS	Mangalore (47) / Koppal (11)	09
15-49 years age groups unmarried women underwent test for HIV/AIDS (%)		7	Take steps to prevent transmission of HIV/AIDS to children including from mother to child	Reduce the proportion of infants infected with HIV by half	By 2015, halt & begin reversing spread of HIV/AIDS	Mangalore (20) / Kolar (0)	

***Note:** Most of the figures are from NFHS 3, 2005-06 .

State Indicators which have district level data also are from DLHS – RCH 2007-08.
Some are from sources as indicated:

- DWCD 2007; ^Action Plan on Elimination of Child Labour, GoK, 2001

4 CRITIQUE OF THE DRAFT KARNATAKA STATE CHILD LABOUR ACTION PLAN 2010

4.1 INTRODUCTION:

While there is no argument with the notion of putting an end to the economic and social exploitation of children and all right thinking individuals would welcome an initiative to help children to avoid and more importantly escape such oppressive situations; the 2010-2017 Karnataka State Plan of Action for Child Labour the acronym MATCH, is a damp squid. The impact it will have on children who work will be no better than the plan of 2001 that was extended twice and could be a lot worse.

The deficiency of analysis, refusal to learn from past mistakes and the total lack of participation from working children themselves in its formulation is convincing proof in itself that the Government does not learn lessons well and is firm in its resolve to persist with its top down abrasive measures to purportedly 'eradicate' child workers from this state.

The strategy is vague at best. The 'how's' are not spelled out except for the section on institutional mechanisms that delineates a top down hierarchy with the KSRCCL as the nodal agency and ensures its perpetuation.

A sprinkling of phrases such as 'children's participation' and 'there shall be no violation of child rights during enforcement/raids' and some illustrations of 'happy' children are belied by the fact that the policy is fraught with the 'raid and rescue' operations as the only concrete strategy the policy has to offer. All other interventions are dependent on the schemes and policies of departments of government other than labour. Though its stated 'mantra' is comprehensive convergence, it is neither, as how these varied and numerous schemes of myriad departments will be made to converge is not outlined.

It is also clear that the government is not serious about the so called 'call for comments' and 'public participation' as the policy was only made available in English on the 23rd February with a deadline of 5th March for feedback – a mere 10 days!

4.2 RATIONALE:

The policy reads like one dealing with 'truancy' through a compulsory education plan that is couched in a 'child labour' garb and brought under the scope of the Child Welfare Committees. This nexus between this Policy and Action Plan, the compulsory enrolment of children and the JJA is extremely dangerous for children. This unholy trinity as reflected in its definition of child labour and subsequent strategies is based on erroneous notions of child work and education such as:

- a. All work is bad and all schools are good and do not deprive children of *their basic rights and overall development*.

- b. The only way to 'eradicate' child labour is through compulsion.
- c. The success of the strategy depends largely on criminalising child labour and victimising the parents of these children though one of its guiding principles is that 'family' will be considered the target group and not just the child.
- d. 'Combat' and 'eliminate child labour' and not the root causes of child labour.

The Vision statement painted on a very narrow canvas is limited and reinforces the compulsory education and truancy approach. It does not envisage larger scenarios such as the empowerment of working children to be actors in developing and implementing their own solutions or a proactive role for local governments, Gram Sabhas and most of all, Makkala Gram Sabhas², (a platform for children's direct participation in local governance begun by an NGO in Kundapura Taluk).

It is difficult to comprehend a strategy that first removes working children from the mainstream (because that is where they are – contributing to the nation's GNP notwithstanding the negative impact some of them are facing), then rehabilitates them (as if they were anti social elements) in order to cleanse them of their criminality and finally seeks to mainstream them once more.

A policy that refuses to acknowledge the role of work in a person's life and ignores the fact that many children (above 14 years) need to work and are working and will work, is suffering from the ostrich syndrome. Preparing children for the world of work should be an essential element in the Action Plan and not a sentence in passing.

The plight of children above 14 years of age, their need for protective legislation and enabling schemes to further their career, their health and education requirements (part time or evening schools) are totally absent from this policy and action plan. This is as if the States' responsibility to working children ends with the below 14's and has no obligation to children who do not come under the ban (or effect our global trade requirements) and therefore are left to fend for themselves.

4.3 ANALYSIS:

The analysis in Chapter 2 is evasive and weak. It glosses over the real reasons of failure of past plans and has no relevance to the statistics contained in section 1.2. It speaks of children who are deprived of "*a life of academics and other activities natural and essential for a childhood*, leading to *underdevelopment of their innate capabilities*, but do not recognise work³ (**not labour**) as one of the

² A platform for children's direct participation in local governance begun by the Concerned for Working Children in Kundapur Taluk as one of the elements of the Dhudio Makkala Toofan Programme, developed and implemented by the Concerned for Working Children since 1995.

³ Here we mean work that is safe and contributes to the development of the child's physical, cognitive and affective intellect.

other activities natural and essential for a childhood and a core element of the socialisation of a child.

The two programmes that have provided the blueprint for this plan, namely Chamarajanagar and Bidar ILO-IPEC-KCLP projects have provided the *working models* for this plan of action appear to have more child workers (Chamrajnagar 40,652 and Bidar 26,931) than the entire state of Karnataka (35,637⁴) by their own admission and one wonders why they are cited as positive examples. The Magadi approach is also referred to as a successful model, but no details are offered. This does not infuse confidence in the figures that have been quoted, they are either appallingly faulty or the two model projects have not had any sizable impact on the issue.

The absence of an in-depth analysis and well reasoned arguments for adopting, or in this case, continuing elements of the past plans, shows a lack of seriousness and concern for children that this policy is meant to address. An honest and transparent evaluation of these interventions, detailing the strengths, weaknesses, opportunities and constraints would have inculcated more confidence in stakeholders that this policy and plan were based on hard evidence and proven outcomes.

The impact of the past plans on children finds no mention in this document. The fact that children are being 'rounded up' indiscriminately and produced before the Child Welfare Committees and remanded to State Homes; that several NGOs have made it their full time occupation to pick up any child that appears below the age of 14 years, even if there is no evidence that the child is working and not attending school; and that the JJ Act has become another tool in the child labour eradication enforcement machinery and is more often than not being misused and grossly violates a plethora of children's rights, finds no place in the rationale leading to this revision.

The real reasons for failure in the previous plans have not been discussed. The shortcomings listed skim over the real facts and present half truths. For example:

- Though it may be true that *adequate resources were not made available to implement the Action Plan*; it is also true that less than one third the actual budget was actually spent and the remaining lapsed due to non utilisation.
- It is true that there was no *exclusive action plan coordinating agency at the state level*; however the KCLEPS constituted of representatives of all relevant departments of government provided the ideal forum for such a plan to be formulated. Unfortunately meetings of this Society were convened only once every year.
- Though this policy claims that the *Action Plan remained mainly as a broad policy document*; and, was not translated into defined action points identifiable in terms of definite physical and financial targets. Responsibility for the same was not fixed on a specified officers or authorities concerned; in the

⁴ Number of children out of school according to the SSA survey, 2009

previous section (Chapter 1. Section 1.3) it is categorically stated that the *Action Plan did not remain a document, but translated into action through the concerted efforts of the various government departments, elected representatives, local NGOs and CBOs, national and international agencies like UNICEF, ILO, Media etc; and a commitment and clear stand was taken on the elimination of child labour.*

- The remaining *shortcomings* are in the same vein and one wonders at the reasons for such blatant contradictions and deficiency of rigour in the analysis.

A conspicuous omission is a critique of the impacts of Corporate Globalisation, the surreptitious and even deliberate attempts to undermine decentralisation and participatory democracy in this state; and the encroachment on fundamental and civil rights by vested and political interests. The economic and social impact of these trends has not been taken into consideration in the development of this policy and plan and in fact elements of the suggested strategy actually actively contribute to further reinforcing the very same trends through 'top down' centralised and punitive approaches. The Action Plan totally ignores the realities of working children, their exposure to new and increasing modes of exploitation resulting in deprivations that are becoming increasingly acute.

The implications of **criminalising** children's work have not been given the serious reflection and deliberation due. As a result of the environment created by the existing policy and action plan, there are no avenues for working children to organise themselves to solve the problems they face or even transform their situations to a non-working one. Now working children work surreptitiously and undercover, invisible to the eye of monitoring mechanisms and with no avenues to voice their concerns. The moment they declare themselves working children – they are hauled away and remanded. We are our own first line of defence and children have lost this possibility of protecting themselves.

The accountability of the State to children and the intended and unintended impact of State policies and programmes have on their lives does not appear to have been taken into account as a bounden responsibility of the duty bearers, in this case the State and the department of labour.

The most serious oversight however, is the failure to consult working children, the primary stake holders, in the formulation of this plan. Chapter 2, Section 1.4 outlines the *process followed in preparing the revised Action Plan*. The consultation with stake holders appears only after the draft plan has been formulated and from the way this draft has been made available, working children will have no access to it except through a well intentioned NGO that believes in their Right to Self Determination. In any case the time provided for public responses does not allow for this document to be translated, converted into a child friendly document (after all we are talking about below 14's),

explained to them, provide time for discussion, record feedback and submit within the given deadline.

It may be argued that the constitution of the drafting committee and the 'expert' and 'major' consultant's teams represent all stake holders, but this is not true. Organisations with views contrary to the government's approach; organisations/unions of working children and even the KCLEPS were not included or consulted in the setting up of the KSRCCL or the revision of the Action Plan.

It would have been so important and beneficial to have had serious and in depth consultation with a cross section of working children in a variety of geopolitical regions of this state; those who have been 'raided and rescued', those who are working and going to school, those who are working in non-hazardous sectors and occupations, and those engaged in hazardous labour. Information regarding the impact of the mechanisms and elements of rehabilitation on the quality of their lives, the reasons they work, the solutions they would like to see and most of all their suggestions for prevention, would have added an invaluable dimension to the Action Plan, making it contextual, relevant, appropriate and most of all child centred and child rights friendly. The fact that the views, concerns and aspirations of these children have been ignored demonstrates the level of commitment to children's rights and respect for children themselves on the part of the department and the drafting teams.

When it comes to the *lessons learnt* the scenario is worse. One is aware that in general, governments do not learn lessons well; however, one hoped that glaring facts and the direct experience of staff of the enforcement directorate, namely the labour officers, would at least have been taken into account.

The fact that however limited the intervention may have been, all past plans have had little or no impact on the situation of working children; that the plight of children who were so called *raided and rescued* have not been assessed; that the strategy of converging all schemes to address the predicament of child labour families is defeated by the reality that these schemes are in short supply and are scattered randomly among districts; not on the basis of a need based criteria, but on the basis of satisfying a bureaucratic requirement of general distribution to all districts.

4.4 DEFINITIONS:

The policy seeks to supersede the wisdom of all other *acts and agencies* that have defined *child labour differently* supposedly keeping in view the welfare of *child labourer*. Mercifully this policy has exempted children helping at home or all parents who wish to inculcate a work ethic in their children would have been penalised. However, the policy exempts an underage domestic help if that child is not paid as only *domestic workers for wage* are included.

Terms such as 'work' and 'hazardous' are not defined leaving wide scope for individuals and agencies to manipulate and interpret these terms to their

convenience. A policy that does not have clear definitions cannot hope to conduct credible surveys, accumulate relevant data or monitor progress.

According to this 'new' definition, all *out of school* children are child labourers, this would include children who are physically handicapped, visually impaired, mentally challenged or differently abled in any way and for a variety of real obstacles including access, lack of appropriate learning material (for example, books in brail for the visually impaired) and trained instructors, do not go to school.

Consequently what it has succeeded in doing is to blur definitions to the point that all children below the age of 14 years, except unpaid domestic labour, children helping at home and those who only go to school (do not combine work and school) are covered under this policy. However, it must be pointed out that a policy cannot supersede legislation.

I. STRATEGY:

1. Old Wine in New Bottle:

The revised strategy does not read very differently from the earlier version. It is vague and the how's are not spelled out except for the setting up of a database and tracking system, though useful not a solution in itself. It contains the same elements as before and is just an extension of the existing plan.

Even after the disastrous experiences of the 'raid and rescue' operations and their traumatic impact on the children involved and the knowledge that many 'implementers' of the scheme still round up children from construction sites or from the bus and railway stations on the pretext that they are supposedly working and underage, there is no attempt in this Action Plan to ensure the compliance of employers/principle employers to implement mandatory requirements such as Anganwadis, Mobile Schools, health care and nutrition.

2. Environment Building:

The chapter on environment building deals with only the superfluous and razzle dazzle high profile ideas such as celebrity ambassadors and some one off events such as a tableau during Dasara and felicitation of Child Labour Free Panchayats and Makkala Mitras (two elements of a master plan being implemented by an NGO⁵). The real elements required for creating an environment that would enable children to grow and develop in a healthy manner, receive the care and protection they are entitled to and exercise their rights – including their Right to Self Determination are far from what this policy envisages.

3. Poverty:

For a strategy to work the causes of the problem one is addressing needs to be clearly identified. In the child labour debate 'poverty' has figured as a major protagonist and a variety of twists have been used over the years. For example 'poverty breeds child labour and child labour breeds poverty', 'poverty is not the

⁵ Elements of the Dhudio Makkala Toofan Programme developed and implemented by The Concerned for Working Children since 1995

cause, but the consequence of child labour' and the most simplistic of them all is that 'education is a solution to poverty and therefore child labour'.

Poverty has been bandied about like an ailment or disease such as AIDS or an affliction like untouchability (that in actuality have no simple solutions) and the simple capsule of school taken every year from 6 years to 14 years of age will make it go away.

This policy also identifies poverty as a cause, but repeats the same mistake and does not go beyond this to analyse the causes of poverty nor deal with the need for these to be addressed. Victimising and criminalising poor families and their children for not opting for the magic wand of school that they do not see as a viable survival strategy has not worked in the past and there is no reason to believe that it will now.

Times have changed, and yes, more and more underprivileged and marginalised families see the benefits of an education, but they are still not convinced that schools, especially government schools, provide this. Private or even aided schools are expensive and more and more government schools are closing down. Instead of improving the quality of their instruction, children and parents are left with little choice. Many children combine work and schooling for this reason, working at weekends and during the summer holidays. This policy and action plan pays little heed to these children.

4. Families:

Families are referred to as *families affected by child labour* and not as families that are forced to resort to this measure and the policy response to these families are within this flawed frame.

The obligation of caring for children rests with the family. But if the family is impoverished and unable to even manage subsistence levels of existence, the obligation rests on the State to empower and enable them to reach at least a minimum standard of living that fulfils basic needs.

The policy states that it will address the 'supply side' of child labour rather than the 'demand side'. In principle this is a better option provided the State recognises its obligation to impoverished families and creates the conditions where by children do not need to work. This would require a real convergence of interventions on a case to case basis that can only be effectively and practically addressed by local governments through a bottom up plan and can be achieved through both decentralisation of power and resources.

On the contrary the action plan does even attempt to do any of this. It does not even guarantee jobs for the families of child labourers; instead it offers skill building, formation of SHGs and other such palliatives; and to further exacerbate the predicament of these families, the policy deals with the 'supply side' by penalising child labourers and their families.

5. Education:

Education has been a hotly debated subject since pre-independent India. Gandhiji spoke eloquently of the 'Beautiful Tree' that had been uprooted by the British Raj and the need to rediscover these roots. In response, Tagore's Vishwabarathi, the Besant Schools and Krishnamurthi's Valley Schools were set up.

Now 60 years after independence, education is still a contentious subject and we have still not resolved some of the perennial problems that it is riddled with. It is clear however that today schools are being used as a place to confine children in order to prevent them from indulging in activities such as work, that is either against the law or will tarnish our global image. The fact that the schools and the attendant homework and mandatory tuitions take up more than 12 hours of a child's day and leaves no time even for play does not appear to be a major consideration for some fundamental activists. The fact that school or the 3Rs are but a small part of a child's education or socialisation and that all the other learning that takes place at home and through participating in the community are as, if not more important for the child to feel rooted, absorb skills, oral history and experiential knowledge of the world around him/her.

This Action Plan perpetuates the same dogma and works on the simplistic equation that work can be simply replaced by school and the problem is solved. The policy fails to critique the present education system and its contribution to the creation and perpetuation of child labour. If the existing programmes to support the education of the underprivileged families was a reality, the children and their families would have undoubtedly made the right choices.

The blind and sanctimonious faith in schooling as the 'magic wand' that solves all problems and the conviction that all work is a curse upon childhood are both flawed and simplistic generalisations. It must be realised that the present 'schooling' available for children from marginalised communities have little to do with the development of independence, critical thinking and an inquiring engagement with the world. It is rather, a form of 'training', designed to meet the needs of a rapidly changing economic market that few can predict, especially in this time of rapid technological, economic and social change. It fails on this account too as only a meagre percent of young people end up accessing the job market or find their way to government jobs after their education.

In an already dismal scenario, there are now rumours that the schools run under the State Child Labour Programme will be closed down. Many of the bridge schools are run for a limited period, without any consideration for the needs of individual children, and function with no clear pedagogy, curriculum and syllabus or monitoring.

This plan also does not critique the move by the State Government to close down 'non performing' schools or the new Right to Education Act that unashamedly advocates for privatisation of education. These are going to very gravely affect the access of education to children from marginalised communities.

Regarding the existing and proposed programmes, there are some extremely critical questions that need to be asked and answered.

- What is the status of all the children who have been 'rescued'? Have their expectations raised by 'education' been fulfilled? Do they benefit from interventions even after they have crossed the magic age of 14 years?
- Does the 'rehabilitation' package guarantee children protection, meaningful education, respect, access to dignified employment, a secure future and democratic citizenship?
- What is available for all the children who have not been 'rescued'? What is their fate?
- The majority of children work in sectors and occupations that are not listed under the 'hazardous' sectors and do not find a mention in the schedule of banned sectors and occupations. What is to be their fate?
- And what of all the 'forgotten' children between the age of 14 and 18 years, who are still children yet let to fall between the cracks, their aspirations stifled to erupt as disillusionment, bitterness and anger that we as a society have to address.

In order to ensure that every child (6-14 or 6-18 as determined by the definition of child) is acquiring an appropriate education that is equivalent to the formal system, it is critical to address the following:

- Content
- Quality
- Method
- Access

Interventions related to the content should ensure that the content includes life skills, rights based information and vocational information as integral elements. The teaching methodology used should enable children to experience and contribute to a democratic learning environment. It should also ensure that the requirements of individual children are attended to.

Making education accessible to children should include not only physical access but also address issues related to timing, language of instruction, academic standards, learning and other disabilities etc. Programmes such as the Flexi-schools and Extension Schools may be considered as examples and their key principles may form the basis of starting similar programmes that are developed keeping in mind the specific requirements of children. (Please see Annexure 1 and 2 for details)

6. Enforcement:

The only tangible enforcement mechanism in the Policy and Action Plan to strengthen implementation mechanisms are the raids and enforcement drives. The so called revised 'Rescue and Rehabilitation' (3.2.3) that will be conducted with new child rights guidelines, that are to be developed in consultation with the State Commission for Children, is far fetched to say the least, as the very act of raiding and rescuing without the children's prior knowledge and consent and the subsequent process with the Child Welfare Committees or JJ Boards are in itself, violations.

Though the plan claims that *raids will be used as a last resort* (3.2.3) and that there will be *no violations of children's rights during enforcements*, the

mechanisms to ensure this are not spelt out and made mandatory. The mechanisms and processes for appeal and redressal if and when this is breached also do not find a place in this document.

Finally the process indicators suggested (3.2.3) such as *number of child labour cases detected and the number of child labourers released and rehabilitated/in transit/rehabilitation homes* are dangerous as this would only encourage and perpetuate the present trend of rounding up children indiscriminately to bolster the figures.

4.5 DECENTRALISATION AND PANCHAYAT RAJ INSTITUTIONS:

1. Convergence and Coordination:

Convergence of and coordination between the various departments of government is undoubtedly essential not just for addressing the issue of child labour but other social problems such as child marriages, child abuse and child headed households.

It is vital that the child is perceived holistically and all attendant issues are addressed in a comprehensive manner. It is often the case that a child facing one problem such as child labour is also a subject of other economic and social ills and one cannot be mitigated without resolving the others. It is also true that children cannot be seen in isolation from their families and communities and the socio-economic and political deprivations they face are often the cause of the child's predicament. Single point strategies seldom work and holistic solutions require to be designed.

It is for these and many more reasons that convergence and coordination are not just critical but imperative. But this is not an easy or straight forward goal to attain, given the plethora of departments and their numerous schemes, the centralised nature of the State and the department-wise bifurcation of portfolios.

Centralised coordination has been attempted for decades including the erroneous idea that a single ministry for children would solve this complex dilemma. This would only relegate children's issues to a powerless ministry, lacking the power to muster the resources and appropriate the schemes required from ministries such as Industry and Labour that enjoy more status in the structural hierarchy in the State. In any case, the State Government is too far away for the child to be able to respond comprehensively on a case to case basis that is appropriate to local specific conditions and needs. The only way to achieve this is through decentralisation of power and resources to Local Governments and by empowering them with adequate information and knowledge of legislation and good practice to respond to the needs of the children and their families.

At the level of a village (rural) or ward (urban) it is possible to bring about convergence even if the schemes required are scarce, as local resources can be mobilised and community participation elicited. (Please see Annexure 3 for example)

Unfortunately, the intricacy of such an objective has escaped the drafters of this policy. Besides listing what each department *shall* do, but in most cases *should* do, at the state level and the suggested interventions that should be carried out

by their respective departments in a top down manner, the policy does not explore the modalities of convergence at the local level nor how coordination will be ensured.

2. Institutional Mechanisms:

Instead of strengthening the role of Local Governments, the policy seeks to bypass them, mentioning them as just another body to work with. Even though collaborations with 'Panchayat Raj' institutions is repeatedly referred to, their role does not figure in developing, implementing or monitoring the programmes. No authority has been given to them nor funds allocated to them to formulate their own plans through Grama Sabhas and Makkala Grama Sabhas based on local needs and design locally specific solutions on a case to case basis.

The *Members of the Village Panchayat* and not the Grama Panchayat (Section 3.2.4) are listed as one of the *target groups* and not as implementing authorities. The implementing authority remains with the Gram Panchayat Child Labour Elimination Committee that works under the direction of the District Child Labour Elimination Project Society (NCLP/SCLP) chaired by the District Commissioner and line managed by a series of hierarchical bodies that finally ends with the High Power Committee chaired by the CM. The policy has centralised planning, monitoring and evaluation and only the implementation has been so called decentralised to the Gram Panchayat Child Labour Elimination Committee.

What this policy is in fact doing is to transfer the powers that are now with the Grama Sabhas and Grama Panchayats to District Societies (3.2.5 b). For true principles of convergence and coordination to work in practice the policy has to radically modify its perspective and view the issue from the stand point of children in their settings and design a policy and action plan based on a bottom up formulation with the Local Governments and civil society (Grama/Ward Sabhas) as the holders of authority.

A glaring omission in this strategy is that it does not envisage a mechanism for urban areas. Admitted, this is not an easy task, as the implementation of the 74th amendment has still a lot to be desired and may even be in jeopardy as of now. Nonetheless, no attempt has been made in this direction what so ever and one wonders how this action plan will be implemented in Municipalities and Municipal Corporations and more essentially, in the Mega City of Bangalore and how this will impact on the thousands of children working there.

4.6 CHILDREN'S PARTICIPATION:

The Policy and Action Plan has not even paid lip service to children's participation. The fact that they devote a section to this subject and propose feeble opinions such as children being included in the Grama Panchayat Child Labour Elimination and Rehabilitation Committee (G-CLERC) and their possible participation in the SDMC with no mention of children's participation in the designing of the policy and plan, nor the form such representation will take, or who these 'chosen' children (working children or handpicked children from school?) will be, is an insult to children and their rights. The suggestion that

children can participate through the Makkala Gramasabhas⁶ is rather superfluous as that is what Makkala Grama Sabhas are there for and children are already using this to voice their concerns and influence local planning.

4.7 CHILDREN'S RIGHTS:

The present plan, in line with its predecessors, operates totally outside the framework of Children's rights. At the very outset, it violates children's Right to Self-Determination which is sacrosanct to any Rights Discourse – there were no consultations with representatives of child labourers, former child labourers or potential child labourers in the development of this plan. It does not take into account the recommendations made by working children's own organisations with regard to the previous plans and failures in the systems.

During the 'public consultation' phase, the Plan's draft form was in English, mostly accessible on the internet with a short deadline, making it impossible for children themselves to engage with it, even if they wanted to.

The plan contravenes several other articles of the UN Convention on the Rights of the Child. It lacks a comprehensive view of children's rights that includes their Rights to survival, family, education, privacy, protection from abuse from the State as well as by the vested interests, to name a few. Child labourers are deprived of several basic rights, not just education. This plan does not dwell into these other areas that are intimately linked to the lives of children. Some of the strategies suggested actually deprive children of their Right to family, survival, education, protection, to name a few.

The term Makkala Mitra (Children's friend) is mentioned in passing for the purpose of felicitation only, but the role as conceived by the NGO⁷ that initiated this concept was to facilitate children themselves to identify adults in their own communities, on the basis of criteria set up by them, to provide them continuous and immediate assistance. These Makkala Mitras are accessible to children at all times and are equipped with information and support systems to respond to both crises faced by children as well as to provide them moral support required in their protagonism.

4.8 MONITORING AND EVALUATION:

For monitoring and evaluations to be meaningful, reliable baseline data is essential. Therefore the plan to conduct a state wide survey is commendable. However, the availability of reliable data is questionable. There are several examples of statistics regarding school enrolment and retention being fabricated and falsified such as students being asked to answer two answer papers, one for their own and another for a child who is on the rolls of the school but has actually

⁶ A platform for children's direct participation in local governance begun by the Concerned for Working Children in Kundapur Taluk as one of the elements of the Dhudio Makkala Toofan Programme, developed and implemented by the Concerned for Working Children since 1995.

⁷ The Concerned for Working Children as one of the elements of the Dhudio Makkala Toofan Programme, developed and implemented by the Concerned for Working Children since 1995.

dropped out. There are instances of teachers marking attendance for absentee enrollees at the end of each week after they ensure that the child is still alive and in the vicinity. This concealment and fabrication is the typical consequence of punitive legislation and policy that forces the problem underground and out of sight. Therefore the question is how will this action plan ensure the dependability and reliability of the data collected and whether it will actually reflect the true picture?

The idea of setting up a tracking system is excellent and much needed. The Policy and Action plan will however have to ensure that the information is true, transparent and from the perspective of the children, and include the children's concerns and grievances. Such a tracking system would go a long way in truly evaluating the extent to which this policy is child rights friendly, the impact of this programme on the quality of lives of working children and their families and the strengths and weakness of this Action Plan that could lead to honest introspection and course correction.

A critical issue however is that the definition used by this Policy are vague, blurred and flawed, creating a major handicap for the data collection process and the creation of baseline data. The data required for such an ambitious policy and plan needs to be nuanced and not riddled with stigmatised stereotyped judgemental views of children and work, which are more pro-government than pro children.

The structure suggested for monitoring and evaluation follows the same pattern as the rest of the report in its centralised nature and the decision to hand over this task to **one** *credible* NGO further reflects that partisan slant of this policy. How is the credibility established, who decides, based on what criteria and why **one** NGO? Even more dangerous is that course correction will be based on this one NGO's evaluation.

However, a detailed discussion on monitoring and evaluation is rather redundant as the Policy and Action Plan are riddled with holes, is fashioned on principles that are violative of children's rights and an extension of plans that have already proved ineffective.

Annexure 1: Extension Schools

Our first experience in 'Extension Schools' was in Kundapura District. The village Panchayats, with programmatic support from Concerned for Working Children (CWC) set up these schools in remote rural areas to meet the requirements of children who were working and could not access education. These schools were located in areas most accessible to children and conducted at flexi-times that were most suitable to them. These schools covered the same curriculum as the government schools – but in a specially designed method called 'Appropriate Education' that was evolved on the basis of the principles of Montessori methods of teaching and learning. These schools were officially recognised by the GOK and the children who studied there were permitted to take their exams in regular school. Over three years, all children in each of those villages had completed primary education and went into high schools as CWC's programme interventions addressed the larger issues that had pushed them into labour. This was one of the important elements of the strategies to create 'child labour free Panchayats in that Taluk.

Annexure 2: Flexi Schools

Our work experience with urban Flexi Schools (in Bangalore that was run by GOK's Education dept) was that hundreds of children - in 9 different locations - who had not stepped into schools - began to attend them. Besides covering their formal syllabus, through a methodology based on the principles of Montessori education (with teachers specially trained by us to work with multiple-age and multiple-ability groups), information related to life skills, rights education, health education, gender sensitisation etc were made available to them.

In the first phase, we began to identify who needed what additional support if they had to pursue education full time. We assessed what attention/support/scholarships/hostel facilities they required. Soon a very large number of children got gradually enrolled to either formal schools - or to vocational education programmes or to residential centers when they were old enough for them - with individualised attention given to their own views and with additional support provided to them. However, within months, the labour department began to conduct repeated raids on these schools – in order to rescue and rehabilitate them.

Children were naturally traumatised and from then on refused to come back. Hence this programme, which had for the very first time reached a very large number of children, with tremendous eagerness to learn against great odds, was closed down.

Annexure 3: Case study

Two young girls, 12 and 14 dropped out of school to look after a 9 month old baby sister after their mother died of cancer and their father married again and moved to his wife's home (they belong to a matriarchic community). They did not want to give their sister in adoption, did not wish to join a hostel as the house belonged to them (property in matriarchic families go from mother to daughters) and they did not want to lose it by leaving in vacant. They had no source of income and their only alternative to begging was to drop out of school and while one sister worked the other would care for their sibling.

This came to the notice of the Makkala Panchayat and after much discussion and deliberation an amicable solution was found. A middle aged widow would care for the baby during the day, families in the community would provide milk for the baby in turns and an NGO agreed to cover the children's schooling and food.

The girls are now back in school, the baby is healthy, the girls still have possession of their home and the Gram Panchayat has made the father visit the children at least twice a week and provide for them.

This process happened over time and one can only imagine what the plight of these children would have been if they were subjected to a process of 'raid' and 'rescue'?

Note: Names and places have been changed to protect the identity of those concerned.

5 Status of women

5.1 Domestic Workers – The Invisible Economy

Sixty two years of India's Independence, has seen lopsided growth – 9% growth in GDP, but yet 124 ranking on the HDI (human development index). Today, 92% of workers in the unorganized sector are outside the framework of social and economic justice. Globalization and the structural adjustment policies are contributing to a decline in formal employment, leading to a large number of workers, being pushed into the informal economy.

Domestic workers form a significant part of this informal economy. Despite the fact, domestic workers, constitute an overwhelming 90% of this unorganized labour force in India, they have always been marginalized as a sector. Whether they work part time, full day or as live in workers, they are forced to put up with various indignities, in the privacy of the households they work in.

Domestic work is a valuable part of the service economy. It does not create GDP by itself, but enables GDP to be made. Yet, the domestic workers are left out of the purview of being recognized as workers! In our patriarchal society, just as very little value is given to housework, in families, also the work done outside, in other people's households, is given no value or respect. Thus, even today, the feudal relationship, of master-slave, persists and these workers have not been included in the schedule as workers. They, still cannot access all rights, as other workers, and have no regulated working conditions, no registration as workers, and no protection, or social security umbrella.

Domestic workers, an estimated 4 lakhs in Bengaluru work under arbitrary rules, are largely unskilled and illiterate. For years, women have been doing the drudgery of washing, cleaning, cooking and all menial tasks in other households for their own survival. Long hours of work, years of toil often with no living wage, no rest or recreation, sexual harassment, abuse of their dignity, untouchability, often treated inhumanely is the story of their lives. The conditions of lakhs of child domestic workers, the 24 hours live in workers, are even more exploitative and abusive! There have been many cases of rape and murder, horror tales of children being beaten, locked in bathrooms, bitten and burnt by employers. There have been issues of bonded labour, trafficking of girls and women into domestic work. Yet, these inhuman employers go scot-free and many of them feel it is their right to employ the children and they often talk of it as a favour they are doing to the society. In spite of all the harassment, domestic workers report for work, neglecting their own homes and children. Yet, they are the first to be blamed for any accident or theft that takes place inside the house.

Domestic workers are the silent, invisible backbone of the economy. The last two decades has seen a sharp increase in their participation in the workplace. This is to be looked at in the context of the increase in the overall number of women joining the workforce. This increase is linked to a shift from the agrarian based economy to a manufacturing and service based economy. Interwoven into this aspect, is the hierarchy of caste and occupation linked caste. In the agrarian

economy, the women would toil in the fields of the landlords and also in their households. This was rewarded by minimal shelter and some food but no wages. This kind of bonded slavery with increasing urban growth has not changed much. The only change is that the domestic worker goes to her own house today and is paid wages for her work. However, the feudal mentality and idea of her being bonded, continues as seen by the nomenclature 'Servant' and in the manner in which she is treated by the society. Added to this indignity is the fact that her work is not valued and thus, she remains at the bottom of not only the social hierarchy (caste) but also at the bottom of the work hierarchy!

This non-valued attached to housework, stems from the reality of patriarchal society, where all housework done by women in their own homes is anyway undervalued, even more so when the women goes out to work in others house! This gendered notion of housework is not only prevalent in employers but in the women workers themselves, who look down on their own work as demeaning. It's also the notion of treating housework as women's work, that has encouraged many more little girls into domestic work. Many mothers out of economic or health reasons take their daughters, not sons, with them for domestic work. It is commonly accepted that girls at a very young age (even at the cost of education) should know housework, and do it without complaining as a preparation for the time when they go to their husband's home!

5.1.1 Domestic Workers Situation

Although there is no comprehensive survey of domestic workers, in Bangalore city or Karnataka,, it is estimated that more than 5 lakhs i.e 10% of the population would be in domestic work. The increase in the number of domestic workers in urban India is linked with the increase in migration from rural to urban areas. Constant search of livelihood, economic pressures, and the fact that many of the women are neither educated nor skilled, forces them to take to domestic work as a suitable livelihood option. On the other hand, we have the growth of the urban middle class, and the increase in the number of women pursuing careers! As the nuclear family becomes the norm, no state support exists for working women, nor is there any male support at home. So the middle class working women are dependent on domestic workers for their household chores and child care support. Thus, the domestic workforce, have emerged as a major player in the service economy, with growth in demand and supply. However, supply is still surplus, resulting in competition among the workers.

5.1.2 Working Conditions

All conditions of work for all domestic workers are arbitrary and based on very individual, personalized relationships. Woven into these relationships are personal stories, woman to woman dealings and also factors of loyalty, gratitude, helplessness... They can be broadly classified as part timers, full timers, residential or live in domestic workers. This also includes those working in defence and government quarters. They can also be classified based on the tasks that they do such as those who do only cleaning works, only cooking, childcare or care of the elderly. Very often, these tasks or the division of labour has a caste basis.

In most cases, the tasks are not clearly defined by the employer, leading to exploitation. For example, Ellamma, a domestic worker, says "Apart from the household work, employers make us do extra tasks – cutting vegetables, running errands, looking after the baby, etc. The worst part is that in the end, nothing is recognized. We are only cursed at, blamed and fed with leftovers."

Domestic workers can be classified into four categories.

1. Residential or live-in workers are most often under bonded conditions, brought in for labour. This kind of bonded labour is more prevalent, as far as the child domestic workers are concerned. An increasing number of girls are entering domestic work, even as young as 8 and 12 year olds! They are the cheapest form of labour, submissive, can work long hours and demand nothing from the employers. On an average, the girl child gets into work, as early as six years and in most cases she begins by assisting her mother in domestic work! Nandini, a 13 year old girl domestic worker, working for an upper middle class family, says, 'My day starts in the kitchen at 5 am as I have to do cooking. I have to prepare breakfast and lunch before 10:00am. The whole family takes packed lunch! Besides cooking, I sweep, swab, wash vessels and clothes. I also become the babysitter. Madam always has guests and the work becomes extra and she has done it all alone. After all the hard work, for trivial reasons, the children are shouted at, thrashed and abused.'

In this category of workers, a lot of vulnerabilities exist. Very often, women fall prey to trafficking by agents and placement agencies, who lure women into the city, and they are forced to work as cheap labour, under the control of the agency. Another dangerous pattern is the trafficking of young girls, ostensibly for domestic labour, and then forcibly pushing them into the flesh trade!

2. Part timers – The part timer's condition is very insecure and arbitrary. They work in three four houses in a day, sometimes even for paltry wages as low as Rs.300-500 a month. There is absolutely no regulation of work, no weekly holiday, no timings, no festival or medical holidays, no increment and absolutely, no recognition of their labour, or even dignity.

Saroja, 31 years old, domestic worker, asks, "Are we not human beings? We are treated so badly that even when we fall sick, there is no leave and if we take leave they deduct the salary. Or else the work is piled up the next day when we go!

In this situation of no guarantee of employment, no social security, no legal mechanisms or remedy, nearly 5 lakh or more domestic workers toil day in and day out, enabling productivity to the economy. Yet, they are not recognized as workers nor given the benefit or rights as workers!!

3. The Day Workers
4. One more category of domestic workers existing in certain culture oriented pockets, are those women who do work on a piece rate basis. For example, the dhobi caste (madivalas) in Bidar washes only clothes, at

the rate of Rs.50 per person. In a Muslim locality, almost all the cleaning tasks are on piece rate basis. In some regions, the payment of wages is determined by the tasks done i.e based on each task, the payment is made. As there is no extensive study or data base of domestic workers, all the situations cannot be fully cited here. In Bijapur, Davangere, or in Chitradurga, domestic workers, come from long distances to the nearby towns, earn a paltry sum of Rs 33 per month. Very often they come early in the morning, and go back only by 6 pm.

5. A special category of domestic workers are women working in government and defence quarters. They are given free rooms, electricity, water and their labour is free.

5.1.3 Social Conditions

Besides the economic drudgery they face, they also are socially discriminated. Casteist attitudes prevail in many of the employer's houses, where separate glass and plate is kept. They are not allowed to enter the pooja room, nor drink filter water, nor use the toilet, which they themselves clean! This outlook of pollution stems from the fact that most of the workers are from the SC or Dalit community. The practice is such that in many homes after the worker washes the clothes or vessels, the employer again rinses with drops of water as an act of purification! The domestic worker may work for long hours and yet not be provided with food or tea or coffee. Many of the employers forget that the workers are also humans, have families to take care off, live in deplorable conditions, face health problems, and have the same kind of pressures and problems like them!!

Cases of sexual harassment also happen, but many are silent about it and employers ignore and often blame the women. The domestic workers are sometimes treated as criminals, and blamed for any theft in the employers house.

The above plight of domestic workers prevails all over the country, with variations according to region, locality, class and caste of employers. The domestic workers are also caught in the caste conundrum. There are examples of women following the division of labour very strictly. Some of the women depending on their position in the caste hierarchy, do only cooking and not cleaning, while others may do all the cleaning except the toilets, and while there are some who do not enter the cooking domain.

Thus, the entire workforce of domestic workers, with all the variations, segmentation and large numbers are a huge challenge. Those of us who have taken this challenge, have started the organizing process of domestic workers into collectives.

Domestic workers have been living in exploitative inhuman conditions for years and in spite of constant appeals, memorandums to the Government, their issues have not been addressed.

The nature of employment of the domestic workers is unique, defies all norms of employer – employee relationship. Firstly, there is no definition of workplace and it

is within the employer's household, designated as private! So is it also outside the purview of the law? The recruitment of workers is arbitrary, through social network, and sometimes through illegal placement agencies. Every aspect of the working place is different for every worker and a lot depends on the attitude of the individual employer. Thus, it's the most difficult sector to regulate.

However, the governments in the states of Tamilnadu, Maharastra have shown the way by enacting a legislation for them. The Karnataka government too took the lead in the year 2004 to draft the Minimum wage notification for domestic workers. However, this has fallen short of the reality for domestic workers and is yet to see proper implementation.

Our Union, as part of the Domestic Workers' Rights Campaign at the Central level, has been part of the National Commission of Women's drafting meetings for a separate comprehensive legislation for domestic workers. We are in the process of drafting a law, with consultations of domestic workers in all the regions across India. The urgency of the situation demands that domestic workers be recognized as workers, a comprehensive legislation be implemented and the social security welfare board be set up. We from the DOMESTIC WORKERS RIGHTS UNION, and the support group Stree Jagruti Samiti, wish to state the following demands....

- Domestic work is part of the service economy;
- Domestic workers deserve to be paid hourly, living wage;
- Domestic workers deserve social security;
- Domestic workers request the setting up of a Tripartite Welfare Board;

The Government of Karnataka needs to look at this huge sector, primarily women workers, seriously and immediately as the exploitation continues unabated. An urgent task is to build a database of the domestic workers in Karnataka. An attempt has been made to enlist apartment blocks, resident welfare associations to firstly identify child labour, and also to address the grievances of adult domestic labour, especially that of the migrant domestic labour. The local bodies like the ward committees, of the corporation or Municipal Council, could be the mechanism to register the domestic workers and the employers.

Today even the International Labour Organization has pledged its commitment to introduce a Convention on Decent Work in Domestic work by 2011

6 Urban Governance

The right to the city is... far more than a right of individual access to the resources that the city embodies: it is a right to change ourselves by changing the city more after our heart's desire- David Harvey

6.1 The 74th Amendment and its Implementation

The 74th Constitutional Amendment provides the legal framework for urban decentralisation in India. By the passing the 74th Amendment in 1992, Urban Local Bodies became mandatory democratic institutions within a three-tier governance structure. It also provides for a democratic and participatory planning process so as to incorporate the needs of the people. What the Constitutional Amendment has sought to achieve is the empowerment of people through mandatory devolution of functions, funds and functionaries to these elected municipal bodies. As the local bodies are still under the State List of the Constitution, the various State Governments have amended their Municipal Acts so as to bring them in conformity with the Constitutional provisions. The Karnataka Municipalities Act, 1964 and the Karnataka Municipal Corporation Act, 1976 have been amended in 1994 to make it in consonance with the requirements of the 74th Amendment.

The 74th amendment empowers the State to make laws that endow the Municipalities with powers that enable them to function as "institutions of self-government" and provide for the economic development and social justice of the people. The Twelfth Schedule to the 74th Amendment has been inserted into the Constitution to guide states in assigning various functional responsibilities to the Municipalities. The 12th Schedule consists of a list of 18 functions, some of which include urban planning, regulation of land use, planning for economic and social development, slum improvement, solid waste management, construction and maintenance of drains, roads, pavements etc. However, many of the functions have not been fully transferred to the urban local bodies and instead many para-statal which are not accountable to the local body perform these tasks.

For the integration of rural and urban planning, the amendment stipulates the setting up of District planning Committees (DPCs) in every district and Metropolitan Planning Committees (MPCs) for larger urban areas. In Karnataka, District Planning Committees have also been formally constituted, but it has not worked regularly. But more worrying is the fact that the Metropolitan Planning Committee has not been constituted for in Bangalore or any other city in Karnataka. The other bodies, which the Constitution mandates the State Governments to create, are the State Election Commission for regular and fair conduct of Municipal elections, Wards Committees to carry out various functions of the urban local body and State Finance Commissions to decide upon the sharing of Central and State funds with local bodies. The State Election Commission and the State Finance Commission have been successfully created in Karnataka. Though 30 wards committees were constituted for Bangalore they were functional only for a short period between April 1999 and November 2001 and later from July 2004 to November 2006.

6.2 Delay in holding Local Elections

Since the passing of the 74th Amendment and the confirmatory Acts, three rounds of elections to the Urban Local Bodies have been held in Karnataka. The first election was in 1996, the second in 2001, however the third round of elections got delayed until mid 2008 in all the municipalities except Bangalore. In case of Bangalore the elections to BBMP got further delayed on account of delimitation and reservation until March 2010. This is appalling considering the fact that one of the prime reasons for passing the 74th Amendment was to ensure regular conduct of elections. The Statement of Objects and Reasons to the amendment hence says "In many States, Local Bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersessions and inadequate devolution of powers and functions." Elections to the Municipal Bodies have to be held before the expiry of five years of the term of the previous council unless the council is dissolved in which case it has to be held within 6 months from the date of dissolution. In Karnataka, especially in Bangalore, these Constitutional requirements have been violated by the State Government.

The State Election Commission is vested with the task of "superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities." However under the Karnataka Municipal Corporation Act and Karnataka Municipalities Act, the determination of the area and the extent of each ward and other divisions are to be done by the State Government. Similarly the Government determines the wards that are to be reserved for SC, ST, OBCs and women. In many states like Gujarat, Kerala, Maharashtra and West Bengal, the SEC has been empowered with the task of both delimitation and reservation. But in Karnataka, if the Government wants to delay the holding of the local elections, it can do so by delaying the delimitation and reservation process for years. The state government by continuing to exercise power over Bangalore in the absence of an elected body, is only in a position to gain by delaying the elections. Handing over the task of delimitation and reservation to the independent SEC would mean that vested interests of the state government does not cause delay in the local elections.

6.3 State Government Initiatives

The formation of various policies of state government on urban governance like the Draft Urban Development Policy 2009 has not been transparent or participatory. The State Government has also failed in effectively disseminating information on the status of the Central Government's Jawaharlal Nehru National Urban Renewal Mission (JnNURM) projects. The nodal agency for reforms of JnNURM in the State is the Karnataka Urban Infrastructure Development and Finance Corporation (KUIDFC), which has no representation from the urban local bodies. Meanwhile, the government developed the Karnataka Municipal Reforms Programme (KMRP) funded by the World Bank and prepared by external consultants. The Urban Finance Framework and Design of KMRP is prepared by CRISIL while the State Urban Land Management Framework of KMRP is prepared by STEM consultants. The CRISIL proposed reforms include the privatisation of basic municipal services and increase in market borrowings so that dependence on funding from state is reduced.

There has also been the recent addition of Task Forces constituted by the State Government for running urban affairs. The ABIDe Task Force was set up in July 2008 by a Government Order under the chairpersonship of the Chief Minister with the objective to "revive and rebuild Bengaluru through a combination of comprehensive planning, improved municipal services and new investments into

infrastructure" The primary objective of ABIDe is to "make Bengaluru the preferred Metropolis of India which will serve as the gateway of investment and prosperity for Karnataka." A major issue is that ABIDe, though not a constitutional or statutory body, has been able to wield a lot of control over Bangalore. The members of ABIDe are nominated by the government and do not have any representation from mass-based organizations of the urban poor, dalits, workers and the like. It has also failed in engaging or participating with the people at large. ABIDe prepared a draft Bengaluru Region Governance Bill which seeks to give more powers to the Bangalore Metropolitan Region Development Authority rather than the elected urban local bodies.

6.4 Reforms in Urban Governance

There have been few official urban governance reform proposals coming from Urban Development Department, ABIDe Task Force and Kasturirangan Committee Report. One of the reforms projected is that of a directly elected mayor with a fixed term of 5 years arising out of the need for a politically accountable powerful leader. The mayor would be vested with executive powers and will appoint a committee for discharging his/her duties. The other major reform suggested is to have Neighbourhood Area Committees/ Area Sabhas at a polling booth level which would discharge many of the functions of the Corporation. The need for a ward committee in every ward has been raised whereby its members would be partly elected and partly nominated. The reforms also support the Chief Minister to be the Chairman of the Metropolitan Planning Committee.

A powerful mayor who can appoint a mayoral committee may undermine the powers of the councillors and if the mayor is not from the political party which is in majority in the council, the council might work in a haphazard manner. Alternatively, a mayor-in-council system, similar to the cabinet system with executive powers vested in the council might address issues effectively. Creating a third-tier in the form of Areas Sabha as per the JnNURM scheme does not make sense if the Constitutional requirement of the Ward Committee has not been created. The Ward Committee can be fully elected from the ward with each member representing a polling booth area. The formation of an MPC is essential but if the Chief Minister is the Chairman, the MPC might work in a centralized manner under the influence of the state government thus disturbing the three-tier federal structure of Indian polity.

7 Governance

“Good governance has eight major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.” –KHDR 2005

7.1 International recommendations

7.1.1 Human Development Report recommendations

The need for decentralization:

Decentralisation has come to be recognized as the cornerstone of good governance by the Human Development Report of UNDP (2003). It states that decentralisation of powers to local self-governing bodies is imperative as it ensures:

- ◆ Faster response to local needs
- ◆ More accountability and transparency and less corruption
- ◆ Improved delivery of basic services
- ◆ Better information flows
- ◆ More sustainable projects
- ◆ Stronger means for resolving conflicts
- ◆ Increased energy and motivation among local stakeholders
- ◆ Expanded opportunities for political representation

It further states that as a result of decentralisation, “state employees are held accountable not just to the most powerful segments of society but also to the poorest citizens” and that “successful decentralization involves three indispensable elements:

- effective state capacity
 - empowered, committed, competent local authorities
 - engaged, informed, organized citizens and civil societies”
- (Source: HDR 2003, UNDP)

7.2 National & Legal Framework

7.2.1 The 74th Constitutional Amendment (74th CA) or Nagarapalika Act

It was to decentralize and restore control to local communities over local decision-making and their own planning and development that the Central government passed the 74th Constitutional Amendment Act, better known as the Nagarapalika Act, in 1992. It was also to ensure proximity, transparency and accountability of the local government to its citizens and provide the citizen a platform to participate actively in local governance and development.

The Nagarapalika Act passed in December 1992, recognised urban local bodies as legitimate third tiers of government and gave them Constitutional validity and permanence. In order to ensure that **the weaker sections in society got a voice on these bodies so that the traditional power structures at grassroots level could**

be altered, the 74th CA , among other things, provided for reservations of seats and posts to SC/STs, in proportion to their population. 33.33 % representation to women, within the SC/ST quota as well as in general, was mandated which has helped a substantial number of women to participate in the political process and exercise power.

The powers and functions of municipalities as per the 74th CA

The 74th CA intended municipalities to function as “effective institutions of local **self-government**” rather than being mere extensions of the arms of the State government. To become this, the 74th CA envisaged that municipalities would go beyond the mere provision of civic amenities, their traditional role, and become governments in their own right, performing even development functions. Hence the main function of municipal bodies as entrusted to them in Article 243 is **“Planning for economic development and social justice”**. With this, it was hoped that municipalities would become agencies which would minder the “severe contestations” for resources taking place in cities and reconcile the “resultant disparities and inequities”.

However, when compared to the parallel 73rd CA for rural areas, the 74th CA has paid less attention towards the issues of proximity, degree of representation, transparency and accountability of urban local bodies, and avenues for people's participation.

7.2.2 The Twelfth Schedule

To bring about this paradigm shift in the role of urban local bodies, the 74th CA also laid down in the Twelfth Schedule annexed to the Constitution, the following suggested list of functions with respect to the urban poor for municipalities, in addition to their traditional functions.

1. Planning for economic and social development
2. Safeguarding the interests of weaker sections of society, including the handicapped and the mentally retarded.
3. Slum improvement and upgradation
4. Urban poverty alleviation

Ward committees

Noting that in very huge urban areas, even the municipality, or third tier, may still be too distant a body for the citizen, the Nagarapalika Act mandated the formation of a fourth tier of local area committees, called ward committees, to carry out most of the functions of the municipality in cities with a population of more than three lakhs.

7.3 Studies & Reports

7.3.1 CIVIC's study of the functioning of ward committees in Bangalore

CIVIC was part of a “Comparative Study of the Functioning of Ward Committees in Four States” led by Sri K.C. Sivaramakrishnan in association with the Institute of Social Sciences, New Delhi, in 2002. CIVIC studied the functioning of ward committees in Bangalore and came up with the following findings:

- **Non-fulfillment of assigned role:** The Twelfth Schedule does not include several functions that would have to be performed by municipalities if they are to fulfill their role of "Planning for economic development and social justice", such as those of the public distribution system, primary education, primary health, labour and employment.
- **Poverty alleviation a non-mandatory function:** The Karnataka Municipal Corporations (KMC) (Amendment) Act, to bring in conformity with the 74th CAA, included the new functions of 'Slum improvement and up-gradation', and 'Urban poverty alleviation', under the discretionary and not obligatory functions of municipalities.
- **Lack of devolution of functions:** The functions of 'Planning for economic and social development' and 'Safeguarding the interests of weaker sections of society...' listed in the Twelfth Schedule were not added to the list of functions of municipalities in Karnataka.
- **Lack of devolution of functionaries:** The KMC (Amendment) Act (1994) does not bring all the functionaries, till now performing these functions under the line departments of the State government or under parastatal bodies, or under the control of municipal bodies. Hence municipalities have not been able to perform all the functions assigned to them under the 12th Schedule in Karnataka.
- **Lack of planning body:** The Metropolitan Planning Committee for Bangalore mandated to be set up under the 74th CA for consolidating grassroots level plans has not been set up since 15 years in gross violation of the 74th CA.
- **Proximity of ward committees lacking:** The ward committee structure and functioning under the KMC (Amendment) Act is wholly different from that of the democratic institutions at the grassroots, such as grama panchayats, envisaged in the parallel Panchayat Raj Act. Karnataka has chosen to form ward committees for a combination of wards, rather than each ward, making proximity to the citizen a far cry. Whereas grama panchayats have one elected representative for as many as 500 to 1,000 citizens, the proximity of elected representatives to the citizens in urban areas is more than ten times distant, varying from 10,000 to 50,000. Whereas there is one grama panchayat for at least 10,000 citizens, ward committees often cover more than one lakh population. There is often no fixed ratio of elected representative: number of citizens in urban areas.
- **Undemocratic nominations:** Karnataka has chosen the route of nominations by the State government, which are hardly democratic, to fill the posts of ward committee members and has not opted for direct elections to these positions.
- **Unwillingness to part with power:** There has been indifference on the part of municipalities in Karnataka to make the ward committees function effectively. In Karnataka, for instance, ward committees have not been set up at all in places other than Bangalore. In Bangalore too, the Government had to be literally dragged to set up the Committees (upon pressure from CIVIC).
- **Dysfunctional ward committees:** Even when they were set up, many of these ward committees have not met for more than a year and some for two years. They are also sites for several internal squabbles. Also the necessary powers, procedures, funds, functionaries and facilities to perform their functions effectively have been denied to the ward committees. There was much internal squabbling within the ward committees.
- **Weak participation of civil society in ward committees:** The possibilities for citizen and civil society participation in these committees in order to enhance participatory democracy are also minimal. There are hardly any opportunities for citizens to participate in decision-making – in planning, implementing,

monitoring and auditing works in their wards - when compared to Kerala where the 'People's Plan' process has been institutionalised.

- **Lack of awareness:** Most citizens are unaware of the existence of the ward committees due to lack of publicity and media coverage of their functioning.
- **Lack of citizen - ward committee interaction:** There are no requirements in the laws to make the ward committees interact with the citizens regularly at a 'ward sabha' on the lines of the grama sabhas in rural areas, which can be considered as accountability platforms. Ward committees have been unable to assert their rights over local resources and assets, and have a consultative status when projects are planned in their areas by higher arms of the government.

For all these reasons decentralization has remained ineffective and failed to give good governance and "Power to the People" as envisaged by the 74th CA.

7.3.2 Kasturirangan Committee Report on governance of Bangalore

Some of its recommendations relevant to the issues of the urban poor are:

- The creation of the enlarged BBMP must be accompanied by effective and meaningful decentralization of decision-making and municipal service delivery.
- Ward Committees must be reconstituted in an effective manner. Each of these Committees should be constituted through elections and nominations, by a wide range of stakeholders including educational institutions and neighbourhood organizations.
- An "information infrastructure" unit should be set up which would use effective visual communication to illustrate various development initiatives undertaken.
- Setting up of a Citizens' Service Portal which would be responsive and interactive and effectively address the needs of the citizens.
- ULBs should become more responsive to people's basic needs and sensitive to public opinion.
- ULBs should facilitate voluntary disclosure of information relating to their policies and programmes.
- ULBs should establish a public interface to communicate relevant information and obtain feedback about their own performance. This should be promoted through institutional mechanisms rather than ad hoc arrangements which may be perceived as being non-representative or exclusive in nature.

Social Service Delivery

Specifically with regard to social service delivery, the Committee recommends:

- The MPC and the BBMP should reorient their organizational focus and policy to undertake comprehensive poverty alleviation programmes, with special emphasis on the plight of Scheduled Castes/Scheduled Tribes (SCs/STs) and other marginalized sections within the city.
- They should also streamline service delivery in the fields of education, health and housing.
- These institutions should develop an 'Urban Indicators Database' so that the deficits in service delivery may be bridged by effective targeted programmes.

- All primary, secondary and high schools presently administered by the State Government within the BBMP jurisdiction should be transferred to the BBMP.
- A participative model of administering schools so that parents and neighbourhood communities emerge as key stakeholders in the school system.
- To promote public health, the MPC and BBMP must commission a large public health survey to establish baseline indicators on its status in the BMR.
- The BBMP must focus on preventive and promotive health care rather than tertiary health care.
- BBMP must be given overall powers and responsibilities to provide adequate housing to the urban poor and upgrade slums as provided under the XII Schedule to the Constitution. Land Use planning and developmental permissions should be aligned to meet these objectives. To facilitate the same, the BBMP must be given the responsibility and the resources to carry out slum redevelopment activities. Any functions performed by the Karnataka Slum Clearance Board in the BMR must be under the overall direction of the BBMP and the MPC.

7.4 Recommendations

7.4.1 Effective implementation of the spirit of 74th Constitutional Amendment

- The basic purpose of the 74th CA, as expressed in Article 243, i.e., "Planning for economic development and social justice" has been a forgotten mandate. Urban development has come to mean only more and better roads, flyovers, elevated highways, etc.
- Human welfare through social justice, with the citizen at the centre, needs to become the goal of BBMP.

7.4.2 Making BBMP an agency for bringing about social justice and not merely for providing services

- There should be an enlargement of the list of functions devolved to BBMP to include issues that affect the basic needs of citizens such as PDS, labour and employment issues, housing, social security, primary health and primary education, etc.
- The concerned officials of these line departments should be made accountable to the BBMP/ward committee.

7.4.3 Decision-making by elected representatives & citizens

- Formation of a Metropolitan Planning Committee (MPC) for Bangalore as mandated by the 74th Constitutional Amendment
- Representation can be given on the MPC to civil society groups, including representatives of the urban poor, in addition to elected representatives.

7.4.4 Increasing decentralisation to enhance accountability

Setting up a three-tier structure in the municipal corporation (similar to Panchayat Raj Institutions) with:

- BBMP Council equivalent to Zilla Panchayat with elected Mayor with 5-year term

- Zonal committees in each of 8 Zones with one elected councilor per ward (25 wards?)
- One ward committee per ward at ward-level equivalent to the grama panchayat (50,000 population)

7.4.5 Making BBMP an institution of genuine local self-governance

- The principle of subsidiarity needs to be followed and “what can be done at the lowest level needs to be done at that level and not at a higher level”.
- MLAs and MPs should not have a say or role in the BBMP
- Activity mapping of functions between the State and BBMP, and BBMP and zonal and ward-levels needs to be undertaken as already done in Panchayat Raj Institutions

7.4.6 Increasing number of people’s representatives for proximity

- Direct election of ward committee members to BBMP from sub-units of the ward (Direct election recommended by NCRWC)
- Basis to be of one elected representative for a fixed population as in grama panchayats (from one or more contiguous polling booths)

7.4.7 Ward committees to be elected to make them democratic and representative

- Population basis of one elected ward committee member for every 5,000 population or less (from one or more contiguous polling booths) and
- One ward committee for every 50,000 people or less in the municipal corporation area (on the lines of grama panchayats).

7.4.8 Representation to the excluded

- One-third reservation of seats for women in the ward and zonal committees; reservation for SC/STs, BCs, etc.
- Representation to other stakeholders in the ward on the ward committee, such as women’s groups, youth groups, slum-dwellers’ associations, traders’ associations, trade unions, RWAs, NGOs, etc. as per prescribed criteria in democratic manner
- Individual groups to decide on their representatives to sit on ward committee; or a committee of distinguished persons to be set up to do the same.

7.4.9 Accountability of officials to elected representatives & citizens

- Para-statal bodies [such as BDA, BWSSB] to be answerable to BBMP or brought under MPC.
- Ward-level officials of all service providers, BBMP, BWSSB, BESCOM, KSCB, Police, Transport, etc. to be ex-officio members of ward committees. All service providers to have the same geographical jurisdiction.

- There should be no extra-constitutional bodies [such as BATF] which distort accountability structures and mechanisms.

7.4.10 Sub-committees for people's direct participation

Issue-specific sub-committees should be formed at ward level comprising ward committee members, concerned officials, CBOs and interested citizens on issues such as:

- PDS
- Labour, training and employment
- Solid waste management
- Roads and drains
- Health and education
- Social security, poverty alleviation.

7.4.11 Functioning of sub-committees

- The sub-committees can meet monthly and plan, implement and monitor the functioning of the respective departments.
- Sub-committees can give monthly reports at the ward committee meetings.

7.4.12 People's plans for enhanced people's participation

- Devolution of at least 40% of BBMP budget as untied grants to ward committees for preparing people's plans (on the lines of grama panchayats);
- Grassroots plans prepared by each ward committee to be consolidated at zonal level by zonal committees and BBMP at city level.

7.4.13 Ward and sub-ward sabhas for direct interaction with citizens

Quarterly or bi-annual ward/sub-ward sabhas (on the lines of grama sabhas) to be held in each councillor/ward committee member constituency to inform citizens about the functioning of the ward committee and its sub-committees, and get inputs from citizens for planning, budgeting, implementing, monitoring and auditing of works in the area.

7.4.14 Giving voice to the excluded

Measures to be taken to give voting rights in elections and the right to participate at the ward/sub-ward sabha to every citizen – even to those without a ration card, to residents of unrecognized slums, migrant workers, pavement dwellers, etc., who are at present excluded.

7.4.15 Making ward committees more effective

- Necessary infrastructure and personnel to be provided for the effective functioning of ward committees.
- Necessary funds and functionaries for performing their functions to be devolved to ward committees.
- The post of a CEO for every ward committee to be created on the lines of GP secretary.

- Mandatory holding of ward committee meetings every month on a pre-determined / specified day in a public place within the ward
- Date, time and venue of ward committee meetings to be announced by the media and the proceedings covered by them;
- Proceedings to be open to the public as observers as mandated by the 74th Amendment; ensure that the members of the public have an opportunity to speak on any item being considered
- Ward Committees to have control over use of local assets and resources and have a say in decisions about any development project in the area.

7.4.16 Ward office as point of information disclosure

- All items of information about the ward, minutes of ward committee meetings, details of ward budgets, accounts, programme of works, work orders, bills, vouchers, muster rolls, etc., to be either available for scrutiny at ward office or displayed on notice board
- They should have information boards on which important Section 4(1) (b) information under Right to Information (suo motu declaration) is displayed/painted.
- Detailed suo motu information should be available in pamphlet form or on touch-screen kiosks.
- Every ward office should be upgraded with computers which have all ward-level information

7.4.17 Grievance redressal at ward-level to overcome citizens' cynicism

- Complaint registration should also be computerised at ward-level, carry a unique complaint number and provide Action Taken Reports within time-frames.
- All complaints / grievances, emanating from all sources and levels (CM's office, BBMP head office, zonal office, etc.) should be reviewed at the monthly ward committee meeting
- Only those not resolved should be escalated to higher levels (Zonal DC and Commissioner's level).

7.4.18 Measures for fiscal transparency

The Karnataka Local Fund Authorities Fiscal Responsibility Act (KLFAFRA) mandates:

- 1) that there are at least two meetings every year at the time of budget preparation and finalization with such citizen forums as may be prescribed.
- 2) that provision shall be made for meetings at such intervals and with citizen forums as may be prescribed to review the operations and finances of the local fund authority.
- 3) In particular, local fund authority shall, at the time of presentation of the annual budget, disclose:
 - a) significant changes in the accounting standards, policies and practices affecting or likely to affect the computation of fiscal indicators;

- b) the contingent liabilities created by way of guarantees and the actual liabilities arising out of execution of works by external agencies where liability for repayment is on the local fund authority.
- c) These provisions have never been implemented and need to be built into the legislation on BBMP

7.4.19 Citizens' Charter

A Citizens' Charter needs to be developed for BBMP which will represent the commitment of the organization towards standards, quality and a time frame of service delivery, grievance redressal mechanism, transparency and accountability.

Support for recommendations from NCRWC: The recommendations of CIVIC on constituting one ward committee per ward and having direct elections of its members have found a place in the recommendations of the Expert Group on municipalities and panchayats set up under the National Commission to Review the Working of the Constitution.

8 State Human Rights Commission (SHRC)

8.1 Is the Government of Karnataka Committed to an effective (SHRC)? *

The month of December 2006 is a high point for human rights in Karnataka. The High Court of Karnataka, while passing an order on a case of custodial death,⁸ directed the State Government to set up a state human rights commission within six months. This marked the successful conclusion of a decade long campaign to force the State Government to act. SICHREM played an active role along with Peoples Union for Civil liberties (PUCL) and Citizens Forum for Democracy (CFD) by organising petitions, meetings and workshops and ultimately helping to file a Public Interest Litigation.

SICHREM and many other human rights defenders are of the view that the formation of the Commission has improved the situation for victims of human rights violations in Karnataka and the Commission has made a good start and is doing some good work. Whilst there are certain successes there are also serious concerns about the performance that is to be measured by standards embodied in the Paris Principles and the Protection of Human Rights Act 1993. (PHRA 1993)

8.2 Independence and Transparency - No role for Civil Society

The Paris Principles point out that a human rights institution should be established in such a way so as to ensure pluralism and independence among other requirements. The current appointment procedure to the Commission, as set out in the PHRA 1993, does not have adequate safeguards to ensure that these goals are met. The SHRC consists of a Chairperson and a Member. Must both be former members of the judiciary, and one member who has knowledge or practical experience of human rights.⁹ The office holders of the SHRC are appointed by the Governor on the recommendation from a committee, which includes the leaders of both the ruling and opposition parties in the State Legislature.¹⁰ This appointment procedure is completely opaque. No publicly available shortlist is drawn up and no opportunity is given for members of the civil society to participate in any way.

In Karnataka, the officeholders are currently Chairperson Justice S. R. Nayak, and members are R.H.Raddi and B.Parthasarathy.¹¹ Even if it is perceived as independent, it cannot be argued that the choice of three men fulfils the pluralism criteria. At a national level, the Chairpersons of the National Commissions for Minorities, Scheduled Castes, Scheduled Tribes and Women automatically become *ex officio* members of the NHRC.¹² If the Chairpersons of the state level commissions were members of the SHRCs, it would not only

⁸ *P Hanumanthappa S/O Late Dasappa v Home Secretary State of Karnataka* (WP 12606/2002) 5 December 2006, High Court of Karnataka.

⁹ s.21 (2) PHRA 1993.

¹⁰ S.22 PHRA 1993.

¹¹ See <http://nhrc.nic.in/> for the current commissioners.

¹² s.3 (3) PHRA 1993.

increase pluralism, but would also encourage co-ordination, prevent overlaps and allow other commissions to make use of SHRC's greater powers.

8.3 An independent cadre?

The Paris Principles require that a human rights institution should have its own staff. This is essential because without staff who are independent, both objectively and in the eyes of the public, a human rights institution cannot function effectively. The Commission is not free to hire staff with the requisite qualifications according to its needs. If the Commission were to have its own budget to recruit staff, it could simply hire any staff. But under the current system, the Commission has to spend time and effort lobbying the recalcitrant State Government.

8.4 A problem of resourcing

In contravention of the requirements set out in the Paris Principles, the Commission is wholly dependent on grants from the State Government and is therefore subject to its financial control. There is no obligation on the Government to provide a minimum amount of guaranteed funding and the amount granted is entirely at its discretion.¹³

The Commission currently has 76 sanctioned posts across its Administrative, Law and Investigation divisions.¹⁴ According to the Second Annual Report, it requires approximately an additional 105 posts including: additional staff members to assist the Chairperson and Members,¹⁵ 14 additional posts in the Law division, including an Additional Registrar,¹⁶ and 86 additional posts for the Investigation division, most of whom it is envisaged would be drawn from the police.¹⁷ The Commission's plea that it is in desperate need of staff members is illustrated by the problems it has been experiencing disposing of cases. The State Government urgently needs to provide more resources so that the victims of human rights violations in Karnataka can receive better access to the Commission's services.

8.5 A lack of transparency

The appointment process to the Commission is not the only aspect of its activity that lacks transparency. If the Commission is to be taken seriously as a defender of human rights and democracy, it must take its duty to be accountable to the public seriously and must openly release information so that its performance can be evaluated. The failure on the part of the Commission to make proper information readily available to the public, either in its annual reports or elsewhere, about compliance with its recommendations and about the issues to which complaints relate also makes it difficult to make the State Government and other authorities accountable.¹⁸ Despite being located in the technology capital

¹³S.33 PHRA 1993.

¹⁴ Ibid. pp.11-12; There are 15 vacant posts at the Commission. It has not been possible to ask why these posts are vacant, but it may be the case that these are posts created by the government that the Commission does not actually need.

¹⁵ Ibid. p.13.

¹⁶ Ibid. pp. 21-22.

¹⁷ First Annual Report p.31. The request for these additional posts was sent to the Secretary to the Government, Law, Justice and Human Rights Department on 4 January 2008. The wisdom of requesting an investigation team staffed by police deputies will be discussed below.

¹⁸ It is important to have public data about the issues to which complaints relate because it gives an overview of which authorities are committing the human rights violations reported.

of India, the Commission has not made the minimal outlay necessary to make a basic website. A website, with information about the complaints procedure, complaints statistics, statistics relating to the State Government's compliance with recommendations and with access to the Commission's annual reports, would greatly help to improve accountability. Even though the Commission has annual reports, it does not make them readily available to human rights defenders. Obtaining a copy of the report requires a specific request, whereas accountability would be improved if the Commission were to be proactive and send out its annual reports directly to interested NGOs and civil society groups. The annual reports fail to provide break-ups of how the grant is spent. The omission of this information deprives the public of the right to scrutinise how effectively the money they pay in taxes is being used.¹⁹ The Commission is also legally obliged to 'publish' all inquiry reports, together with comments and details from the State Government describing what actions have been taken or are proposed.²⁰

8.6 Dealing with Complaints -The growing backlog

Complainants are being forced to wait too long to have their cases dealt with and disposed of. This delay undermines public confidence in the abilities of the Commission. During July 2007 and March 2008, the Commission received 1872 complaints and this figure increased to 5579 in the period between April 2008 and March 2009²¹. However, the Commission has failed to keep up with the pace. At the end of March 2009, there were 3907 cases pending as compared to 905 in March 2008.²²

In its first Annual Report, the commission states, as to what may be causing the delay stating that cases are pending due to the want of investigations and comments on inquiry reports.²³ As such, the police and other bodies entrusted with the task of producing inquiry reports need to comply with time limits set while victims, NGOs and relevant parties also need to ensure that comments on such reports are provided in time. If no action is taken, and the number of complaints continues to increase, the backlog of cases will increase and the public will lose confidence in the Commission's ability to deal with their complaints.

8.7 Investigatory capabilities

The Commission has a duty to inquire into reports of human rights violations both on the basis of complaints by victims and NGOs, and on a *suo moto* basis.²⁴ There is also a general view that the Commission gives the right directions to investigate (or otherwise) in the initial stages of a complaint. The Commission is also taking action to investigate complaints *suo moto* on the basis of press reports. Out of the 5,579 cases registered during 2008-2009, 1,264 *suo moto* cases

¹⁹ The Commission notes the amount of the grant from the State Government on pp.14-15 of the First Annual Report and p19. of the Second Annual Report.

²⁰ s.18 (f) PHRA 1993.

²¹ First Annual Report p.27 and Second Annual Report p.44.

²² Second Annual Report p.44.

²³ First Annual Report p.28.

²⁴ s.12 (a) PHRA 1993.

have been taken up.²⁵ This is a significant improvement from the 92 cases that were taken up *suo moto* in 2007-2008.²⁶

8.8 An independent investigation?

Although the Commission generally gives the right directions to investigate an alleged violation, the actual job of investigation often ends up in the hands of the wrong people. With an Investigation division which consists of only 25 people,²⁷ the Commission does not have the capacity to investigate most complaints using its own staff. It is common practice that when complaints against the police need to be investigated, such complaints are referred to the same jurisdiction police officers against whom complaints are made, by the authority directed to investigate by the Commission.²⁸ This practice severely compromises the independence of the resulting reports and the integrity of the complaints process as a whole. The case of Sub-Inspector Vikas Lamani is just one example of a complaint that SICHREM has worked on, where the police report, which was produced pursuant to the Commission's direction, was partisan and unreliable. SICHREM made a complaint to the Commission on the basis of reports in *The Deccan Herald* and *The Hindu* that on 19 January 2009, Belgaum Superintendent of Police, Sonia Narang, had physically assaulted Sub-Inspector Lamani.²⁹ The Inspector General of Police for Belgaum Northern Range was requested to carry out an investigation into the matter. A report, dated 5 May 2009, was duly produced in which 22 people, most of whom were police, were interviewed. On closer inspection, the investigating officer had failed to interview any of the 12 or 13 members of the public that Sub-Inspector Lamani claimed in his statement had witnessed the assault. This problem of alleged perpetrators of human rights violations being appointed to investigate their own potential violations is not confined to the Commission. Both a recent report from ANNI³⁰ and a report from Human Rights Watch³¹ make the point that this is also an issue with the NHRC.

8.9 The Bangalore bias

During the period from July 2007 – March 2009, 35.2 % of complaints received came from Bangalore Urban district despite the fact that this district only accounts for 12.4% of Karnataka's population.³² During 2007-2008 and 2008-2009 reporting periods, 22 of Karnataka's 26 remaining districts (for which there are population figures) were underrepresented in terms of the complaints dealt with

²⁵ Second Annual Report pp.46-47.

²⁶ First Annual Report pp.28-29.

²⁷ Second Annual Report p.48.

²⁸ Ibid. p.49.

²⁹ HRC No. 560/09.

³⁰ *2008 Report on the Performance and Establishment of National Human Rights Institutions in Asia*, p.61.

³¹ *"Broken System: Dysfunction, Abuse and Impunity in the Indian Police"*, Human Rights Watch, August 2009, p.104.

³² The figures quoted are produced using the breakdown of complaints by district which appears on pp.26-27 of the First Annual Report and on p.43 of the Second Annual Report and the population figures for Karnataka from the 2001 Indian Census.

by the Commission.³³ It is unlikely that this discrepancy is due to a lower prevalence of human rights violations in those districts. On the contrary, various studies show that human rights violations in relation to domestic violence³⁴ and caste atrocities³⁵ are frequently more common in rural areas. The Commission has no machinery in place to investigate complaints that originate in districts outside Bangalore city.³⁶

8.10 A toothless tiger

Based upon the evaluation of a complaint, the Commission can issue an 'order' in which it makes recommendations to the State Government, but the Commission has no power to enforce such recommendations. The Commission frequently makes recommendations to the State Government ranging from recommendations that compensation should be paid to victims and also that individuals should be prosecuted.³⁷ On the receipt of an inquiry report and the accompanying recommendations, the State Government is under an obligation to forward its comments to the Commission along with details of actions that have been taken or are proposed to be taken as a result of such recommendations.³⁸ Furthermore, when placing the annual report of the Commission before the Legislature, the State Government also has a duty to file an 'Action Taken' report setting out its reasons in the event that recommendations of the Commission are not complied with.³⁹ The Commission also has certain other powers under the PHRA 1993 to try and secure compliance with its orders.⁴⁰

In SICHREM'S experience, there is significant evidence to suggest that the Commission's orders are often not complied with. For example, an order dated 18 July 2009,⁴¹ the Commission instructed the State Government to pay interim compensation of Rs 500,000 to the parents of Manjunath who died while in the custody of R.T. Nagar Police. The State Government was also directed to instruct

³³ Ibid.

³⁴ International Institute for Population Sciences (IIPS) and Macro International, 2007, National Family Health Survey (NFHS-3), 2005–06: India: Volume I. Mumbai: IIPS. p.498; 36.1% of rural women aged 15-49 reported that they had experienced physical violence since the age of 15 compared to 28.3% of urban women.

³⁵ *Hidden Apartheid: Caste Discrimination against India's "Untouchables"*, Shadow Report to the UN Committee on the Elimination of Racial Discrimination, Human Rights Watch, February 2007, and p.16.

³⁶ Second Annual Report p.66.

³⁷ Second Annual Report p.45. In 2008-9 the Commission made disposed of 576 by orders.

³⁸ s.18(e) PHRA 1993.

³⁹ s.28 (2) PHRA 1993.

⁴⁰ For example, under s18(b) PHRA 1993 the Commission can approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary. Due to the Commission's failure to cooperate, it is unclear whether this power is being used. However, as far as Sichrem is aware it has not.

⁴¹ HRC No 3679.

the Central Bureau of Investigation to investigate. The deadline for carrying out these actions was one month, but as at the date of this report, neither has the compensation been given nor any investigation started. It is presumed that this failure of the State Government has prompted the Commission to seek prosecution powers.⁴²

8.11 Human Rights Education

The value of human rights education is recognised among human rights organisations working at both the state and national levels. However, it is surprising as to how little effort the Commission has made to discharge its duties to promote human rights awareness amongst different sections of society and safeguards available for protection of human rights.⁴³ The Commission has not issued any publications or run any training sessions to inform people of their rights. The only activity is the issuance of a publication to the police⁴⁴ and the holding of a number of regional workshops, of which all but two appear to have been aimed at the police.⁴⁵

8.12 Encouraging the efforts of NGOs?

The PHRA 1993 obliges the Commission to encourage the efforts of NGOs and institutions working in the field of human rights.⁴⁶ The Commission is not adequately discharging this duty and, by doing so, is failing to draw upon a vital resource. Civil society groups could offer the Commission the required monitoring especially in remote areas. Furthermore, civil society collaborations could also provide the Commission with other means to cross check facts and circumstances instead of simply relying on police or district administrations.⁴⁷

8.13 Relationship with the State Government

In its Second Annual Report, the Commission describes the State Government's response to its recommendations as "*quite encouraging*".⁴⁸ In contrast, SICHREM sees the State Government's attitude as being characterised by neglect and, at times, outright hostility.

Even though 16 years had passed since the introduction of the PHRA 1993 and the existence of 16 other SHRCS, the Karnataka State Government set up the Commission only after it was forced by the High Court of Karnataka.⁴⁹ The Commission had to function from temporary premises when it was first formed and, its current premises are still inadequate. The State Government has

⁴² Ibid.

⁴³ s.12(h) PHRA 1993.

⁴⁴ Second Annual Report p. 76.

⁴⁵ Ibid. p.67 and First Annual Report p.39. During the period July 2007- March 2009, eight regional workshops were organised of which six were for police officers.

⁴⁶ s.12 (i) PHRA 1993.

⁴⁷ *Human Rights Commissions: A Citizen's Handbook*, 2006, p.41.

⁴⁸ Second Annual Report p.1.

⁴⁹ *P Hanumanthappa S/O Late Dasappa v Home Secretary State of Karnataka* (WP 12606/2002) 5 December 2006, High Court of Karnataka.

allocated insufficient staff to the Commission and does not even exercise the courtesy to consult the Commission before deputising certain staff.⁵⁰ Requests for further staff and accommodation seem to have generally been ignored⁵¹ and there are frequent instances when the State Government ignores the Commission's recommendations.⁵² The Commission does not even know whether its First Annual Report has been discussed by the State Legislature and whether an 'Action Taken' report has been filed explaining why certain recommendations of the Commission have not been complied with.⁵³

On a number of occasions, members of the State Government have publicly criticised the Commission for fulfilling its role. In one recent instance, V Dhananjay Kumar, representative of the Karnataka government in New Delhi and senior BJP leader, launched a scathing attack on the Chairperson due to his criticism of the government's handling of the flood situation in Karnataka.⁵⁴ Chairperson Nayak had labelled the government's handling as "*inefficient*" and also said that if precautionary measures had been taken, the death toll would have been lower.⁵⁵ He announced his intention to launch a *suo moto* case against the State Government to investigate what had gone wrong.⁵⁶ In response to the Chairperson Nayak's comments, V Dhananjay Kumar asked "*Who is Justice SR Nayak to question the government? Who gave him the right to defame the government?*"⁵⁷ He went on to threaten the Chairperson personally, saying that "*It would be better if he restricts himself to his limits, or we will disclose his background to the public.*"⁵⁸ It is astounding that such a senior member of the State Government misunderstands the functions and role of the Commission so much that he feels justified in questioning its Chairperson's right to question the actions of the State Government.

The State Government is not the only authority that feels justified in publicly criticising the work of the Commission. On 27th January 2009, the Commission raided Byatarayanapura police station in West Bangalore on the basis of a report that a number of people, including juveniles, were being illegally detained and that some had been physically assaulted. On 28th January 2009, DNA, a Bangalore daily newspaper, reported that Shankar M Bidari, the City Police Commissioner, felt it was unreasonable for the SHRC to raid police stations and

⁵⁰ Second Annual Report pp.4-9.

⁵¹ For example, the Commission's request for more investigative staff on p.31 of the First Annual Report.

⁵² See section entitled "A toothless tiger" above.

⁵³ Second Annual Report p.1.

⁵⁴ *Dhananjay Kumar warns justice Nayak*, DNA, 6 Oct. 2009, http://www.dnaindia.com/bangalore/report_dhananjay-kumar-warns-justice-nayak_1295541.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

make statements that people are being detained illegally.⁵⁹ He then went on to argue that *"People have to be interrogated and police will keep them in the police station. How else can we detect crime?"* In response to this article, SICHREM filed a complaint about Mr. Bidari with the Commission and Mr. Bidari was then duly ordered to produce a report giving his side of the incident.⁶⁰ In his unpublished report, Mr. Bidari denied that he had made this statement and accused SICHREM of having made the complaint with 'mala fide intention'.

8.14 Conclusion

The Commission has made significant progress and its work has improved the situation for victims of human rights violations in Karnataka. The Commission does have failings that are solely its own, many of the factors which inhibit its performance are due to the constraints imposed upon it by the PHRA 1993 and the State Government. Much of the good work that has been done has depended upon the talent, independence and integrity of the commissioners and, in particular, upon the Chairperson. The Commission's ability to function effectively is connected to the support it receives from the State Government. SICHREM calls upon the National Government to make the necessary amendments to the PHRA 1993 to strengthen the NHRC and the SHRCs and provide safeguards which limit the administration's ability to interfere with their affairs.

8.15 Recommendations to the Commission

- Provide adequate human rights education and training to Commission staff.
- Develop a website which includes the Commission's contacts, details of how to make a complaint, the Commission's annual reports, complaints statistics and human rights publications and materials. The site should also be used to 'publish' inquiry reports with comments from the Government, details of actions taken, as a result of the Commission's recommendations as required by the PHRA 1993.
- Compile list of NGOs, civil society group and individuals and use it to pass on information.
- Improve future annual reports by adding statistics about compliance of commission's orders, issues to which complaints relate and of how funds are spent.
- Analyse inquiry reports, particularly those produced by the police more critically. Make full use of the powers under s.17 PHRA 1993 to independently investigate.
- Ensure that a proportion of the Investigation Division staff have a non-police background and create a pool of independent investigators to be used on a case-by-case basis to carry out independent investigations.
- Make full use of the media and statutory powers, such as the power under s.18 (b) PHRA 1993 to get directions, orders/writs from the High Court, to urge the State Government/relevant authority to comply with Commission recommendations.
- Hold sittings to hear complaints outside of the Bangalore Urban district.

⁵⁹ *SHRC raid unreasonable: Bidari*, DNA, 28 Jan. 2009.

⁶⁰ HRC 476/09.

- Fulfil the legal requirement under the PHRA 1993 to prevent human rights violations by educating different sections of the society and fostering awareness.
- Set up a Core Group of NGOs and civil society groups to encourage coordination and seek input on the Commission's activities. Draw upon expertise of NGOs to carry out investigations into human rights violations and carry out educational activities.
- Lobby the State Government, the Centre Government and NHRC to follow the recommendations set out below.

8.16 Recommendations to the State Government

- Make appointments to the Commission open and transparent. Ensure that the civil society and the Chairperson and Members are consulted. Select Commissioners with a view to meeting the pluralism criterion set out in the Paris Principles.
- Give the Commission a budget to hire its own staff or ensure that willing staff are permanently transferred rather than deputed. Ensure that the Commission is consulted before staff are transferred / deputed.
- Give the Commission complete discretion to recruit, manage its staff and deputees.
- Provide the Commission with adequate funding and additional accommodation and work towards providing a building that is geographically separate from other government buildings to carry out all its functions effectively.
- Provide the Commission with funding and infrastructure to set up branches outside of Bangalore.
- Support the Commission to form a pool of investigators.
- Comply with the Commission's recommendations within the time limit and ensure that other public authorities do so. Ensure that comments on inquiry reports and details of actions taken or proposed are provided to the Commission within the time limits as specified.
- Make sure that the State Legislature reviews and discusses the Commission's annual report and scrutinises its work. Comply with the legal obligation to produce 'Action Taken' Reports and place it in front of the State Legislature.
- Ensure that members of the State Government refrain from attacking the Commission for carrying out its functions.

8.17 Recommendations to the NHRC

- Work to coordinate with the SHRCs to ensure that the work that is done is complementary. Ensure that the SHRC is given the opportunity to attend training and capacity building programmes.
- Lobby the Central Government to implement the changes set out below.

8.18 Recommendations to the National Government

- Amend the PHRA 1993 to make the appointment procedures to the NHRC and the SHRCs compliant with the Paris Principles. In particular, the appointment procedures should be brought into the open and members of civil society should be able to nominate candidates.

- Amend the PHRA 1993 so that the Chairpersons of other state commissions concerned with human rights are automatically *ex officio* members of the SHRCs.
- Amend the PHRA 1993 to include the requirement that the NHRC and the SHRCs should be provided with adequate funding to carry out their functions.
- Amend the PHRA 1993 to specify that the various state governments are obliged to provide funding to hire staff, rather than provide government deputies.
- Amend the PHRA 1993 to make recommendations from the NHRC and SHRCs binding on the National and State Governments and to impose penalties upon officials responsible for delay or obstruction. Include an appeals mechanism in the PHRA 1993 so that the National and State Governments can appeal against recommendations.
- Amend the PHRA 1993 so that compensation is paid directly to victims by the NHRC and the SHRCs.

*** Excerpts from SICHREM's Report on the Progress of the Karnataka State Human Rights Commission –Edited Version By R. Manohar, Head of Programs, South India Cell for Human Rights Education and Monitoring(SICHREM)**

9 Police Reforms

9.1 Non compliance of Karnataka to the Supreme Court Directives*

9.1.1 Introduction

The HRW report "Broken System: Dysfunction, abuse and Impunity in the Indian Police" is a document that points out to the unholy police system in our country whose demonic practices have led to the christening of our jails as "Torture Chambers"

In their elaborate study on the police system covering more than 80 police officers of varying ranks, 60 victims of police abuses have opened an already silent truth about the system.

Abysmal conditions of policemen also contribute to violations: living conditions, long working hours, separation from families, lack of latest investigation techniques, interferences of Superior Officers in the investigation process, etc has worsened the situation. The highlight of Police abuses in India is that the traditionally marginalised group: poor, women, dalits and sexual minorities are more vulnerable to police abuses. And to further deepen the wound, are archaic and colonial police laws that enable the state and local politicians to interfere routinely in police operations, directing police officers to drop investigations, etc.

In 2006, a National Police Commission was set up and the commission has come out with volumes of reports on police reforms and nothing much has happened on the implementation of the report. Though a landmark Supreme Court judgement mandated reform of police laws, it is a sad state of affairs that most state governments and the central Government have either significantly or completely failed to implement the courts order suggesting that the officials are yet to accept the urgency of a comprehensive police reform.

In Karnataka the situation is dismal, except that there is a draft amended Bill of the Karnataka Police Act, again not complying with many directives of the Supreme Court. Of course Karnataka has setup the State Security Commission which has also been heavily tinkered against; the other orders of the National apex court have been severely flouted!

9.1.2 The Supreme Court directives

The seven directives provide practical mechanisms to kick-start reform. They include recommendations from many of the commissions and committees on police reform that have sat in India over the last 25 years. In a nutshell, governments are directed to:

1. Constitute a State Security Commission to (i) ensure that the state government does not exercise unwarranted influence or pressure on the police, (ii) lay down broad policy guidelines, and (iii) evaluate the performance of the state police;
2. Ensure that the Director General of Police is appointed through a merit based, transparent process and enjoys a minimum tenure of two years;

3. Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) also have a minimum tenure of two years;
4. Set up a Police Establishment Board, which will decide all transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers of officers above the rank of Deputy Superintendent of Police;
5. Set up a National Security Commission at the Union level to prepare a panel for selection and placement of Chiefs of the Central Police Organisations (CPO), who should also be given a minimum tenure of two years;
6. Set up independent Police Complaints Authorities at the state and district levels to look into public complaints against police officers in cases of serious misconduct, including custodial death, grievous hurt or rape in police custody; and
7. Separate the investigation and law and order functions of the police.

The Supreme Court directives have also highlighted significantly the presence and participation of Civil Society Representatives in many of the above mechanisms recommended.

9.1.3 The States Response

Karnataka has joined the wagon of many states which have made statements that they support the spirit of reform behind the Court's directives but the relevance of these statements are questionable with many of the states including Karnataka rejecting many of the Supreme Court directives.

9.1.4 Karnataka's Compliance to the seven Supreme Court directives:

Almost two years after the 2006 Supreme Court judgement, a monitoring committee appointed by the Supreme Court headed by the Retired justice K T Thomas met in Bangalore to discuss and examine the compliance of three states with the orders. One of the states was Karnataka.

Its analysis of Karnataka's affidavits, executive orders and draft bill, have indicated that the state at present is non compliant with most of the courts directives.

Though Karnataka's present level of compliance with the courts directives are far from satisfactory, what is equally worrisome is the failure of the Karnataka Draft Police Bill to take sufficient steps to bring the state in line with the directives. This draft bill subverts several of the courts direction, particularly with regard to the Police Complaints Authority, State Security Commission and police establishment

board. There is complete uncertainty on if and when the bill will be introduced in the legislature.

9.1.5 Non Compliant Directives

Directive 1

State Security Commission (SSC)

The Apex court directed the state governments to set up SSC to ensure that the government does not exercise unwarranted influence and pressure on the state police. The SSC established by the Karnataka Government does not bear any similarity to the NHRC, Ribeiro Committee or Sorabjee committee models that the supreme court has proposed, and as such, lacks a balanced composition. Five of the seven members of the commission are either members of the state executive, bureaucracy or the police (DGP). With such a composition, it is hard to see the commission function as a buffer body designed to shield the police from unwarranted political interference and pressure by the state government.

Directive 2

A) Selection and Tenure of DGP process

In its December 2006 affidavit, Karnataka objected to giving the UPSC a role in the empanelment of the DGP. It is stated that Karnataka followed a procedure where a high power committee consisting of the Home Minister and Chief Secretary would empanel a list of candidates for the DGP post from which the chief minister would make the final selection. This was reiterated in April 2007 affidavit. To ensure a modern, efficient and service minded police organisation, it is crucial that the head of the organisation is selected based on merit and experience. Karnataka has not passed any orders, notifications or subordinate legislation to ensure that empanelment of candidates for this post will be carried out by an independent body.

B) Tenure

In its December 2006 affidavit, Karnataka argued that "while the state government is conscious of the need for a reasonable tenure for the Director General of police, continuing him beyond the date of superannuation is a decision that will have major ramifications, and hence this aspect will need deeper consideration." The April 2007 affidavit is silent on the issue of the tenure.

C) Removal

Both the affidavits filed by the Karnataka Government are silent on the removal process for the DGP.

Directive 3

Tenure of Police Officers on operational Duties

Although Karnataka has provided officers on operational duties with a minimum tenure of two years, it has failed to specify the grounds for premature removal of

these officers prior to completion of tenure. In this regard, Karnataka is in partial compliance with directive 3.

Directive 4

Separation between Investigation and Law & Order

In its December 2006 affidavit, Karnataka states that it has already separated the investigating police from the law and order police in all the Commissionerates within the state, irrespective of the population. Further, Karnataka declared that separation was also occurring in some of the smaller towns and that it has placed an Additional Superintendent of Police exclusively in charge of crime investigation at the district level.

Directive 5

Police Establishment Board

Karnataka argued in its December 2006 affidavit that the current procedure followed for transfers, postings, promotions and services related matters in the state, governed by the Karnataka Civil Services Rules and Karnataka Police Act, 1963 were transparent and Fair. The implication of this is that there is no need for a PEB to be set up as Karnataka was already in compliance of Directive 5 in spirit. Karnataka however does not substantiate this assertion with concrete evidence, such as assertions from the relevant act or civil services rules, that indicates that existing processes fully replicate the role of the PEB envisaged by the Supreme Court.

Directive 6

Police Complaints Authority

In both the December 2006 and April 2007 affidavits, Karnataka argued that there were already several institutions at both the state and district level that were looking into grievances against police personnel such as Lok Ayukta, SC\ST commission, Backward Classes Commission, Women's Commission and Minorities Commission, as well as the Police's own internal disciplinary mechanisms. This argument is without merit. Contrary to existing complaints mechanisms, the PCA will also be a specialised body dealing with only police abuses while the other complaints mechanisms have a much wider mandate.

9.2 Conclusion:

Critical analyses of the above points suggest the compliance of Karnataka state to the Supreme Court directives is abysmal. The reasons given by the state government are further infused with a lack of will to bring change in the archaic police system. Each directive of the Supreme Court has been taken with a spirit of lethargy and negativity. It highlights not only the Lack of Respect to the Supreme Court directives but also the authoritarian attitude of the Government. For example, In the case of State Security Commission the non compliance projects that though SSC established by the Karnataka Government satisfies directive 1 in terms of mandate and powers, however it's flawed and lopsided composition ensures that the institution will not be able to serve the purposes envisaged by the Supreme Court.

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Program Coordinator,
District Human Rights Centre's
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Reference:

Common Wealth Human Rights Initiative- Karnataka actual compliance with Supreme Court directives on Police Reforms

10 COMMUNAL HARMONY IN KARNATAKA

The challenge to building a communally harmonious society is neither an option nor a luxury. It is a question of survival. For any diverse and democratic country intending on sustained economic growth and equity, communal harmony becomes a sine qua non for its existence. The dream is clear: acceptance of diversity, in faith, beliefs, languages, cultures, etc, a peaceful co-existence with every thought, even apparently unfriendly and ultimately subscribing to the constitutional goals of a truly secular, democratic, sovereign, socialistic, republic, ensuring justice, liberty, equality and fraternity.

The state of Karnataka has acquired certain notoriety, especially among the minorities and civil society groups with regard to its communal conflicts in the recent past. This paper looks at the communal situation in Karnataka, briefly and explores challenges to the civil society in building a harmonious Karnataka.

10.1 Communal Context of Karnataka

'On the brink of a communal disaster', one observed the situation of the state. With the growth of hatred-based cultural and moral policing with indirect and at times direct support of the BJP government, the secular image of Karnataka is torn to pieces by the Sangh Parivar merchants of hatred (Newman, 2009). In Dakshina Kannada, 23 cases of cultural policing were reported in the English press and 45 cases in Kannada press (PUCL, 2009). The Karnataka State Human Rights Commission (2009) had reported, "It seems, nothing prevents the self-appointed 'moral police' of Dakshina Kannada district to indulge in high handed, unconstitutional illegal acts with impunity and without any social fear. The Commission do not find any improvement in the law and order situation that obtained in the district on the aftermath of the attacks on the places of worship. The Commission is tired of telling the Government repeatedly to take effective and prompt action to contain these highhanded and illegal acts of the self-appointed moral police".

The PUCL, while discussing the need and purpose of their 2009 report observed, 'It is the everyday acts of living in a multi-religious society which are currently being rigorously policed and ordered by vigilante Hindu groups. The aim of the cultural policing is to produce a form of social apartheid where the various communities become self-enclosed structures with inter-community social interaction being actively discouraged. This makes a mockery of the Indian Constitutional order as well as Indian traditions of tolerance and pluralism. Hence the developments call for urgent national attention' (ibid, p.2).

10.2 The Role of the BJP Government

The role of the BJP Government in this clearly anti-Constitutional, un-democratic and un-wholesome growth seems to be again very direct and clear. The orchestrated attacks on churches by Bajrang Dal activists and the refusal of the Karnataka Government to take any stern action are self-explanatory. The rise of the Sri Rama Sene and other outfits such as Hindu Jagram Vedika, Hindu Janna

Jagriti Samithi and Sanathan Sanstha points to the emergence of radical project of the Sangh Parivar to move towards the stage of an armed offensive to realize its fascist objectives (ibid, P.5)

The latest budget of the BJP Government continues the practice of sanctioning grants to Mutts. May be to counteract any not clear is, how a secular and democratic government rationalizes its largesse to clearly sectarian and communal interests. Critics of the move have said that, 'providing money for Mutt means cheating public of their own money' and it is interesting that even opposition leaders are not opposing the move (Deccan Herald, March 8, 2010).

Justice Saldhana's open letter to the Home Minister pointed out that there have been 1000 attacks on Christian churches since September 2008. Interestingly a report in the Indian Express (April 1, 2010) pointed out that nobody knows who is keeping track of communal incidents in the state. The Union Home Ministry had said that between 2004-2008, there were 341 cases of communal incidents in Karnataka; 108 cases, most of them related to church attacks, were reported in 2008 alone. The Lokayukta and former Police Commissioner were surprised that multiple agencies in Karnataka including the legislative assembly, the home department and the office of the Director General and Inspector General police claim that 'keeping count of communal events does not come under their purview?' Who then keeps the count?

Justice Saldhana flayed the statement by the Home Minister that the State Government cannot provide any security to the churches and other religious places. He thought it was an open and official acceptance of the fact that the Karnataka Government is unable to uphold and refuses to protect the rights of the minorities in Karnataka. Justice Saldhana's earlier report on the church attacks had accused the BJP Government of colluding with and instigating the attacks on churches. He alleged that the Home Department has directed that every police station must register at least 50 cases per month of alleged conversion. Invariably it is the poor, helpless people who have been targeted. Justice Saldhana refers to 1868 false cases. To add insult to injury, the subordinate judiciary has been endorsing this action by the police by denying bail whenever there are objection, where as the real culprit is the Home Department making false arrests (Justice Saldhana, quoted in <http://ius.mg2.mail.yahoo.com/dc/launch?.Gx=12.rand=dsr9ng> 985 kaun. Accessed on 29.3.2010).

10.3 The Dynamics behind the Communal Agenda

The most obvious and immediate reason for the communal conflict seems to be the concerted and persistent efforts of the communal forces to create a divide among the various communities for a political purpose. The communal forces seem to be on the look out for even the slightest provocation to break out into the violence. A case in point is the unruly and violent response to a Kannada translation of the Bangladeshi author Taslima Nasrin's article on purdah. There was widespread rioting in the smaller town and but for the timely intervention of the police even Bangalore would have had trouble. 'It is interesting to note that 'the protests are a sign that the Muslim leadership in the State had failed to control the more extremist members of the community at a time when a sober

response discussing the quality of the article was required' (V.A. Sayed in Frontline, March 26, 2010). The agenda of the Majoritarian Communal forces add to the woes. 'Undoubtedly the political and the cultural strategies undertaken by the Sangh Parivar for several decades is the reason for the state's increasing fascist nature' (The Karnataka Communal Harmony Form, 2006).

At a deeper level, the roots of the continued communal conflicts lie in the socio-economic and political upsurges. The process of globalisation and economic liberalisation that started in the nineties furthered the economic crisis and the social inequalities increased the crisis and the helplessness of the oppressed section of society. The Sangh Parivar manipulated this crisis, by ascribing the sole reason as the rise of minorities. They created false fears and enemies, successfully replacing the real problem of the oppressed!

The minorities and even the sober elements of the civil society seem to be gripped by fear and apathy. PUCL reported that none of the victims of cultural policing were willing to come forward and give testimony. Even a CPM MLA from Kerala, whose daughter was assaulted, refused even to return the call of PUCL. Intimidation continues and victims are afraid.

10.4 Towards a response

The scene does not look promising at all. On the one hand aggressive and cunning communal and fascist forces do consistent work. On the other, the larger group, are fearful and hesitate to get involved. What is the role of civil society groups in this scenario? An aggressive and prolonged effort to make people aware of the situation, awake them from their slumber and help them to get involved is a must. Groups of all kinds, individuals of various backgrounds and movements of people should get involved in an educational process which will re-assert the prime goals of the Constitution.

One needs to remember that communalism in India has radically changed from its pre-1947 forms. Prior to Independence it was essentially a mechanism of political mobilization. Since 1947 it is not only a mechanism for political mobilization but has also come to pervade all aspects of life. (Thaper, 1990 quoted in D'souza and Choudhary, 1994). Therefore what one needs is an alternative leading to the evolution of a social network that enables strong communitarian identities within their separate interest and socio-religious and cultural characteristics, with a changing social structure without needing to resort to violence against each other. (ibid. p.70)

Perhaps, most important in our efforts, and probably the most difficult is an effort to build the inner resources of the warring communities, the identification of the divisions that occur within the community and those which come from outside. Collective action alone can wipe away the feelings of helplessness and re-establish the people's self image, self-respect and identity. (ibid. p.77)

Everyone one, you and me, have a role here.

Select References

D'Souza and Choudhury. 1994. 'Documenting communal violence, its limitations and potentialities'. New Delhi: Indian Social Institute

PUCL. 2009. 'Cultural Policing in Dakshina Kannada: Vigilante Attacks on women and Minorities, 2008-09'.

Karnataka Communal Harmony Forum. 2006. 'What is happening in Mangalore?' Bangalore: A Pedestrian pictures publication for Karnataka Komu Souharada Vedike.

Desrochers, John and Veliyannoor, P(Ed) 2004. 'Poverty, Marginalization and Empowerment in Karnataka. Bangalore: KRCE-JPC publications

Newman Paul. 2009. 'Karnataka: On the brink of a Communal Disaster' in Social Action April-June 2009, pp167-180. New Delhi: A Social Action Trust Publication.

'Communal violence in India'. Social Action January-March 2010 Vol, 60 No. 1. New Delhi: A Social Action Trust publication.

11 Karnataka Lokayukta

11.1 Brief History

The first Administrative Reforms Commission set up in 1966 and chaired by Late Shri. Morarji Desai recommended establishing the Lokpal and Lokayukta institutions at the Central and State level respectively, for redressal of citizens grievances by investigating into administrative actions taken by or on behalf of Central Government or State Government or certain public authorities. These institutions are intended to serve as institutions independent of the Government concerned and to supplement the judicial institutions headed by Chief Justices or Judges of Supreme Court of India or High Court of the State.

Based on the recommendation, the Karnataka State Legislature enacted the Karnataka Lokayukta Act 1984 to improve the standards of Public Administration, by investigating into allegations or grievances in respect of administrative actions, including cases of corruption, favouritism and official indiscipline in administrative machinery, relating to matters specified in List II or List III of the 7th Schedule of the Constitution of India.

11.2 Performance

The Lokayukta and Upalokayukta institutions in Karnataka function in compliance with two key acts:

- The Karnataka Lokayukta Act, 1984
- The Prevention of Corruption Act, 1988

In recent times, the Lokayukta institution has captured the public interest with the large number of corruption cases it has exposed at senior levels of the

administration. Although, the activities pertaining to investigation and prevention of corruption is a small subset accounting for only about 10-15% of the Lokayukta's work, it more than anything else has become the identifiable hallmark of the institution in the public imagination and draws a lot of media attention, considering at times the high profile nature of the cases and the extent and level to which corruption has seeped and is experienced in our society. Besides investigating corruption, the Lokayukta institution is involved with intervening on behalf of complaints from citizens to ensure that administrative services are delivered in a fair and impartial manner.

The Lokayukta has taken up a drive to unearth disproportionate assets acquired by corrupt public servants. Acquisition of wealth disproportionate to known sources of income is punishable under Section 13 (2) r/w 13(1)(e) of the Prevention of Corruption Act 1988. Section 13(1)(e) says that a public servant is said to commit the offence of criminal misconduct if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

The table below summarizes the number and status of the cases under the Prevention of Corruption act as of March 31, 2009 from information published on the Lokayukta's website (<http://lokayukta.kar.nic.in/>) and from information obtained through a RTI application:

Sl. No	Cases under Prevention of Corruption Act	As of 31/3/2007	1/4/2007 to 31/3/2008	As of 31/3/2008	1/4/2008 to 31/3/2009	As of 31/3/2009
1	Lokayukta/Upalokayukta Police					
1a	Pending	380		498		640
1b	Registered		350		387	
1c	Disposed		232		245	
2	Prosecution Sanction from Disciplinary Authority					
2a	Pending	77		67		122
2b	Sought		102		205	
2c	Issued		112		150	
3	Court Cases					
3a	Pending	747		773		858
3b	Prosecution Launched		166		196	
3c	Disposed					
	Acquitted		105		93	
	Convicted		21		16	
	Discharged/Abated		14		02	

More recently the Government of Karnataka referred the issue of allegations of corruption and complaints of illegal mining in the state to the Lokayukta for investigation and reporting. Included is the detailed Lokayukta report submitted to the Government of Karnataka for the period upto 22/07/2006. The findings

relating to the period beyond 22/07/2006 and upto 9/9/2008 will be separately submitted.

11.3 Issues & Recommendations

However, there are several issues that constrain the effective functioning of the Lokayukta as an institution:

11.3.1 Long Term Absence of Upalokayukta or Lokayukta

The Karnataka Lokayukta Act, 1984 makes provision for the institution to function in the short and temporary absence of either the Lokayukta or the Upalokayukta. However, if either of the offices is vacant on a more permanent basis as a result of the official resigning, the official retiring, the demise of the official, or other reasons, the act does not enable the institution to function effectively, as is the case at present. The post of Upalokayukta is vacant since January 2010 as a result of the Upalokayukta retiring in December 2009 on completion of his term. This is causing considerable inconvenience to the average citizen because under the Karnataka Lokayukta Act, cases cannot be registered without the appointment of a Upalokayukta despite a Lokayukta being in office or vice versa. With the Upalokayukta responsible for cases pertaining to lower cadres of the administration from class 2 to class 4 and group D personnel, which account for almost 80% of the cases registered, the situation is not acceptable. The Lokayukta Act needs to be amended appropriately to redress the situation wherein the functioning of the office is not impaired when either the Lokayukta or the Upalokayukta is in office.

11.3.2 Sanction for Prosecution from Competent/Disciplinary Authority

The Karnataka Lokayukta Act 1984 does not permit the institution to submit a case for prosecution, without the formal sanction from the Competent / Disciplinary Authority (DA), even when prima facie evidence of corruption exists and there is sufficient grounds to move forward to initiate prosecution. Only if the DA approves and gives sanction to prosecute can the Lokayukta office proceed with the steps for prosecution in the courts. The DA can refuse sanction to prosecute in which case the only recourse the Lokayukta office has is to resubmit the case to the DA and appeal for reconsideration. The procedure as defined by the act not only delays the process of resolving the corruption cases but allows for the political establishment to prevent the logical progression of cases detrimental to it. It dilutes the intent of the act which is for the institution to supplement the judicial institutions independent of the Government. What is desirable is for the Lokayukta office to be vested with the authority to submit a case for prosecution to the court without having to seek the sanction of the DA, considering that the lokayukta appointed is always a retired Chief Justice of a High Court or Judge of the Supreme Court.

Although the Lokayuta's office has made formal requests for a change in the Act to grant it the authority to initiate prosecution on the basis of prima facie evidence, it has not been entertained. This despite the fact that the 2nd Administration Reforms Committee, constituted in August 2005, under its 'Ethics in Governance' section has recommended doing away with the need for such sanction to prosecute as also the Supreme Court judgement⁶¹ which supported

⁶¹ Vineet Narain Vs Union of India and Ors case
<http://www.cbi.gov.in/dop/judgements/excrpts.pdf>

the notion of holding government employees accountable and subject to prosecution based on prima facie evidence without the need for additional sanction to prosecute from a competent authority.

11.3.3 *Suo Motu* Powers to Investigate

It is interesting to note that when the Karnataka Lokayukta Act 1984 was enacted, the Lokayukta and the Upalokayukta were both given *suo motu* powers to investigate cases. But within six months of the act being enacted the *suo motu* powers of the Lokayukta, who is responsible for cases involving class 1 officials and elected representatives, were rescinded leaving intact the *suo motu* powers only for the Upalokayukta who is responsible for investigating cases involving class 2 to class 4 and Group D personnel. This defies logic and reflects the intent of the bureaucracy and the political establishment to insulate themselves from being subject to investigation in the absence of a registered complaint.

The *suo motu* powers to investigate is of paramount importance only because it is unreasonable and unrealistic to always rely only on citizens, to come forward and register a complaint especially against high ranking officials and politicians in office, for fear of reprisal. Under these circumstances, investigation of cases involving class 1 officials and elected representatives becomes possible only if the Lokayukta is vested with *suo motu* powers to investigate without requiring independent formal registration of a complaint.

Stripping the Lokayukta of *suo motu* powers to investigate undermines the very spirit and intent of the Lokayukta office, as an institution independent of the government, to ensure a corruption free administration. The possibility of "misuse of *suo motu* powers" is often cited as the reason for withdrawing the *suo motu* powers from the Lokayukta. To summarily withdraw the *suo motu* powers of the Lokayukta from the original act, without even a trial period and review, is unreasonable and reflects on the integrity and lack of commitment from the bureaucracy and the elected representatives to provide a transparent and corruption free administration.

11.3.4 Limited Scope of Investigation

It is unfortunate that the Lokayukta institution, set up for the purpose of redressal of grievances from citizens of administrative practices, is restricted to investigating complaints of irregularities and impropriety pertaining to:

- recruitment in government institutions
- tenders for government projects and works.

If we are to move forward towards a more equitable and just society then the Lokayukta office, as an institution independent of the government, must not be constrained by maintaining key administrative services outside its scope of investigation.

It is imperative for the issues described above to be addressed in an objective and transparent manner to strengthen the Lokayukta and Upalokayukta institutions and for ensuring a government and an administration the citizens can be proud of.

KARNATAKA LOKAYUKTA

No. Compt/LOK/BCD/89/2007/ARE-2 Multi-Storied Building,

Dr. B.R. Ambedkar Veedhi,

Bangalore 560 001.

18th December 2008

REPORT ON THE REFERENCE MADE BY THE GOVERNMENT OF KARNATAKA UNDER
SEC 7(2-A) OF THE KARNATAKA LOKAYUKTA ACT, 1984

(PART – I)

Ref: (i) Govt. Order No. CI 164 MMM 2006 dated 12/03/2007

(ii) Govt. Order No. CI 164 MMM 2006 (Part), dated 09/09/2008

INTRODUCTION

The Government of Karnataka in exercise of powers conferred under Section 7(2-A) of the Karnataka Lokayukta Act, 1984 (hereinafter referred to as the 'Lokayukta Act'), vide Govt. Orders referred above, has referred the following issues for investigation and for submission of a report by the Lokayukta to the Government with specific recommendations. The facts leading to the reference as well as the terms of reference are as follows:

“(i) The spurt in the international prices of steel and iron ore during last 3-4 years has made the mining and export of high quality iron ore from the mining in Bellary, Tumkur and Chitradurga Districts very lucrative. With the average cost of production of iron ore at around Rs.150 per ton, and the royalties to be paid to the Government being abysmally low at Rs.16.25 per ton for different grades there have been serious systemic distortions due to the high profit margins. This has led to allegations of large scale corruption and complaints of profiteering through illegal mining with the complicity of the authorities in all levels of Government.

(ii) The Government in its orders vide notification No. CI 16 MMM 2003 and No.CI 33 MMM 1994 both Dated: 15.03.2003, de-reserved for private, mining an

area of 11620 square km in the State, meant for State exploitation/ mining by the public sector and notified the surrender of an area of 6832.48 hectares of prime iron ore bearing lands respectively, which has paved way for distribution of public assets to select private individuals,/ entities without regard to their professional or technical or business background.

(iii) The entire exercise was undertaken in a manner so as to benefit only a select few individuals/entities. The main objectives behind de-reservation i.e. to encourage mining based industries to create more employment opportunities in private sector, to attract private capital and professional management for optimal use of state mineral resources were given a go by and allotments were made to the applicants on considerations other than merit.

(iv) It has been alleged that in the name of issuing temporary transportation permits to lift and transport iron ore in patta lands [which by itself is nor permissible in law], large scale illegal mining activity was allowed to be carried out for certain period, even in the forest areas, having no link to the survey numbers of patta lands and for transportation of the illegally mined ore from the forest areas on the strength of such forest passes/ transport permits.

(v) It has been reported that the State has been deprived of its revenues. There have been many complaints from transporters associations regarding overloading of Transport vehicles, that illegal gratification was sought for allowing overloading of iron etc., and the repeated complaints and representations by transporters associations, it has been alleged to have not been seriously considered by the Government. It is also alleged that most of the ore not accounted for and transported illegally in excess was the out come of illegal mining activities.

(vi) In the inspection report of the Accountant General of Karnataka for the years 2003-2004 and 2004-2005 on Mysore Minerals Limited (MML), a public sector undertaking, several lapses were pointed out regarding various Memorandum of Understandings (MOUs), raising and marketing contracts, joint ventures etc., between Mysore Minerals Ltd., and Private Companies, wherein the interest of MML was compromised to deprive the PSU of the Contractual Entitlements, dividends and profits due to one sided agreements, non-revision or sub-optimal revision of prices resulting in losses amounting to crores of rupees at a time when the mining sector was generating huge profits.

(vii) It has also been noticed that the Iron Ore fines and mud stocks/ low grade ore far in excess of the quantity were allotted arbitrarily to select individuals through Mysore Mineral Ltd., much below the prevailing market price and MMTC

price and even below the prices fixed from time to time by MML itself. There have been complaints of certain influential individuals who were part of the power structure within the Government, by manipulating the records and interfering in the affairs of MML, caused huge loss to the Corporation and the State. Similarly major and minor minerals such as granite, manganese and other minerals of the state, for the past several years, have been misused, indiscriminately exploited for benefiting a selected few resulting in loss of revenue to MML and the State.

(viii) This has led to serious allegations and extensive debate on the floor of both the Houses of Legislature with references made to large scale illegalities, irregularities leading to enormous loss to State exchequer and plundering of state mineral wealth. Allegations have been leveled against various authorities of Government of complicity in illegal mining activities, which led the Hon'ble Chief Minister to give an assurance on the floor of the House that in order to ensure highest level of fairness and probity, an impartial inquiry will be ordered in to the illegalities which have taken place in Bellary, Tumkur and Chitradurga Districts.

The issues referred for investigation and report are as follows:

- (a) Various alleged illegalities, irregularities, events, issues and executive and other decisions set out in clause (i) to (viii) and to assess the quantum of losses to the Government and to suggest remedial measures to undo such irregularities and illegalities.
- (b) To enquire into the affairs so the Mysore Minerals Ltd., (MML) and its commercial activities carried out in a manner to cause losses to the company and the instances of direct/ indirect political interference/ patronage in the commercial affairs of the company. To fix responsibility and initiate suitable action, both, civil and/ or criminal as may be appropriate, against all persons found responsible, including private contracting parties.
- (c) To fix responsibility and initiate suitable action against all public servants including ministers whether in office or otherwise state, its instrumentalities or State owned Companies/Corporations or other bodies and authorities, either in collusion with private parties or otherwise for various acts of omission and commission leading to various illegalities, irregularities, events and executive decisions set out in clause (i) to (viii) and also pertaining to issues such as:
 - (1) The process and timing of disposal of applications, both in case of notified areas and free areas, for grant of Mining Lease, Reconnaissance Permits and Prospecting Licenses;
 - (2) the irregularities reported in issue of permits by both Forest and Mines departments;

(3) the irregularities reported in transportation of minerals such as overloading, the issue of informal "token systems", transportation without permits etc;

(4) the entire range of the various aspects of illegal mining ranging from encroachments, mining without necessary permits and clearances, mining outside the permitted areas, mining beyond permitted quantities, illegal transportation of minerals etc.

(5) the mining and transportation of major minerals from Patta lands without valid mining leases etc;

(6) the legality in transfer of leases from one lease holder to another. This will include the case wise examination of legality and validity of grant of mining leases, with reference to the basic policy/ objectives behind the decisions taken to de-reserve the areas meant for exploitation by the public sector held and surrendered areas and the instances of direct or indirect political interference.

(d) All instances where the mandatory regulations and statutory provisions have been given a go-by and not observed, including environmental and other clearances, to directly or indirectly facilitate and/ or encourage illegal and/ or unregulated mining operations and to suggest remedial measures and suitable action against persons found responsible for their commissions and omissions.

(e) Any other related issues, event and/ or instance which the Hon'ble Lokayukta may deem fit and proper to go into the illegal and un-regulated mining and related issues, including de-reservation of the areas meant exclusively for public sector in Karnataka's mining regions as mentioned above.

(f) To comprehensively inquire into the charges, allegations, complaints of misuse and abuse of the office, if any elected representatives, ministers and officers who held or hold offices of profit for pecuniary benefit pertaining to illegal/ unregulated mining and incidental issues thereof, resulting in loss of revenue to the Government of Karnataka and Public Undertakings under the Government of Karnataka.

(g) Illegal granite quarrying in Bangalore Rural District and other Districts.

3. As per the Govt. Order dated 12/03/2007, the scope of the investigation was from 01/01/2000 to 22/07/2006. Subsequently, vide Govt. Order dated 9/9/2008, the scope of the investigation is extended till 9/9/2008. This report, however, will consider some of the issues referred for investigation, for the period

upto 22/07/2006 and the findings relating to the period beyond 22/07/2006 and upto 9/9/2008 will be separately submitted.

4. On receipt of the reference, in view of the fact that the investigation involved certain technical matters pertaining to various aspects of mining, it was felt necessary to seek assistance of persons who had the knowledge of mining, Forests and laws concerned with forest and mining. With this view in mind, the services of the following officers were utilized under Section 15(3) of the Karnataka Lokayukta Act, 1984.

Sriyuths:

- (1) Sri K.R. Chamayya, Former Secretary to Government, Department of Law and Parliamentary Affairs.
- (2) Dr. U.V. Singh, IFS, Conservator of Forests
- (3) Sri R.L. Gaikwad, Retd. Dy. Director of Mines and Geology
- (4) Sri A. Basavaraj, Retd. Dy. Director of Mines and Geology
- (5) Sri K.C. Subhash Chandra, Retd. Sr. Geologist of Mines and Geology
- (6) Sri H.N. Venkatesh Murthy, Retd. Superintendent, Forest Department
- (7) Sri Udayakumar, Regional Director, Environment, Department of Forests and Ecology, Belgaum
- (8) Dr. M.H. Balakrishnaiah, Director, Karnataka State Remote Sensing Applications Centre, Bangalore

Apart from the above, the services of the following are also availed under Section 15(3) of the Lokayukta Act, in the present investigation.

- (1) Sri Rajanna, Retd. FDA, Forest Department
- (2) Sri Annappaiah Herale, Retd. FDA, Forest Department
- (3) Sri Sreerama Rao, Retd. Gazetted Assistant
- (4) Sri Veerabhadraiah, Retd. Sr. Judgment Writer
- (5) Sri Avilash, Photographer/Videographer

5. It was also felt necessary that a public notice should be issued calling for information from the persons acquainted with the subject matter of the

investigation. Hence, public notices have been issued in the leading newspapers both Kannada and English, especially which had wide circulation in the districts of Bellary, Chitradurga, Tumkur, Bangalore City and Bangalore Rural Districts.

6. Records relating to the subject matter of investigation have been secured from the Department of Commerce and Industries, Department of Forest, Environment and Ecology, Revenue Department, the Directorate of Mines and Geology, Office of the Principal Chief Conservator of Forests, Office of the Managing Director, M/s Mysore Minerals Limited (MML for short), Office of the Dy. Commissioners of the concerned Districts, besides, the records of Justice U.L. Bhat Commission of Enquiry, which was earlier appointed by the Government of Karnataka for holding an enquiry in regard to part of the reference made now to the Lokayukta.

7. As part of the investigation, report in respect of evaluation of cases relating to the issue of permits to lift and transport manganese/iron ore from patta lands was submitted by Sri R.L. Gaikwad's team and on consideration of the same, it was found that Dr. M. Basappa Reddy, the former Director of the Department of Mines and Geology had committed illegalities in the issuance of permit for transport of minerals from patta lands, hence his comments were sought under Section 9(3) of the Lokayukta Act. This was done out of turn, because, Dr. M. Basappa Reddy had by then retired and the period of limitation to take action against him was running out. On receipt of the reply from Dr. M. Basappa Reddy and scrutiny of the same, since his explanation was found unsatisfactory, a report dated 6/3/2008 under Section 12(3) of the Lokayukta Act has been sent to the Government, recommending initiation of departmental proceedings against Dr. M. Basappa Reddy. The Government after accepting the said recommendation, has ordered initiation of departmental enquiry against Dr. M. Basappa Reddy and entrusted the said enquiry to the Lokayukta with a request to submit a report to it after the enquiry. The said enquiry is in progress. In the meantime, Dr. U.V. Singh who was entrusted with the survey of quarrying areas in the Bangalore Rural District and mining areas in Bellary was directed to submit his report in regard to illegal mining and quarrying in the districts mentioned in the reference Govt. Order. He was authorized to requisition the services of such officers as he felt necessary. Since then, Dr. U.V. Singh has submitted his report to which reference will be made at an appropriate stage in this report. Same is annexed to this report as **ANNEXURE 'A'**.

8. The Gaikwad's team which was examining the issue of grant of transport permits for transporting illegally mined iron/manganese ore from the patta lands has submitted an elaborate report. A copy of which is also annexed to this report as **ANNEXURE 'B'**.

9. The Gaikwad's team has also examined the issue relating to lapses pointed out by the Accountant General of Karnataka regarding MOUs raising, processing and marketing contracts, joint ventures, etc. entered into by the MML with private companies resulting in losses amounting to crores of rupees to the company and submitted a report. On the basis of the same, comments were called for from the concerned officers and after considering the comments and other materials on record and in pursuant to the discussions they had with me, Gaikwad team have submitted their revised report which is at **ANNEXURE-C**.

10. The issue relating to de-reservation of mining area of 11,620 Sq. Kms. in the State meant for State exploitation/mining by the public sector and the related matters referred for investigation has been examined by the Gaikwad's team and the report submitted in that regard is at **ANNEXURE-'D'**.

11. The Gaikwad's team has also gone into the issue relating to the legality in the transfer of leases from one lease holder to another on case wise examination of the legality and submitted the report, the copy of which is at **ANNEXURE-'E'**.

12. During the preparation of this report, the Government of Karnataka by its order dated 09/09/2008, has extended the period of reference to 09/09/2008. But this report will for the present confine only upto the period of 22/07/2006 and findings upto the extended period will be submitted separately. The reference has also asked me to initiate suitable action both civil and criminal but that is legally not possible because this is a reference under Section 7(2-A) of Lokayukta Act and not an investigation or inquiry initiated by the Lokayukta. Similarly, investigation as to irregularity in granting quarrying leases and illegality in quarrying will be submitted separately. In this report, though I have come to some conclusions in regard to various irregularities and named the persons responsible for some such irregularities and illegalities in respect of the remaining issues, persons responsible for such irregularities have not been named in this report for want of information about them, which finding also will be included in the next report.

13. The other point that is necessary to be mentioned in this report is, there may be complaint from some sources and persons that they have not been issued show-cause-notices, but their names find place in the report while some others have been issued notices and opportunities have been given to them of showing cause. In law, in a reference like this, no notice is necessary to be given to people against whom report is being sent [*Dr. K. Chowdappa Vs State of Karnataka and others (ILR 1990 KAR 798)*], however, in some cases where I thought clarifications are necessary at this stage, some notices have been issued. Such notices seeking clarifications are legally not mandatory as has been held by the Hon'ble High Court in the above cited case.

ISSUES CONSIDERED IN THIS REPORT:

In the circumstances referred in the various terms of reference stated in the G.O. dated 12/03/2007, the following issues are considered in this report in the first instance.

- Various alleged illegalities, irregularities, events, issues and executive and other decisions set out in clause (i) to (viii) and assessment of the quantum of losses to the Government and remedial measures to be suggested to undo such irregularities and illegalities.
- The affairs of Mysore Minerals Ltd., (MML) and its commercial activities carried out in a manner to cause losses to the company and the instances of direct/ indirect political interference/ patronage in the commercial affairs of the company, fixing

of responsibility and initiation of suitable action, both, civil and/ or criminal as may be appropriate, against all persons found responsible, including private contracting parties.

- Fixing responsibility and initiating suitable action against all public servants including ministers whether in office or otherwise state, its instrumentalities or State owned Companies/Corporations or other bodies and authorities, either in collusion with private parties or otherwise for various acts of omission and commission leading to various illegalities, irregularities, events and executive decisions set out in clause (i) to (viii) and also pertaining to issues such as:
- The irregularities reported in issue of permits by both Forest and Mines departments;
- The irregularities reported in transportation of minerals such as overloading, the issue of informal "token systems", transportation without permits etc;
- The entire range of the various aspects of illegal mining ranging from encroachments, mining without necessary permits and clearances, mining outside the permitted areas, mining beyond permitted quantities, illegal transportation of minerals etc.
- The mining and transportation of major minerals from Patta lands without valid mining leases etc;
- The legality in transfer of leases from one lease holder to another including case wise examination of legality and validity of grant of mining leases, with reference to the basic policy/ objectives behind the decisions taken to de-reserve the areas meant for exploitation by the public sector held and surrendered areas and the instances of direct or indirect political interference.
- **All instances** where the mandatory regulations and statutory provisions have been given a go-by and not observed, including environmental and other clearances, to directly or indirectly facilitate and/ or encourage illegal and/ or unregulated mining operations and suggesting remedial measures and suitable action against persons found responsible for their commissions and omissions.
- The other related issues, event and/ or instance which are deemed fit and proper to go into the illegal and un-regulated mining and related issues, including de-reservation of the areas meant exclusively for public sector in Karnataka's mining regions mentioned above.
- The charges, allegations, complaints of misuse and abuse of the office, by any elected representatives, ministers and officers who held or hold offices of profit for pecuniary benefit pertaining to illegal/ unregulated mining and incidental issues thereof, resulting in loss of revenue to the Government of Karnataka and Public Undertakings under the Government of Karnataka.

CHAPTER XII

CONCLUSIONS, SUGGESTIONS AND RECOMMENDATIONS

From the facts recorded already in this report, I have noted very many shortcomings, illegalities and irregularities in the mining activities in the State of Karnataka with specific emphasis on Bellary District. Though, investigations have been made as to this type of activities in the districts of Chitradurga and Tumkur also, details in this regard are not very elaborate. Even in regard to Bellary District, my team could not inspect and investigate all the mines situated in the said District. Hence, this report reflects the shortcomings, illegalities and irregularities with specific reference to some of the mines visited by me or my team. Therefore, this part of the report will comment on what has been noticed by me and by my team during inspection of the areas visited by us. Though the type of shortcomings, illegalities and irregularities are likely to be common, in other areas also, a more detailed report in regard to those areas and mines to which no reference has been made in this report, will be made separately in the next part of the report, which would also cover the period upto 2008.

(i) Illegality and Irregularity in grant of lease

The illegalities and irregularities in the mining sector starts from the very beginning, that is at the stage of granting of mining lease itself. Though the law requires the licensing authority i.e. the State to be satisfied as to the areas sought to be granted on lease for mining, both as to its actual area and location, in reality, it does not always happen. I have noticed in most cases where particulars of the area sought for mining are mentioned in the application for grant of lease, but the same is factually not correct. The same though has to be cross-checked and inspected by the concerned officials of the Department of Mines and Geology, Forest, Revenue, as the case may be, the said exercise is not properly done. Normally, these reports are prepared not by visiting the area mentioned in the application and cross-checking the same with the local records, but, by sitting in their respective offices. Even the applicants very often do not even do preliminary prospecting to find out whether mineral sought to be excavated by them is really available in the area sought for lease by them or whether scientific and economically viable mining is possible in these areas. There are cases where mining applications are made without even knowing the existence of the area sought for mining. Leases are sought only with a view to hold a mining licence and then to misuse the same by using the said document for doing illegal mining elsewhere. This type of non-verified grant of mining lease gives rise to illegal mining in gomala land, forest land, it also gives rise to disputes between different lease holders. Therefore, there is a need for a proper verification system with mandatory spot inspection and demarcation and marking of the boundaries of the lands sought for mining in conformity with the survey reports, land records and other relevant documents, available with the local officials concerned. There should be periodical inspection by superior officers to keep a check on the mining activities. Lack of such checking is noted by me in this report earlier, as seen during my visit to the three districts. Local authorities should also be held responsible for preventing illegal mining, especially the forest officials who either due to negligence or in collusion, aid and abet illegal mining activities in the forest area. This procedure could be time consuming, but, it must be done in the interest of State as well as in the interest of conducting scientific mining activities. Though most of these suggestions find place

in the statute itself, it is not being adhered to, so, a mechanism which makes this procedure compulsorily adhered and failure made punishable should be evolved.

(ii) Protection of forest lands from illegal mining

Wherever the application for grant of mining in forest area is sought and feasible report is prepared by Forest Department, same should be cross-verified, because, I have come across very many instances of applicants producing false certificates, as to the nature of land, very often in collusion with the concerned officials. In many cases, where holder of mining lease or even others who do not have any mining lease, indulge in mining in forest areas, the officials concerned have not taken any steps to prevent these illegal activities. Such officials should be taken to task. I have also noticed that apart from illegal mining activities in the forest area, large extent of forest land is also used for construction of roads and for dumping mineral waste. This especially happens when the mining leases are granted near about the vicinity of the forest area, though, in such areas, the law requires a buffer zone to be created between the forest boundary and the land where mining is permitted, these buffer zones in very many cases have disappeared or have been misused. Immediate action should be taken to inspect all mining activities permitted in all forest area and clear the buffer zone from any type of activity, except to prevent the misuse of forest.

(iii) Grant of stock yard licence

During my visit to the three districts, I have noticed many irregularities in the grant of stock yard licences. Though there are sufficient laws controlling the grant of such licences, none seems to have followed the requirement of these laws, while permitting or granting stock yard licences. In my note made during my visit to the districts referred to hereinabove, I have specifically referred to a case of ignorance exhibited by some of the officials as to the applicability of various laws while granting stock yard licences. (See page 50 – 53 of this Report). The cases of M/s Lakshmi Minerals, Muneer Enterprises, Kineta Minerals and Metals Limited and Sri Sai Krishna Minerals Limited, which are situated in the road connecting Hospet with Sandur are all examples of such stock yards which are contrary to the law. There is a need for examining the licence already given to stock yards and if illegalities such as those noticed by me in my report hereinabove are found, then, the licence should be revoked and action should be initiated against the concerned officers.

(iv) Illegality in transportation of mineral

Because of the 'China boom', between the period 2004 and 2006, there is evidence to show that in the district of Bellary alone, four to five thousand lorries carrying mineral are plying to and fro from mining head to various transportation points like, railway station, sea port, etc. It is a well established fact that almost all lorries carrying mineral are carrying load far in excess of the permissible limit. Consequently, all roads used by these vehicles including National Highways have been practically rendered unmotorable, mainly because of the fact of over-loading, and also because of the increase in density of this type of vehicles. So far as over-loading is concerned, all concerned authorities like the Motor Vehicle Department officials, Police officials are hand in glove with the transport operators and mine owners. The over-loading and the frequency of vehicles not only damages the road, they are also responsible for large number of fatal accidents. Therefore, there is a need to provide for check points with sufficient number of weigh bridges and compulsory fixing of G.P.S. equipment in these lorries to keep a control over activities of these vehicles, especially the over-loading. Government should also in consultation with Central Government consider the possibility of restricting the number of mineral carrying vehicles that could ply at a given point of time. The Motor Vehicles Act also requires suitable amendment to make the offence

of over-loading more stringent. The Competent Authority should also think in terms of amendment to M&M (D&R) Act to empower the Courts or Tribunals to confiscate the vehicle or suspend the way permit for a suitable period, so that over-loading can be discouraged. The present system of compounding of offences under the M&M (D&R) Act encourages officials as well as offenders to indulge in more and more illegal acts, because the maximum compounding fee is Rs. 25,000/- only. This is not a deterrent compared to the value of mineral which is the subject matter of the offence. The provision for compounding itself should be done away with. The provisions as is found in the Forest Act for seizure and impounding of not only materials found in the vehicle, but, also of the vehicle itself with punishment of imprisonment to the offenders should be introduced in M&M (D&R) Act. Without such serious consequences, it would be difficult to control the illegal mining.

(v) Introduction of new transport permit system

At present, transport permits are issued by the Mines and Geology Department for bulk quantity which are known as bulk permits, which can be used more than once to transport the total quantity mentioned in the permit, normally within a period of 30 days. In regard to minerals mined from forest area, Forest Department also gives a transport permit in form No. 31 which along with the bulk permit is the document required to be carried by the transporter. The normal practice in regard to the forest permit is that a signed and sealed book-let containing 50 to 100 permits, leaving all the columns blank are issued in advance to the transporter, without the name of the mining lease holder, quantity of the mineral being transported and vehicle number etc. being mentioned. There are various means by which this permit can be misused and is being misused. Even bulk permits issued by the Mining Authorities are being misused to carry much more than permitted bulk quantity and this type of permits are used for over-loading illegally mined ore along with legally mined ore, thus, depriving the State of the minimal revenue that it gets by way of royalty. When this was brought to my notice, I had called a meeting of transporters, mine owners and the concerned officials and discussed the idea of having one permit for one vehicle for one trip with a maximum transport duration of seven days which itself was a long period. After discussion with them, the Mining Department came out with a permit with a hologram and computer bar-code which permits would require the name of the transporter, vehicle number, the quantity being transported and destination to be filled in the said permit. At the end of that trip, the said permit would be taken possession by the officials, so that it cannot be reused. Considering the suggestion made by me, Government had brought this into force, but, some aggrieved transporters have challenged this system and have obtained a stay order from the High Court, hence the old system continues. Therefore, I recommend that necessary steps shall be taken by the Government to move the Court for vacation of the stay order and introduce a fool proof permit system.

(vi) Damage done to the environment and water bodies

In the course of this report, I have referred to the damage that is caused to the environment and water bodies, not only in the surrounding areas where mining activities are taking place, but also en-route of transportation. The damage en-route is mainly because the transportation of ore is done in open bodied vehicles and during transportation mineral dust fly out and settle down in the vegetation and water bodies, as also on other properties, because of which natural vegetation and water bodies get polluted. There is material to show that the district of Bellary which was once famous for many herbal plants, has now been deprived of such vegetation. Therefore, if transportation is unavoidable, then, such transportation should be permitted only in close bodied vehicles.

(vii) Economics of mining in Karnataka

Mineral are not re-generating material. Once an ore is extracted from earth, it is lost for all times to come. Research done in Karnataka indicates that the deposit of iron ore in this State is only sufficient to last in an ordinary situation for about 25 to 30 years. Therefore, if the need of posterity is to be protected, then there should be a limit on the quantity of iron ore to be mined at any given time. In this background, a question arises whether it is prudent for the State to permit the export of these minerals without thinking of posterity. Even economically speaking, one can see that State is not a gainer from mining. Taking iron ore as an example, it fetches an income to the Government of Karnataka by way of royalty ranging from Rs. 16/- to 27/- per MT depending upon the quality of the ore. During the peak period between 2004 and 2006, the export price was even in the range of Rs. 6,000/- to 7,000/- per M.T. Even during the lean period, the export price was between Rs. 1,500/- to Rs. 2,000/- per M.T. In the reference that is made to me by the Government, it is mentioned that the expenditure to extract one M.T. of iron ore is about Rs. 150/-, to which even Rs. 250/- per M.T. is added as transportation cost and taking the maximum of Rs. 27/- as royalty and Rs. 150/- as the extraction charge, the total would come to Rs. 427/- per M.T. and even if you take the minimum export price of Rs. 1,500/-, an exporter makes a clean profit of Rs. 1,073/- per M.T. While State would get a maximum of Rs. 27/- only which is pittance compared to what a mine owner gets. This is not taking into account millions of M.T. of iron ore that is illegally mined and transported from which Government gets not even the royalty. On the contrary, if the mineral extracted in this State is used to produce value added product, State apart from royalty will also gain through VAT and the Central Government will gain through excise duty which will be a huge amount. May be if the finished product is exported after meeting the local demand, the Country could gain by export duty also.

In the above background, my first suggestion which may look very extreme, but in my opinion the most apt solution to the existing problem, is to ban all trading including export of minerals and reserve this mineral only for domestic consumption as captive mines dedicated to a given steel plant. This would solve many problems like excessive mining, illegal mining, because no dedicated plants would extract minerals more than it could consume and there will be no benefit from such excessive mining because they cannot sell it to anybody because of ban on trading of minerals. If the location of the steel plants is to be confined to the mining areas only, that would solve the consequential problems arising out of transportation to different parts of the State, thus protecting environment and if mining is to be confined only to dedicated steel plants, the likelihood of damage to the ecology also will be far less. If these plants are situated near the mining area, it would also create huge job potentials for the locals who otherwise in the present system have no advantage from mining, but are only victims of the disadvantages arising from mining activities. The title of the citizens report referred to in this report of mine, which reads "Rich Lands and Poor People" is very appropriate to describe the fate of the people who are victims of this type of mining activity. If export is inevitable because of international agreements, then transportation should be confined to closed bodied vehicles only which can carry only maximum permissible load. I have recently read in the newspapers a demand for nationalization of mining activities, but, my experience of MML discourages me from agreeing to that suggestion.

When I visited the district of Bellary, I noticed the condition of people who are living in and around the mining area. The locals there do not in any manner reap the benefit of this successful industry. I noticed in and around mining area a large number of youngsters, may be between the age of 15 to 25, riding brand new motor-cycles which may not be their own and using cell phones and loitering around. I was informed that all these equipments are provided to these youngsters who are all school drop outs by the unscrupulous people in the mining lobby to keep an eye on the visitors to the mines, so that the mining activities could be controlled during the visit of inspection staff. This type of employment of youth is bound to create socio-economic problems in the years to come. Because of lack of education and acquired habits, a law and order situation is bound to happen. Even the villagers in and around the mining area do not seriously concentrate on agriculture and other normal village life activities, but, are looking for opportunities for illegal mining which is a tempting proposition. Number of tractors and trailers which were originally meant for

agricultural activities, are now being used for transportation of illegally mined ore for which there are ready made buyers. Even this diversion in the occupation of the villagers is likely to cause social unrest when mining activities get reduced. Government should take serious note of these possible socio-economic changes. I would even suggest that a levy on mining activity for betterment of villages around mining areas which money can be utilized for better health scheme, education and other job oriented schemes for the locals. In all, the Government should take a holistic view of development of these areas.

Apart from the above, I would specifically point out certain irregularities, notice of which should be taken by the Government and suitable actions initiated, as the facts of each of these may call for;

- (a) Cancellation of grants of revenue lands where illegal mining is being done.
- (b) Conducting of joint survey of MSPL and SB Minerals to identify the lands which are illegally encroached.
- (c) Conduct enquiries into all stock yards and stop functioning of such yards, if they have obtained permission illegally.
- (d) Conduct survey of Vrushabhendra Mines and take suitable action
- (e) Conduct survey of HRG Mines.
- (f) Conduct survey of Mari Cements referred to at pages 38 and 39 of Chapter – II.
- (g) A large number of Court cases pending, are not being properly attended to and interim orders are allowed to continue, without making any application for vacating the same. Therefore, steps should be taken to attend to all the pending cases where Department of Mines and Geology is involved.
- (h) I have noticed at page 40 of Chapter – II of my report that some of the officers of the Department of Mines and Geology have been passing orders “until further orders” which is contrary to law. All such orders should be reviewed.
- (i) There is an urgent need for increasing the staff strength of Department of Mines and Geology at Taluk levels with strict supervisory control from the higher officers.
- (j) Approach the Central Government to get the boarder between States of Andhra Pradesh and Karnataka, abutting Bellary District surveyed and boundary fixed.
- (k) Required rules u/s. 23C of the M&M (D&R) Act be framed at the earliest

In my report as to the grant of temporary transport permit to lift and transport ore illegally mined from patta lands, I have discussed the law applicable and I have come to the conclusion that there could be no mining activities, be it a Government land or patta land, without there being a mining lease granted under the M&M (D&R) Act and M.C Rules. I have also come to the conclusion that any mineral listed in schedule I and II of the M&M (D&R) Act and found in any land, be it Government or Patta land is the property of the State. In that background, I have come to the conclusion that grant of transport permit to persons to transport minerals who do not hold the mining lease is contrary to the provisions of the M&M (D&R) Act and Rules. I have also discussed the basis of the decisions taken by various public servants and their role in granting such illegal permission to transport minerals from the patta lands without there being a mining lease and with the knowledge that such grant of permission is contrary to the M&M (D&R) Act. I have also discussed the explanation given by the concerned public servants and given my reasons for

rejecting the same. According to me, collecting of royalty or a compounding fee from such transporters does not justify the grant of transport permit. I am also of the opinion that however high an authority may be, as has been repeatedly said that the law is above him and his political philosophy or desire to help the farmers to solve their problem cannot be a justification to violate the law. I am also of the opinion if really such public servant had a sincere desire to help the farmers to clear their lands for the purpose of commencing their agricultural operation, then the removal of so called minerals lying in their lands could have been done through Governmental agencies. I have also given reasons why in many cases the prayer of the farmer for grant of transport licence was only an excuse to indulge in illegal mining. On the above basis, I had concluded that ;

- (1) Sri N. Dharam Singh, the then Chief Minister of Karnataka
- (2) Dr. M. Basappa Reddy, the then Director of Department of Mines and Geology
- (3) Sri Gangaram Baderiya, IAS, the then Director of Department of Mines and Geology

have committed misconduct and have caused huge financial loss to the State to an extent of Rs. 31,01,89,185/- to the exchequer by permitting illegal transportation of 3,09,113 M.T. of iron ore. Hence, these persons are liable for reimbursement of the loss caused to the State. However, in respect of Dr. M. Basappa Reddy, a report under Section 12(3) of the Lokayukta Act has been already sent on 6/3/2008 and acting on the said report, disciplinary proceedings are ordered to be initiated against Dr. Basappa Reddy and such enquiry is in progress. He is also liable for the reimbursement of the loss caused to the State. So far as Sri Gangaram Baderiya is concerned, Disciplinary and Recovery proceedings shall be initiated against him.

While considering the next issue referred to me for investigation, that is in regard to affairs of M/s MML, I have come to the conclusion that the concept of raising contract is alien to M&M (D&R) Act and Mineral Concession Rules. But it is very much prevalent in many cases. In my opinion, since entering into raising contract and such other contracts whereby the lease holder has alienated completely his rights under the lease is liable to have the mining lease cancelled. Therefore, steps should be taken to terminate these leases. Even in case of MML, I have noticed that they have entered into such contracts with different persons in violation of law. Hence, these leases of MML are also liable to be cancelled. I have also come to the specific conclusion that by entering into various joint venture contracts, processing and marketing contracts, the named officials have not kept the interest of MML in mind and have even caused loss to MML, for which act of misconduct and loss caused to MML, I have held the following officers responsible. Hence, disciplinary proceedings shall be initiated against them under the Service Rules applicable to them. So also, recovery proceedings shall be initiated against the above officers for recovery of the loss caused by them, they are;

- (1) Sri V. Umesh, IAS
- (2) Sri I.R. Perumal, IAS
- (3) Sri D.S. Aswath, IAS
- (4) Smt. Jija Madhavan Hari Singh, IPS
- (5) Sri Mahendra Jain, IAS
- (6) Sri K.S. Manjunath, IAS
- (7) Sri H. Srinivas, Deputy General Manager, MML
- (8) Sri R. Ramappa, Deputy General Manager, MML
- (9) Sri Shankarlingaiah, Deputy General Manager, MML

I have also named the companies or firms which have benefited from the loss that is caused to M/s MML and the Government should recover such loss by taking recourse to suitable legal proceedings.

In my report regarding irregularities, illegalities in de-reservation, I have recorded that though as a matter of policy, the Government of Karnataka decided not to de-reserve forest lands, some forest lands have been deliberately de-reserved by recording that they are not in forest area. The names of persons who are guilty of such misconduct will be mentioned in the next part of my report.

In my report while referring to illegal transfers of mining leases, I have come to the conclusion that out of the 22 cases that were considered during the course of investigation, there have been irregularities in four cases. I have given basis for my conclusions, but, since I would like to get the explanation from the concerned officials before making any recommendation, same will also be done in the next part of my report.

In this Report, I have named the following public servants for their acts of omissions and commissions.

- (1) Sri N. Dharam Singh, the then Chief Minister of Karnataka
- (2) Dr. M. Basappa Reddy, the then Director of Department of Mines and Geology
- (3) Sri Gangaram Baderiya, IAS, the then Director of Department of Mines and Geology
- (4) Sri V. Umesh, IAS
- (5) Sri I.R. Perumal, IAS
- (6) Sri D.S. Aswath, IAS
- (7) Smt. Jija Madhavan Hari Singh, IPS
- (8) Sri Mahendra Jain, IAS
- (9) Sri K.S. Manjunath, IAS
- (10) Sri H. Srinivas, Deputy General Manager, MML
- (11) Sri R. Ramappa, Deputy General Manager, MML
- (12) Sri Shankarlingaiah, Deputy General Manager, MML

Hence, I am recommending initiation of appropriate proceedings for recovery of the loss caused to the State Exchequer and/or disciplinary proceedings against the above public servants. In this background, two questions arise for my consideration, that is;

- (a) Whether it is only these named public servants who are liable for such proceedings or their subordinates are also responsible for the same. I had given my anxious thought to this issue and wherever I have found independent and direct involvement of subordinate officers, whom I thought should be indicted I have named them, but in many cases, there are subordinate officers who have under the mandatory directions of the higher authorities have obeyed their directions and thereby caused loss to the State. In such cases, I thought it fit that only those officers whose involvement is direct in various acts of omissions and commissions to be named and it may not be proper to name their subordinates, who have merely followed the orders of the superiors.

- (b) The next question which is very important that arise is, the huge loss that is caused to the State exchequer because of the acts of commissions and omissions of the named officers. The question therefore, that arise in these circumstance is, are those public servants also to be recommended for prosecution under the provisions of Section 13(1)(d) of the Prevention of Corruption Act, 1988. The said Section reads thus:-

"13. Criminal Misconduct by a public servant.- (1) A public servant is said to commit the offence of criminal misconduct.-

- (a)
 (b)
 (c)
 (d) If he.-
 (a)
 (ii)
 (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage with out any public interest; or
 (e)

If a literal interpretation is to be given to the above provisions of law, the ingredients necessary for prosecuting the public servant under the above provision of law are

- (a) person concerned should be a public servant;
 (b) he should obtain for himself or any other person any valuable thing or pecuniary advantage;
 (c) such obtaining of valuable thing or pecuniary advantage is without any public interest.

In the facts and circumstances of the various cases discussed herein above, the fact that the concerned officers are public servants are not in dispute, but there is no material to show that they have obtained for themselves any pecuniary advantage. But their acts of omissions and commissions have certainly conferred valuable pecuniary advantage to 3rd parties, which of course will have to be held to be without any public interest. Therefore, there is material to be satisfied that the above provision of law attracts, but the consequences of such prosecution will be serious on the administration of the State. Therefore, I leave it to the State Government in the factual background of each one of the above cases, to take appropriate decision regarding prosecution of the public servants concerned.

RECOMMENDATIONS UNDER SECTION 12(3) OF THE KARNATAKA LOKAYUKTA ACT

The report of investigation submitted by Sri Gaikwad team at Annexure – 'B' reveals that Sri N. Dharam Singh, former Chief Minister of Karnataka who also held the portfolio of the Department

of Mines and Geology ordered issuance of temporary transport permits for movement of iron ore and manganese ore from agricultural patta lands not held under the mining lease, in contravention of Section 4(1) and Section 4(1A) of M&M (D&R) Act and Mineral Concession Rules, 1960 and acted in a manner unbecoming of a public servant of the class to which he belongs. The act of Sri N. Dharam Singh has resulted in revenue loss to the State to the extent of Rs. 23,22,11,850/- . Therefore, under Section 12(3) of the Lokayukta Act, a separate recommendation is made to the Competent Authority to initiate appropriate proceedings against Sri N. Dharam Singh, former Chief Minister of Karnataka, for recovery of the loss caused by him to the State.

Sri Gangaram Baderia, IAS, during his tenure as Commissioner and Director of Mines and Geology approved issuance of temporary transportation permit for movement of iron ore to Sri Satish Kumar from survey number 23/4 of Bhujanganagar village, Sandur Taluk in contravention of the conditions laid down by the Government of Karnataka in letter No. CI 02 MMM 2005, dated 27/09/2005 resulting in movement of illegally mined and stocked ore to the tune of 1,200 M.T., causing a loss of Rs. 11,70,000/- to the State exchequer. Sri Gangaram Baderia, IAS during his tenure as Commissioner and Director of Mines and Geology has also accorded permission for issuance of permit in the case of Sri T. Pushparaj, relating to RS No. 298 of Bhujanganagar village, Sandur Taluk, in contravention of the M&M (D&R) Act, and Mineral Concession Rules, 1960 resulting in loss of Rs. 1,26,75,000/- to the State exchequer. The above acts of Sri Gangaram Baderia, IAS amounts to acts unbecoming of a public servant of the class to which he belongs and hence he has committed misconduct under Rule 3 of the All India Services (Conduct) Rules, 1968 and hence, under Section 12(3) of the Lokayukta Act, I recommend initiation of disciplinary proceedings against him under All India Services (Disciplinary and Appeal) rules, 1969. Appropriate proceedings shall also be initiated against Sri Gangaram Baderia, IAS, for recovery of the loss caused by him to the State exchequer.

The materials collected during investigation also establish that the commissions and omissions of Dr. M. Basappa Reddy, former Director of Mines and Geology, has resulted in unauthorized movement of 56,747 M.T. of iron ore/manganese ore, in the districts of Belgaum, Bellary, Chitradurga and Chikmagalur resulting in revenue loss of Rs. 6,41,32,335/- to the State exchequer as detailed in the report at Annexure – 'B' regarding which a disciplinary enquiry has been already initiated in No. LOK/ARE-3/Enq-2/2008, pursuant to Government Notification No. 'D,ÄÄ 9 EÄÄÄ« 2008, dated 17/04/2008. In addition to the same, under Section 12(3) of the Lokayukta Act, I recommend initiation of appropriate proceedings against him for recovery of the loss caused by him to the State exchequer.

The materials collected during investigation prima facie establish that:

- (i) Sri V. Umesh, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 24/05/1999 to 08/03/2000, by his acts of commissions and omissions, has caused a total loss of Rs. 6,90,56,138/- as detailed in Revised Table-11A of the report of Sri Gaikwad team at Annexure – 'C'.
- (ii) Sri I.R. Perumal, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 31/10/2000 to 26/11/2002, by his acts of commissions and omissions, has caused a total loss of Rs. 5,02,60,312/-, as detailed in Revised Table-11B of the report of Sri Gaikwad at Annexure – 'C'.
- (iii) Sri K.S. Manjunath, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 26/11/2002 to 7/12/2002 and 20/02/2003 to 7/7/2003, by his acts of commissions and omissions, has caused a total loss of Rs. 4,04,66,938/-, as detailed in Revised Table-11C of the report of Sri Gaikwad at Annexure – 'C'.
- (iv) Sri D.S. Aswath, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 25/08/2003 to 14/04/2004, by his acts of commissions and omissions, has caused a total loss of Rs. 95,23,82,953/- as detailed in Revised Table-11D of the report of Sri Gaikwad at Annexure – 'C'.

- (v) Smt. Jija Madhavan Hari Singh, IPS, former Managing Director, M/s Mysore Minerals Limited, during her tenure from 15/04/2004 to 14/06/2006, by her acts of commissions and omissions, caused a total loss of Rs. 299,42,72,022/- as detailed in Revised Table-11E of the report of Sri Gaikwad at Annexure – 'C'.
- (vi) Sri Mahendra Jain, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 15/06/2006 to 09/01/2008, by his acts of commissions and omissions, has caused a total loss of Rs. 219,56,81,974/- as detailed in Revised Table-11F of the report of Sri Gaikwad at Annexure – 'C'.

By their commissions and omissions as detailed above, the above mentioned public servants have acted in a manner unbecoming of a Government servant of the class to which they belong and thereby committed misconduct under Rule 3 of the All India Services (Conduct) Rules, 1968. Therefore, under Section 12(3) of the Lokayukta Act, I recommend to the Competent Authority to initiate disciplinary proceedings against the said public servants under the All India Services (Disciplinary & Appeal) rules, 1969. Appropriate proceedings shall also be initiated against the above mentioned public servants for recovery of the loss caused by them due to their omissions and commissions as detailed above.

The materials collected during investigation prima facie establish that:

- I. Sri K. Srinivas, Dy. General Manager, M/s Mysore Minerals Limited is jointly and severally responsible with the respective Managing Directors, during the years 2000-04 and 2003-05, for causing a loss of Rs. 14,84,31,833/-, by his acts of commissions and omissions, as detailed in Revised Table-12A of the report of Sri Gaikwad team at Annexure – 'C'.
- II. Sri M. Ramappa, Dy. General Manager, M/s Mysore Minerals Limited is jointly responsible with the respective Managing Directors, during the years 2003-04, for causing a loss of Rs. 6,10,47,870/-, by his acts of commissions and omissions, as detailed in Revised Table-12B of the report of Sri Gaikwad team at Annexure – 'C'.
- III. Sri Shankaralingaiah, Dy. General Manager, M/s Mysore Minerals Limited is jointly responsible with the respective Managing Directors, during the years 2004-07 for causing a loss of Rs. 63,38,13,427/-, by his acts of commissions and omissions, as detailed in Revised Table-12C of the report of Sri Gaikwad team at Annexure – 'C'.

By their omissions and commissions, the above mentioned officers of M/s Mysore Minerals Limited have committed misconduct. Therefore, under Section 12(3) of the Lokayukta Act, I recommend initiation of disciplinary proceedings under the service rules applicable to them and so also appropriate proceedings shall be initiated against the said officers for recovery of the loss caused by them as detailed above.

Action taken or proposed to be taken on the above recommendations be intimated to this institution within three months from the date of receipt of this report as required under Section 12(4) of the Lokayukta Act.

ACKNOWLEDGEMENT

There has been delay in submission of this Report, which I can say with all sense of responsibility that it is not due to any slackness on my part or my team's part, but due to the desire of our bringing about this report which should present all the shortcomings in the mining activities. We have tried to look into the irregularities, illegalities and problems at different stages of mining activities holistically. In this process all members of my team have worked with dedication and devotion. I am grateful to Sri K.R. Chamayya, Retired Secretary, Law Department, Government of Karnataka, who is my principal advisor, as well as, Sri L.Subramanya and Sri Moosa Kunhi Nayar Moole, both Registrars in the Karnataka Lokayukta whose cumulative efforts have helped me in the

preparation of this report, without in any manner compromising with their other duties. The tremendous work put in both in the field and office by Dr. U.V. Singh was also responsible for all the inputs provided in this report to arrive at all types of illegalities in mining. I also place my deep appreciation of work put in by Gaikwad team, whose names are mentioned in the beginning of this report. I also place on record my appreciation of the overtime work put by Smt. Jayashree and Sri K. Krishnan, officials of Lokayukta, but for whom this report would not have been possible to be ready even now. For all the people whose names are not here but who have helped me in the preparation of this report, I am indebted.

(N.SANTOSH HEGDE)

LOKAYUKTA

D.O. No. Compt/LOK/BCD/89/2007/ARE-2

18th December, 2008

Encl: Report along with connected records

Dear Sri Sudhakar Rao

Sub: Reference under Section 7(2-A) of the Karnataka Lokayukta Act made by the Government for investigation of certain matters relating to illegal mining activities in Karnataka-reg.

Ref: i) Govt. Order No. CI 164 MMM 2006 dated 12/03/2007

ii) Govt. Order No. CI 164 MMM 2006 (Part), dated 09/09/2008

I am herewith forwarding my Report (Part-I) dated 18/12/2008 along with Annexures, on the reference made by the Government under Section 7(2-A) of the Karnataka Lokayukta Act, 1984, for investigation of certain matters relating to illegal mining activities in Karnataka, for needful action in the matter.

In the said report, I have discussed the various issues relating to irregularities and illegalities in mining activities carried on in the State of Karnataka and so also the activities of M/s Mysore Minerals Limited. In this report, I have made certain recommendations and suggestions. Certain recommendations are also made under Section 12(3) of the Karnataka Lokayukta Act, 1984 against the named public servants.

The action taken or proposed to be taken on the basis of the said recommendations be intimated to this authority within three months from the date of receipt of the report, as provided under Section 12(4) of the Karnataka Lokayukta Act.

The receipt of the report along with enclosures may please be acknowledged.

With regards,

Yours sincerely,

(N.SANTOSH HEGDE)

Sri Sudhakar Rao, I.A.S.,
Chief Secretary to Government,
Karnataka Government Secretariat,

Vidhana Soudha,

Bangalore-560 001.

Appendix

Participants and the organizations in the planning process (2009 – 2010)

- Akkai (Sangama); Rahul Pandey (NAPM);
- Anita (Open Space);
- Anitha.K.N (Bridge Network);
- Ashly Tom (Concerned for Working Children);
- A.V.Caleb (Students Christian Movement);
- Bapu Heddurshetti (Centre for Socialist Studies);
- Bhogananjunda (CIEDS);
- Brinda Adige (Global Concerns of India);
- D.Vimal Raj;
- Edwin (Open Space);
- Elango (Parishkaran);
- G.K.Karanth (Institute for Social and Economic Change);
- Glory.T (Grace);
- Gururaja Budhya (Urban Research Centre);
- Harita Saranya (Divya Jyothi Jagrathi Sansthan);
- Hrangthan Chhungi;
- I.S.Mallikarjun;
- John (Indian Social Institute);
- John (Parishkaran);
- John VM Juliana (Vigil India Movement);
- Kavita ratna (Concerned for Working Children);
- Kevin Noronha (Action Aid);
- Krishna Prasad (Sahaja Samrudha);
- Kshitij Urs (Action Aid);
- Lakshmidewa (Bridge Network);
- Lakshmisha.K.V (Child Rights Trust);
- M.K.George (Indian Social Institute);
- M.Rukmani (APSA);
- Mahendra (United Nations Solution Exchange);
- Manjula.K (Bridge Network);
- Manjunatha A.V (Child Rights Trust);
- Manjunath.S.P (St.George College);
- Maria (Child Rights Trust);
- Maria.S (Global Concerns of India);
- Mathew Idiculla (Christ University);

- Mathew Philip (SICHREM);
- Mythreyi.A.N (GKIMS);
- N.R.Shetty (Sahaja Samrudha);
- Naga Belur (Centre for Socialist Studies);
- Nirmala (Bridge Network);
- O.Mary (CFAR);
- P.Lakshapathi (APSA);
- Prabhakar.R, Researcher;
- Pragana Kolar (SDM IMD);
- Prakash Kamath;
- Prameela P (Bridge Network);
- Prashanth.N (SDM IMD);
- Praveen Kamat, Researcher;
- Prof.Hanumantha (Centre for Socialist Studies);
- Pooja (Child Rights Trust);
- Priulla (World Vision India);
- Pushpa Achant, Journalist;
- R.Manohar (SICHREM);
- R.Padmini (Child Rights Trust);
- Radha.V (CFAR);
- Rashmi.G.M (Child Rights Trust);
- Rathna.G (CFAR);
- Rathnanjeya (Bridge Network);
- Rohit (SDM IMD);
- S.Anand (Anti Corruption Forum);
- S.Krishnaswamy (Bangalore Social Forum);
- Satish (Child Rights Trust);
- Shakun.M (Vimochana);
- Shameem (Action Aid);
- Shrayana Majumdar (CFAR);
- Soubhagya (Bridge Network);
- Sridhar.H.N (St.George College);
- Sumasree.B.S (SDM IMD Mysore);
- Sumana (Child Rights Trust);
- Thanuja (Child Rights Trust);
- Thousand Sunshine (Buddhist League);
- Vidya (SDM IMD);
- Vinay Banidur;

- Vishal;

Resource persons for the workshops... (2009 – 2010)

- Prof.A.R.Vasavi
- Prof. Abdul Azeez
- Prof. Vinod Vyasulu
- Mr.Bapu Heddurshetti
- Mr.Deepu
- Mr.Ashok Mathew
- Fr.George
- Mr.Edwin Jayadas
- Mrs.Padmini.R
- Mrs.Usha
- Mrs.Shakun Mohini
- Mr.Arun Agarwal
- Prof.R.S.Deshpande