

Governance and Development

17.1 The Tenth Five-Year Plan highlighted the importance of governance for “tackling the problems of poverty, backwardness and low human development” and pointed out the importance of embarking on a comprehensive governance-related reforms agenda. A multi-faceted approach was adopted, with particular emphasis being laid on the implementation of the 73rd and 74th Constitutional Amendment Acts, 1992, which gave Constitutional status to panchayati raj institutions (PRIs) and urban local bodies (ULBs) respectively, in both letter and spirit in order to bring about greater decentralisation and increase the involvement of the community in planning and implementing schemes and, thus, increase accountability. The agenda also included institutional reforms, including those related to the civil service, judicial system, policing and the criminal justice administration system. It also emphasised the role of e-Governance, which can improve the delivery of a wide range of services to citizens and businesses.

DECENTRALISATION & PANCHAYATI RAJ INSTITUTIONS

17.2 The political empowerment of PRIs – elections to the three tiers of PRIs and representation for scheduled castes (SCs)/ scheduled tribes (STs) as well as women – has been firmly established. The system has over 3 million elected representatives participating in the decentralised governance set-up, the largest democratically elected representative base in the world. In many states, the representation of women in PRIs is higher than the stipulated minimum of 33.3 per cent. However, this political empowerment has not been accompanied by empowerment in other spheres. The state governments were expected to devolve functional autonomy, administrative support and financial resources to the PRIs, but

success on this front has been patchy. PRIs in Kerala have been considerably strengthened and are often cited as examples of genuine devolution. Karnataka and Madhya Pradesh have also made significant progress in this area. However, most states have honoured the 73rd and 74th Constitutional Amendment Acts only in letter and not in spirit. Instances of states initially devolving powers and functions and later withdrawing these have come to light.

17.3 The National Common Minimum Programme (NCMP) adopted by the United Progressive Alliance (UPA) government in May 2004 has resolved to strengthen the PRIs (see Box 17.1). An important step towards this objective was the creation of a separate Ministry of Panchayati Raj.

17.4 The Ministry of Panchayati Raj, held seven round table conferences in 2004 to formulate action plans to be adopted by the state governments so that PRIs become effective institutions of self-government. Close to 150 resolutions were adopted, relating to various facets of empowerment of PRIs. The Central and state governments need to initiate work on these resolutions which can be categorised under the following 16 heads:

- Effective devolution of functions, functionaries and finances
- Strengthening of District Planning Committees and formulation of District Plans as envisaged in the Constitution.
- Implementation of Plans, programmes and projects.
- Strengthening gram sabhas, by endowing them with greater powers and responsibilities.
- Empowerment of women and attention to gender related issues.

- Reservations for SCs, STs, other backward classes (OBCs) and women.
- Special problems of SCs and STs.
- Conduct of elections.
- Strengthening of the accounts and audit procedures in PRIs.
- PRIs in Union Territories without legislatures.
- Problems with parallel bodies to PRIs.
- Development of capability at all levels in PRIs.
- State of Panchayats Report.
- Jurisprudence arising out of judicial decisions and interpretations.
- Information technology (IT) enabled e-governance for PRIs.
- Promotion of Rural Business Hubs.

DEVOLUTION OF FUNCTIONS TO PRIs

17.5 The issue of empowering PRIs by transferring the three Fs (functions, funds and functionaries) to them has been at the centre of discussion between the Centre and the states over the last 10 years. The Planning Commission and the Ministry of Rural Development have repeatedly impressed upon the state governments the need to transfer these three Fs in respect of 29 items listed in the Eleventh Schedule. In practice, however, while most states have transferred a large number of functions to the PRIs, this has not been accompanied by a transfer of funds and functionaries (Annexure 17.1). Even in the

states where funds and functionaries have been transferred to the panchayats, state government officials continue to exercise control on financial resources and the personnel transferred to the panchayats.

17.6 Effective devolution requires devolution of finances. The subjects earmarked for PRIs cover all the social and economic dimensions of rural life but the extent of financial devolution is not commensurate with the responsibilities. The sources of revenue that have been earmarked for panchayats are far from adequate. The power of taxation is vested only with the lowest tier of the PRI – the gram panchayat. The higher tiers – the panchayat samitis and district or zilla panchayats – do not have the power of taxation. The extent of devolution from the state level to the PRIs is also very limited. Though State Finance Commissions have been appointed, their recommendations have generally not been implemented. The only states where substantial resources are being transferred to panchayats are Kerala, Karnataka and Madhya Pradesh. In Kerala, 40 per cent of the state budget is placed at the disposal of the PRIs. A similar system has been introduced in Karnataka and Madhya Pradesh. The magnitude of the allocations, however, differs. In Karnataka the allocations are largely to the zilla panchayats.

17.7 The lack of financial resources means that PRIs are heavily dependent on the state governments for funds, which effectively reduces them to an agency of the government, rather than an institution of self-governance, as

Box 17.1

Panchayati Raj Institutions in the NCMP

- The UPA government will ensure that all funds given to states for implementation of poverty alleviation and rural development schemes by Panchayats are neither delayed nor diverted. Monitoring will be strict. In addition, after consultations with states, the UPA government will consider crediting elected Panchayats with such funds directly.
- Devolution of funds will be accompanied by similar devolution of functions and functionaries as well. Regular elections to panchayat bodies will be ensured and the amendment Act in respect of the Fifth and Sixth Schedule Areas will be implemented.
- The UPA government will ensure that the Gram Sabha is empowered to emerge as the foundation of panchayati raj.

was envisioned by the Constitution. Indeed, fiscal decentralisation measured by various ratios indicates that the financial autonomy of the PRIs has actually decreased after decentralisation at an all-India level. A number of Centrally sponsored schemes initiated in the 1990s are implemented through the PRIs and this brings in some PRI involvement, but these schemes have detailed guidelines and the PRIs have very little discretion in the use of these funds.

17.8 Related to the question of resource transfer from the government is the issue of resource mobilisation by panchayats themselves to enlarge their area of activities. Mobilisation of resources at the local level would not only strengthen the financial position of the panchayats, it would also lead to people exercising greater control over the manner in which the elected functionaries discharge their functions. Property tax, collection of user charges for water, irrigation and revenue from the tanks and ponds could be tapped by the local bodies to strengthen their fiscal domain. Property tax has emerged as a major source of revenue for gram panchayats in Karnataka. A few states have attempted the practice of providing matching grants to the resources raised by panchayats by specific programmes. Such initiatives could be collated and disseminated widely for replication by the other states.

AUDIT AND ACCOUNTING

17.9 The proposed transfer of funds to the PRIs by the Central and state governments must be accompanied by efforts at strengthening their accounting and auditing procedures. The Eleventh Finance Commission award had set aside a separate small provision of Rs.197.06 crore for the development of a database on the finances of the panchayats and Rs.98.61 crore for the maintenance of accounts. The Twelfth Finance Commission has not made any separate allocation for these two heads but has, instead, indicated that the states may assess the requirement of local bodies in this regard and earmark funds for the purpose out of the total allocation for PRIs.

17.10 The related issue of fiscal discipline and accountability at the panchayat level is equally important. Very few states have framed specific rules for dealing with the financial irregularities and misdemeanours of elected panchayat functionaries. The Comptroller and Auditor General's office has issued guidelines on the audit of panchayat finances. These need to be adopted immediately by all states. Rules need to be framed and notified for dealing with misuse of funds and embezzlement by the panchayat functionaries.

FUNCTIONAL DEMARCATION BETWEEN THE THREE TIERS

17.11 Although 29 subjects have been allocated to the PRIs, there is lack of clarity about the distinct roles of the three different tiers of the PRI system in relation to these subjects. The Eleventh Schedule does not specify the principles of functional demarcation between the zilla panchayats, the panchayat samiti and the gram panchayat. The S.B. Sen Committee on Decentralisation of Powers set up by the Government of Kerala had recommended that the principle of subsidiarity – functions which could be performed best by the lowest tier, should be entrusted only to that tier and not to a higher tier – could be followed while demarcating the functional domain of the three tiers. This is even more necessary as the three tiers are not hierarchical.

17.12 A Task Force set up by the Ministry of Rural Development, with representation of state governments, had studied this issue and outlined the functional responsibility of each tier in respect of the 29 items on the basis of the principle of subsidiarity. The report of the Task Force has been circulated to the state governments. The states should be persuaded to notify the division of functional responsibilities between the three tiers on the basis of activity mapping. The demarcation of functions is necessary to assess the requirement of financial resources at each level and the administrative support that would be necessary to carry out those functions.

IMPLEMENTATION OF CENTRALLY SPONSORED SCHEMES

17.13 The transfer of Plan resources from the Centre to the states takes place through two channels – Central assistance to the State Plans and resources transferred for implementing Centrally sponsored schemes in the state sector. The 29 Eleventh Schedule subjects fall within the functional domain of the different ministries of the Central government. The Ministry of Rural Development, which was the nodal ministry for PRIs until recently, has taken steps to involve PRIs in their schemes. The Sampoorna Grameen Swarozgar Yojana (SGSY) is implemented exclusively through panchayats. However, most of the other departments have either not provided any role, or provided only a very limited role, for the PRIs. The Planning Commission had set up a Task Force on PRIs to examine this issue and suggest concrete measures to ensure the involvement of PRIs in implementation of the Centrally sponsored schemes. The Task Force concentrated on rural development, health, education, agriculture, environment and forest and social justice and empowerment sectors and outlined in detail the stages at which the Central ministries could involve different tiers of the PRIs. Many ministries have increasingly involved PRIs in programme delivery, but these efforts need to be intensified further.

17.14 Centrally sponsored schemes provide an avenue for the Government of India to persuade state governments to transfer financial resources and equip PRIs with administrative support to fulfil the objectives of the CSSs. One mechanism to do this would be to link releases under schemes to transfer of the three Fs by the states to the PRIs. This would provide an incentive to the States to empower PRIs. This could be done at least in case of those Centrally sponsored schemes relating to the Eleventh Schedule subjects.

DISTRICT PLANNING

17.15 One of the major objectives of democratic decentralisation was to facilitate participation of the people in planning,

implementation and monitoring of development projects that addressed their felt-needs. The Constitution provides for setting up of District Planning Committees (DPCs), which are expected to consolidate the Plans prepared by panchayats and municipalities in the district and then prepare a draft Plan for the district as a whole. The district planning exercise has to be a bottom-up process, where panchayat plans are prepared in the gram sabhas and aggregated at the block/taluka level before they are integrated into the district plan. The district plans must, in turn, be reflected in the state Plans.

17.16 This has simply not happened in practice. District planning has been one of the weakest links in system of decentralised governance. Many state governments are yet to set up DPCs and even in the states where they have been set up, their role in the formulation of district plans has not been very effective. This is clearly an area of major weakness and needs to be considerably strengthened.

17.17 The Central government is also responsible, to some extent, for the dormancy of the DPCs. Sanctions under various Centrally sponsored schemes are accorded on a project-by-project basis by Screening and Sanctioning Committees set up in the Central ministries. The Ministries of Rural Development, Tribal Affairs, the Department of the North-Eastern Region and many other ministries clear district-level projects through Central Approval Committees. Such selection and approval of projects at the Central level negates the very principle of participatory planning at the grass root level. The Planning Commission could also encourage state governments to provide for separate district plans and incorporate these in the State Plan before the latter is submitted for approval.

17.18 District-level planning cannot become effective unless it is backed by the provision of block grants at the district level in the form of untied funds. Programmes relating to a sector should be bundled under one head and districts should be empowered to select projects in suitable sectors and areas. The practice of providing a separate district budget, as has

been done in Kerala and Madhya Pradesh, needs to be adopted by other states as well. This exercise may be undertaken on a pilot basis in selected districts in each state.

EMPOWERMENT OF GRAM SABHA

17.19 Article 243 A of the Constitution makes the gram sabha the repository of all powers and functions devolved on panchayats by the Constitution and expects it to function almost like a legislature, with the gram panchayats deriving their authority from it. The 73rd Constitutional Amendment Act also stipulates that state government should bestow gram sabhas with clear powers and functions. The various State Conformity Acts that were passed, however, only provided supervisory powers to gram sabhas, without giving them any effective control over the elected functionaries. States have to strengthen the gram sabhas by providing them more effective powers before they can emerge as the fulcrum of panchayati raj, as envisaged in the NCMP. Mechanisms that ensure accountability of PRIs to the people need to be beefed up. The Central government has often requested the state governments to enlarge the role of gram sabhas. Training camps have been organised by the government and non-government organisations (NGOs) to generate awareness among the gram sabha members about their rights and responsibilities.

17.20 A few states have made social audit of the programmes implemented by the PRIs mandatory. Many examples of good work done by gram sabha and panchayats have been widely reported. Nevertheless, gram sabhas, by and large, continue to be weak and lack substantive powers and control over the gram panchayats. In fact, many gram sabhas rarely meet.

17.21 The Right to Information Act passed by the Government of India and many state governments will strengthen gram sabhas. What is also needed is a much larger programme of training and awareness generation for panchayat functionaries, the governmental machinery and the community to explain to each of them their role and

responsibilities. The practice of social audit prevalent in some states should be extended to all the states and made mandatory.

TRAINING OF PANCHAYATI RAJ FUNCTIONARIES

17.22 The Ministry of Rural Development has assisted state governments by providing resources for training elected representatives and government functionaries dealing with PRIs. NGOs have also been assisted by the state governments to take up awareness generation programmes in the rural areas. International organisations have also been active in this area. However, given the magnitude of the task, these efforts have not been able to make a major impact on the ground. The challenge is to change the mindset of the government functionaries and encourage them to cooperate with panchayat functionaries. A much larger training programme, therefore, needs to be undertaken for training panchayat functionaries and government officials whose services have been placed at the disposal of the PRIs. Training of trainers, therefore, is equally important.

PANCHAYATS (EXTENSION TO SCHEDULED AREAS) ACT

17.23 The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) extends panchayats to the tribal areas of Andhra Pradesh, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Jharkhand, Chhattisgarh, Orissa and Rajasthan to enable tribal communities to preserve their traditional customs and rights. Most state governments have passed enabling legislation to give effect to the provisions of PESA. However, rules are yet to be framed and notified in many states and, as a result, PESA has not yet been operationalised. Under the Act, the gram sabhas/panchayats are given mandatory powers to be consulted, to recommend and to enforce prohibition, ownership of minor forest produce, prevent alienation of land in the Scheduled Areas and control of local resources for State Plans including Tribal Sub Plans.

17.24 A review of the state Acts shows that most states have assigned a less prominent role to gram sabhas/panchayats in the Scheduled Areas than was intended by PESA. In Orissa, gram sabhas/panchayats have been given very few powers. In many states, powers earmarked for gram sabha/panchayats have been entrusted to taluka and zilla parishads. In many states, gram sabhas have been given powers of control only on forests located within the revenue boundaries of the village and not on all forests (including reserved forests) in the vicinity of the village. Forest products such as cane, bamboo and mahua seeds have been excluded from the category of minor forest produce in order to keep them under the control of the Forest Department.

17.25 PESA gives wide-ranging powers to the gram panchayats in the Schedule V areas. Given the fact that tribals are among the most marginalised sections of society, the Act is an important instrument to encourage tribal communities to participate in the growth process and improve their living conditions. It is necessary to impress upon the states the need to implement PESA and modify/repeal all laws that come in conflict with it, as was envisioned by the Act itself.

PROGRAMME DELIVERY SYSTEM AND IMPLEMENTATION DESIGN

17.26 Successful implementation of development programmes requires adequate funds, an appropriate policy and institutional framework and an effective delivery mechanism. Past experience suggests that availability of funds, though necessary, is not a sufficient condition for tackling the problems of poverty and backwardness. The capability of the delivery system to optimally utilise the funds and achieve sustainable outcomes on the ground is equally important.

17.27 There is now substantial evidence that basic public services and programmes (such as those meant for the poor and the weaker sections) function relatively inefficiently in the poorer and less well-governed states. This is due to, on the one hand, lack of motivation,

accountability, absence of performance appraisal, lack of a system of incentives and penalties, understaffing and poor working conditions, and, on the other, large-scale leakages.

17.28 Technology-enabled delivery system design for implementation of the proposed national rural employment guarantee scheme is indicated in Box 17.2. The concept needs to be validated through pilots before it is rolled out.

17.29 From this example, it will be apparent that e-Governance solutions can be useful in designing implementation and monitoring systems for poverty alleviation and other rural development programmes such as the Sarva Shiksha Abhiyan, Sampoorna Grameen Rozgar Yojana (SGRY), SGSY, Mid-Day Meal Scheme, Integrated Child Development Services (ICDS).

17.30 The Tenth Plan highlighted the role of PRIs, as well as of civil society, including voluntary sector, in the governance related reforms agenda. It was envisaged that the voluntary sector would be recognised, as a partner in development and Non-Governmental Organisations (NGOs)/ Voluntary Organisations (VOs) would be involved in the task of planning and implementation of development programmes. An enabling environment will be created for greater involvement of the voluntary sector and appropriate databases on NGOs/VOs would be created. The NCMP has endorsed the important role which this sector can play and this is reflected in the constitution of the National Advisory Council.

17.31 Recognizing the increasing importance of the voluntary sector in the development process, the Planning Commission has issued Guidelines to the concerned Departments/ Ministries and State Governments to facilitate the working of voluntary organisations. In these Guidelines, inter-alia, it has been suggested to set up grievance redressals mechanisms, to notify the state Planning Department as the nodal agency for voluntary sector, to constitute state joint machinery for Government and

voluntary sector collaboration, to take appropriate steps for capacity building of NGOs, to sensitize government officials about the role of NGOs, to adopt simplified formats and fast tract systems for involving NGOs, to have better coordination between NGOs and PRIs etc. The Planning Commission is formulating a draft National Policy on the Voluntary Sector which will seek to define or facilitate the role of voluntary section information in improving governance in the development process. As basic data on voluntary sector on the country is not available, the Planning Commission is preparing a database on NGOs. Information on about 16,000 NGOs who have received funding from different departments of the Government is available, as on 20th April 2005. This information is continuously being updated and available on the website of Planning Commission. In addition, the database of other concerned departments and other useful sites for voluntary sector have been hyperlinked on the Planning Commission website.

17.32 It has been estimated that there are about 12 lakh Voluntary Organisations in the country. The database of Planning Commission is still not able to capture the full contours and contributions of the voluntary sector. For this enormous task, keeping in view the ever-increasing size and role of the voluntary sector, proper infrastructure or institutional arrangements need to be placed at the earliest.

INSTITUTIONAL AND ADMINISTRATIVE REFORMS

17.33 In addition to the issue of empowering PRIs, there is a broader governance-related agenda which will affect the capacity of government (both at the Centre and the state level) to manage resources efficiently and provide an environment in which individuals are able to pursue their economic activity without undue restrictions and delays. This requires action on three fronts.

- Reducing the extent of government interference, to the extent possible through deregulation, rightsizing and building public-private partnerships.

- Making the government customer-centric through improved efficiency, transparency and minimising transaction costs.
- Participative government, which involves building up communication and consultative processes with the stakeholders.

Some of the key areas that would promote governance related reforms are outlined below.

CIVIL SERVICES REFORM

17.34 Governments face three critical challenges in the area of civil services reform. One, they must enhance the productivity of the civil services and make certain that each employee is performing socially relevant tasks. Two, they must ensure the long-term affordability of the civil services. Three, they must enforce procedures for rewarding and promoting merit, and penalising malfunction and misconduct, in order to strengthen accountability and enhance performance quality.

17.35 **Rightsizing government:** The government has, unfortunately, long been seen as the employer of first resort by the middle class and a rapid expansion of government employment has taken place, especially of the support staff. With the changing role of the government, there is a pressing need for rightsizing of the government, without causing hardship. Governments should identify surplus staff, set up an effective redeployment plan, and also devise a liberal system for exit. For the time being, recruitment should only take place for functional posts, and vacant posts of secretarial and clerical nature should not be filled. The Central government has already restricted the recruitment of fresh personnel to just one-third of the posts falling vacant each year, and some states have taken similar steps. These are moves in the right direction. The Administrative Reforms Commission (ARC) Report, 1970 had recommended the abolition of clerical positions in the secretariat, by merging the field departments with the secretariat departments at appropriate levels, and by following the pattern prescribed in the

Box 17.2

Delivery System and Implementation Design for Employment Guarantee Scheme

The proposed national rural employment guarantee scheme stipulates the provision of employment for a minimum of 100 days a year for at least one adult per rural household. For this scheme to be properly implemented, it will be necessary for every village panchayat to maintain a register enumerating eligible adult individuals in every family. This would need to be converted into a workers' register. All government departments with works programmes in rural areas would have to create village-wise works registers, which would then have to be centrally aggregated and catalogued village-wise at the district/block headquarters. Each potential worker would have to be given a distinct ID and would have to be assigned to the aggregated village-wise works register so that an account can be kept for 100 days of employment for one member from each family. In a nutshell, this would require works and workers inventories to be created and stored in a central data depository at the district headquarters. To carry out the programme in a monitorable mode, on a nation-wide basis, it would be necessary to set up state and national level data depositories.

Tata Consultancy Services had carried out a study in 2004 of various rural employment schemes including the Maharashtra rural employment guarantee scheme and had identified the following flaws in the implementation design of the scheme.

- **Inflated Schemes**
 - Inflated quantity of work, depressed productivity, inflated person day estimates
- **Bogus Registrations**
 - Registration of non-living persons, minors and medically unfit persons, duplicate and/or proxy registration, fictitious registrations
- **Fraudulent Requisition of Funds**
 - False measurement, inflated progress of works, omitting an operation or work item
- **Inflated Muster**
 - Ghost workmen, bogus attendance
- **Fraudulent Wage Payment**
 - Under payments, dependant fraudulent payments

These loopholes can be effectively eliminated/minimised by re-engineering the scheme to provide access to the details over the Net and to enable online updating of information related to attendance, progress and measurements of works completed. The main process reengineering changes involve:

- Providing permanent photo identity card which is machine-readable (either through bar code, radio frequency identification (RFID) tag or smart card for beneficiaries.
- Displaying the programme details on website
- Recording attendance at works site either manually or through the RFID tag or smart card
- Works measurement by an independent agency
- Posting of progress of work and manpower details in the district headquarters database
- Reconciliation of the progress of work with cost estimates and time deadlines
- Reconciliation of the muster with the database of registered workers
- Direct wage payments from district headquarters to workers using post office saving accounts/money orders sent to their residence
- Aggregation of district data at the state and national level data depositories

army for decision making through the single file system. These recommendations remain relevant even today. Reducing the number of general holidays, as recommended by the Fifth Pay Commission can lead to better productivity of the existing staff.

17.36 **Open government** is a key element of governance reform. The environment of secrecy that pervades government functioning only encourages suspicion, resentment and malpractices. Sharing of information and higher levels of transparency would certainly reduce the danger of the system being manipulated by a few and would make administration more responsive and performance oriented. One way of sending a signal for reform is to encourage the enactment of legislation for Right to Information along the lines of what has been done at the Centre. If the right of the ordinary citizen to information is recognised, it will dramatically increase the strength of the citizen to understand and challenge corruption and the arbitrary exercise of State power. There are many ways to bring about openness in government. The declared intention of the government should be in favour of transparency. All information that is generally provided by the Parliament or state Assembly to a legislator should also be accessible to the public. Departments with extensive public dealing, such as the police and revenue department, should be subjected to a social audit at periodic intervals. These audits, by eminent members of the public, should look at their policies and performance, and suggest constructive steps for their improvement.

17.37 Each department with a public interface should develop a Citizens' Charter, which should clearly define the standard for the services being rendered. It should also specify the remedial mechanisms available to the citizen. Merely notifying citizens' charters should not be an end in itself. After promulgating citizens' civil charters, departments should ensure that the necessary changes have also been introduced in every aspect of the functioning of the department and at every level to conform to the standards set in these charters. Each department should organise large-scale capacity building

programmes to bring about attitudinal change in their employees.

17.38 Ensuring accountability of public servants for their actions is another key element of civil service reform. The high transaction costs involved in interacting with government agencies corrodes the credibility of public institutions, leading to widespread disenchantment with them, weakening the very fabric of governance, and making it virtually impossible to speed up development tasks. Accountability, transparency and the rule of law, are integral constituents of good governance. Transparency in government functioning will, in itself, reduce the possibilities of leakage and malpractice. The issue of accountability is crucial for effective financial management and a responsive civil service.

17.39 While it is imperative that public servants be made accountable, it is also essential that they be provided security of tenure. This is important not only for good delivery of services to the public, but also for an honest, objective appraisal of a civil servant's performance. Short tenures and transfers without notice cannot be conducive to good performance and in fact, serve to demoralise sincere, hard working officers. This is an issue that has been debated in the past also, with civil services boards being suggested as a possible measure against frequent and arbitrary transfers of public servants. However, there has not been satisfactory progress in this direction; on the contrary, the problem seems to have become more acute in some States. There is, therefore, an urgent need for the Central Government to persuade the States to institute mechanisms for providing security of tenure to civil servants and discouraging their frequent and arbitrary transfers.

17.40 Procurement is an area especially prone to malpractices. Enactment of legislations/regulations to mandate strictly competitive bidding of all contracts and procurement of works, goods and services by the government and its entities, with regular issuing of tender notices, bid closing dates and contract awards, should be effectively ensured to minimise opportunities for malpractices in procurement

decisions. A major problem in this context is the ease with which the outcome of competitive bidding can be negated, which can become a source of corruption.

17.41 Civil society has an important role to play in promoting reforms by subjecting government actions and decisions to continuous scrutiny and pressure. Yet, despite the enormous burden posed by weak governance, civil society action has, on the whole, been found wanting. The pace of improvement in governance would accelerate only when countervailing forces in society develop sufficient confidence to oppose inefficiency and corruption in government. States should, therefore, not just tolerate, but actively encourage credible civil society organisations.

JUDICIAL REFORMS

17.42 Though India has a robust judicial system based on the Anglo-Saxon legal tradition, the process of delivery of justice to the common man is very long and torturous. The long list of pending cases in courts, frequent adjournments, dilatory tactics by counsels and the extortive practice of charging the client on per court hearing/per diem basis and not on outcome basis are resulting in interminable litigation and unacceptable delays in adjudication.

17.43 Since justice delayed is justice denied, special attention must be paid to reforms that would speed up the judicial process. The following initiatives deserve consideration:

- Empowering the presiding officers of the court to exercise better control over their case-lists or List of Businesses in a transparent manner. The List of Business Information System (LOBIS) developed by the National Informatics Centre (NIC) can help courts monitor whether hearings are getting fixed with predictable periodicity and are beyond manipulation of court staff. LOBIS is helping the Supreme Court registry generate daily cause lists and needs to be suitably adapted to meet the requirements of district courts.

- The counsel-client relationship and counsel fee-payment system need to be brought under some principled regulation to make the judicial process more client-friendly, creating an incentive for counsels to ensure early delivery of the decision. In sessions cases, this can be done by not allowing adjournments during sessions trial. In civil cases, the Bar Council or any other appropriate body should regulate the counsel remuneration system on outcome basis.
- There is also a need to provide greater finality to adjudicatory processes. Currently the judicial processes meander through an interminable process of interlocutory injunctions and appeals against interlocutory orders. This can be simplified by enhancing the power of the court to review its own orders, to enable it to bring about a self-correction at the interlocutory stage.
- There is a strong case for moving from a two appeal system to a single appeal system to give finality to judicial pronouncements.

17.44 The application of information technology can bring about a sea change in the quality of management of casework and can substantially reduce the time taken in disposal of cases. Under the directions of the Supreme Court and the Conference of Chief Justices, the NIC has initiated COURTIS (Courts Information System) covering all 18-High Courts. This has already enabled them to improve the court-litigant interface, with prompt delivery of copies of judgements, daily orders, case status information, etc.

17.45 In the Tenth Plan, an ambitious target has been set to computerise all 14,948 subordinate courts in the districts (including 1,734 fast track courts). In the first two years of the Plan 1,600 courts have been computerised. In the third year (2004-05), Rs.103 crore has been provided to computerise 3,475 district/subordinate courts while 9,873 courts will be computerised by March 2006,

thus covering all the remaining 13,348 courts at a cost of Rs.384.53 crore. Provisions have accordingly been made in the Plan budget of 2005-06.

17.46 While computerisation and networking of all courts will enable better administrative supervision and control by High Courts over disposal of cases in subordinate courts on a daily basis, the full benefits of induction of IT will be realised when the judicial processes start getting re-engineered in the following manner-

- Allowing e-filing of complaints, written statements, affidavits, counter-affidavits and rejoinder affidavits.
- e-filing of examination-in-chief is made admissible in evidence.
- Permitting cross-examination of witnesses in remote locations (i.e. outside courts) through video-conferencing and making it admissible in evidence.
- Providing touchscreens in witness boxes to enable witnesses to draw site-plans of scenes of occurrence in complicated sessions cases.
- Allowing audio-recorded/audio-video-recorded versions of evidence in order to shorten the time of court in recording evidence. Once technology is perfected, speech to text transcripts can also be made admissible in evidence.

17.47 Video-conferencing can be deployed by courts more effectively as an aid to judicial processes in following situations:

- Securing evidence of witnesses in remote locations or those not able to attend the court
- Securing evidence of vulnerable witnesses like rape victims, who may want to avoid public gaze
- Conducting identification proceedings
- Physically distancing the witnesses from the criminals in the identification parade. This will enable the witness to identify the offender fearlessly.

- Dispensing with the transportation of undertrials to and from jail for periodic appearances before magistrates. This will reduce instances of custodial escapes.

17.48 In order to implement these proposals, the judicial processes will need to be re-engineered and amendments made in the Evidence Act, 1872, Criminal Procedure Code (CrPC) and Civil Procedure Code (CPC). This should not be difficult, considering that Singapore, which had similar legislation/regulations in place because of the shared British colonial past, has successfully re-engineered its judicial processes to enable e-courts in order to bring about expeditious disposal.

POLICE AND CRIMINAL JUSTICE ADMINISTRATION REFORMS

17.49 The police is the instrument of coercive power of the State and this power has to be exercised transparently, with maximum restraint but with telling effect. Several Central and State Police Commissions have suggested comprehensive police reforms but the effectiveness of the beat constable, as well as the Station House Officer (SHO) has only declined progressively since Independence. In the 1950s, a single beat constable used to effect arrests of several offenders, but today, a posse is needed for the same task. The loss of quality of law enforcement has been made up by numbers or show of strength.

17.50 If this trend is to be reversed, the majesty of law must be re-established and public perception will have to be changed so that a policeman is seen as the person responsible for public safety, an ace-investigator and a professional crime-buster. His achievements will have to be rewarded and misconducts punished relentlessly. Once this is done, it will be necessary to change the legal system so that it gives greater credence to the policeman deposing in a court of law. In special circumstances, his solitary evidence should be relied upon for securing convictions. (Presently, unless corroborated, his evidence is treated as suspect by the court). Conversely, it will be necessary

to hold the police officer fully accountable for the depositions made by him. Any falsification of evidence should make him liable to the severest punishment, including dismissal. This change is fundamental to realigning the criminal justice administration system with its foundation as “veritas” or truth.

17.51 Once this is achieved, the conviction rate will increase, perpetrators of crime will get punished and judicial processes will start buttressing the deterrent effect of law. The current vicious circle of poor policing, poor investigation, half-hearted prosecution, hostile witnesses and high acquittal rate will get converted into a virtuous cycle of greater professionalism in investigation, more responsible prosecution, higher conviction rate and lesser crime. A more orderly society is the bedrock of planned development.

17.52 Technologies today enable us to view crime perpetration, detection, registration, investigation, prosecution, adjudication and incarceration as a seven-stage continuum. It is possible to follow and monitor the crime and the criminal from the time of the perpetration of crime to the time of its adjudication and resultant conviction.

17.53 A unified database on a shared network from the time a criminal perpetrates a crime till conviction can help monitor the ability of the system to deliver punishment for each offence committed. It will also enable evaluation of the performance of investigators and prosecutors, more systematically and enable High Courts to supervise the subordinate courts

more effectively. State governments should be encouraged to establish an integrated portal for crime and punishment. The portal will have two tracks:

- **The Crime Tracking System** will monitor crime from the time of its detection, through registration, investigation, prosecution and adjudication.
- **The Criminal Tracking System** will create a nation-wide system of data capture for criminals at the time of arrest with digital equipment for lifting, recording and storage of fingerprints, and with a powerful search engine for matching fingerprints with those in the data-base across the country. This will help in creating comprehensive criminal history sheets of individual criminals, habitual offenders and perpetrators of repeat-crimes. Subsequently, more sophisticated databases could be built based on DNA-fingerprinting and other biometric identifiers viz., retinal image identification system and Lambdoid Sutures etc. The fingerprint data capture system could first be established at each district headquarters and subsequently at the major police stations.

GOVERNANCE REFORMS IN BANKING SERVICES

17.54 The Indian banking sector is facing many challenges, the most important one being expectation of anytime anywhere banking on the part of customers. This requires legacy

Box 17.3 Electronic Data Interchange

The Electronic Data Interchange (EDI) aims at creating an integrated information exchange and decision support system for trade facilitation. Participating agencies are the Customs department, the Directorate General of Foreign Trade (DGFT), Port Trusts, shipping lines and shipping agents, airlines and airports, the Container Corporation (CONCOR), banks and importers and exporters. The current configuration of the EDI is flawed since it is mostly about translating the existing processes of the legacy system into electronic processes. It needs to quickly move to reconfiguring the information exchange and decision making process in a manner that brings about complete web enablement of on-line real-time transactions between the various stake holders involved in the business of imports and exports.

systems to migrate from a traditional paper-based environment to an IT/web-enabled environment. This process involves complete process re-engineering, full-scale computerisation, networking, standards integration, building user interface, security and authentication etc.

17.55 The magnitude of the challenge can be estimated by the fact that the public sector banks have 47, 375 branches of which only 29,175 have been fully computerised. Of the 407 existing service branches, 367 have been fully computerised. Since 57 per cent of the fully computerised branches are also interconnected, the Reserve Bank of India (RBI) has authorised Electronic Funds Transfer (EFT), thus enabling 5,480 branches to carry out online transfer of funds between different banks. The RBI has also put in place the Real Time Gross Settlement (RTGS) system for facilitating inter-bank settlements. The RTGS envisages settlement across current accounts of the banks with RBI and enables bank account holders to transact business from one bank to another at any time. Banking services to individuals and businesses are rapidly undergoing profound change in all three areas – intra-bank transactions, inter-bank transactions and bank user interface.

17.56 The Electronic Clearance Services (ECS) covering both debit and credit clearing operations is an example of **intra-bank network application**. Under the guidance of the RBI, the banks have operationalised the ECS. Dividends, interest on bonds and debentures, salary, pension can now be credited directly into the beneficiary's accounts using ECS (CREDIT) services. Similarly, telephone bills, electricity charges; school fees, credit card dues and tax payment can be made using ECS (DEBIT) services.

17.57 The Indian Financial Network (INFINET), which is the communication backbone for the banking and the financial sector using a combination of technologies such as Very Small Aperture Terminal (VSAT) and terrestrial leased lines, is one example of **inter-bank network applications**. Presently the network consists of 2,300 VSATs in 300

Box 17.4

Some e-Governance initiatives

- Andhra Pradesh has computerised land records in sub-registrar's offices to bring in speed and transparency.
- The Delhi government has also computerized the collection of property taxes.
- Tamil Nadu has begun publishing its public examination results on the web to avoid inconvenience to students.

cities. Other examples are SWIFT connectivity, which is global connectivity provided by the Society for Worldwide Inter bank Financial Telecommunications, EFT and the RTGS system.

17.58 The best example of **bank-user network application** is the Core Banking Solution and Internet banking. Once this is achieved, all major banks in India would have their own central data depository where the entire book keeping would be done centrally for all the branches and all customers. The branches will cease to be accounting centres and will become service retail outlets. So far, only 16 per cent of bank branches have accepted the core banking solution. Once it gains wider acceptance, on-line real time Internet based banking transactions from one branch to another, one bank to another and one location to another would become possible.

Box 17.5

Using Internet to touch ordinary lives

Experiments like the *Warana Wired Village Project* in Maharashtra, and the *Friends Project* in Kerala have demonstrated how Internet can be used to make a difference to the day-to-day lives of every Indian.

The Gyandoot programme in the Dhar district of Madhya Pradesh is networked to 31 village centres. The service provides a wide range of information to villagers like prices of agricultural produce, auction centre rates, copies of land records, on-line registration of applications, village auction site, to name just a few.

Table 17.1
Mission Mode Projects (MMPs)

	Central	State	Integrated
G2C	Income tax Passport, visa and immigration National Citizens ID	Land records Property registration Road transport Agriculture Municipalities Panchayats Police	Common service centres India portal
G2B	Excise Company affairs (DCA21)	Commercial taxes	EDI e-Biz e-Procurement National e-Governance gateway

E- GOVERNANCE

17.59 e-Governance is the application of information communication technologies (ICT) to various types of interaction between the government and citizens or businesses. It is an important instrument for improving governance and making it more citizen-friendly and transparent. It is important to emphasise that e-governance is not just the application of new technology to an old process. It involves fundamental redesign of work processes for increased transparency and accountability with the aim of providing services in an easy and affordable way.

POTENTIAL AREAS FOR E-GOVERNANCE THRUST

17.60 A number of sectors are particularly suited for e-governance initiatives.

- **Public grievances:** Various public utility services and public dealing departments like electricity, water, telephones, ration cards, sanitation, public transport and police could be considered for computerisation for quick redress of the problems that citizens face.
- **e-tendering:** ICT can be used to bring in transparency, accountability and speed into the procurement/tendering process, which is an activity every government establishment undertakes.
- **Police:** Registration of first information reports (FIR), information on lost and found valuables/persons, and information on dead bodies, etc., could be provided online and the accountability of the department enhanced.
- **Social services:** Activities such as civil supplies, old age pension, widows pension, pension for handicapped persons, ex-gratia payments, acquisition/rehabilitation and compensation can be computerised in order to make operations faster and transparent.
- **Registrations:** Activities such as registration for ration cards, birth and death certificates, land records, driving licence, domicile, caste/tribe certificates, arms licence renewal, registration of documents, school registration, university registration and motor vehicle registration could also be computerised to cut down on the delays and paperwork involved and improve efficiency. Online availability of a variety of certificates will do away with the need to go to block or district headquarter and would be a boon for those living in rural areas.
- **Public information:** Information on employment exchange registration, employment opportunities, examination results, hospitals/beds

availability, railway, airline and road transport timetables, charitable trusts, government notifications, government forms and government schemes, can all be made available online.

- **Utility payments/ billing:** Payment of electricity, water and telephone bills will become much easier when done over the Internet. On the commercial side, using Internet for mundane activities such as income tax/corporate tax filing, payment of custom duties, central/state excise duties, payment of sales tax, house tax, property tax, octroi, road tax, and company returns will make a difference to the lives of individuals and businesses.

NATIONAL E-GOVERNANCE PLAN

17.61 The Central government has identified a number of services at the Central and state levels that are amenable to e-Governance initiatives and the Department of Information Technology (DIT), in association with the Department of Administrative Reforms and Public Grievances and in consultation with the Departments concerned, has identified an action plan called the National e-Governance Plan (NEGP). Twenty-five Mission Mode Projects have been identified at the Centre, state and integrated service levels to create a citizen-centric and business-centric environment for governance.

17.62 Various e-Governance projects identified for implementation in mission mode are divided into services delivered by Central government departments and those delivered by state/municipal departments. They also are classified by type of output, namely services to citizens (G2C), to businesses (G2B), and others to facilitate service integration and indicated in Table 17.1.

17.63 Government has initiated a project, DCA 21, to facilitate companies to interact with the Department of Company Affairs (DCA) by establishing a healthy business ecosystem, which would facilitate reduced cost of compliance for all its services. This project would introduce a service-oriented approach

in the design and delivery of government services and make the country globally competitive. Further, a unique identification number (Global Location Number – GLN) is being provided to each registered company. The DCA 21 envisages:

- Electronic filing of companies' documents through an entirely paperless process.
- Registering a company and filing statutory documents on anytime, anywhere basis.
- Easy access to the public to relevant records and effective redressal of grievances.
- Enabling professionals to be able to offer efficient services to their client companies.
- Making the registration and verification of charges by financial institutions easy.

17.64 The DCA serves over 4,50,000 companies in India through its 35 field offices located mainly in the state capitals. Another project, E-Biz, is also being implemented. eBiz is one of the five integrated service projects figuring in the NEGP. It seeks to provide integrated services of the Central, state and local governments, in the pre- and post-establishment phases of business entities through a single window G2B portal for information, knowledge and transactions (registration, tax related etc.) A pilot project has been launched, which involves provisioning of 25 services across eight Central government departments, five state government departments and one local body. The pilot is to be implemented in one district of four states – Andhra Pradesh, Haryana, Maharashtra and Uttar Pradesh.

17.65 e-Governance requires high quality IT infrastructure, networking capabilities and adequate support in terms of technical manpower available at all levels.

17.66 A Programme Outcome & Response Monitoring (PO&RM) Division has been established which will ensure that financial outlays are converted into and correlated with

measurable physical outcomes for which parameters for monitoring will be identified upfront. Data generation and data capture and timely submission of data collected from the field will have to be ensured to create a programme monitoring and decision support system which enables us to make timely and

meaningful interventions in the programme roll out. The PO&RM Division will be serviced by NIC and its countrywide network in all 587 districts. Under this initiative data collected at field level will be transmitted to and stored in State and Central Data depositories and substantial part of it will be accessible online.

THE WAY FORWARD

DECENTRALISATION AND PANCHAYATI RAJ

- Transfer of the three Fs – functions, funds and functionaries – to the PRIs, commensurate with the responsibilities assigned to them.
- Empower the gram sabhas, which are the foundation of the panchayati raj system.
- Give greater attention to training and capacity building of the gram sabha members.
- Notify the division of functional responsibilities between the three tiers of the panchayati raj system on the basis of activity mapping.

INSTITUTIONAL AND ADMINISTRATIVE REFORMS

- Enhance the productivity of the civil service through rightsizing of government. Identify the surplus staff, set up an effective redeployment plan and devise a liberal system for exit.
- Ensure openness and transparency in the functioning of government. Press for the adoption of Right to Information legislation across the country. Subject departments with extensive public dealing to social audit at periodic intervals.
- Ensure accountability of public servants for their actions.
- Persuade the States to institute mechanisms for providing security of tenure to civil servants and discouraging their frequent and arbitrary transfers.
- Speed up reforms that will speed up

the judicial process. This has to be done through:

- Empowering the presiding officers of the courts to exercise better control over their case lists or List of Businesses.
- Bringing the counsel-client relationship and counsel fee-payment system under some principled regulation
- Providing greater finality to the adjudicatory processes
- Moving from a two appeal system to a single appeal system
- Use the benefits of information technology to manage casework and speed up processes. Allow e-filing of complaints, statements, affidavits and other documents. Permit video-conferencing for examination of witnesses in certain situations. Allow audio/video recorded versions of evidence.
- Pursue amendments to the Evidence Act, Criminal Procedure Code and Civil Procedure Code.

e-GOVERNANCE

- Push for political ownership at the highest level and a national vision for e-Governance. In the absence of such ownership, e-Governance would remain a purely technology initiative and would not penetrate into day-to-day use.
- Build up India's e-readiness in a systematic way by overcoming infrastructural inadequacies, re-engineering the processes to weed out outdated procedures and making them

user friendly, strengthening e-governance drivers, building institutions for capacity building and training and putting in place appropriate laws.

- Design applications to respond to citizen's needs and aspirations.
- Implement projects in stages of increasing complexity; providing information in the first stage and then moving on to providing interactive forms and finally a payment gateway where monetary transactions can take place.

Annexure 17.1

Status of devolution of departments/subjects with funds, functions and functionaries to
Panchayati Raj Institutions(as on 1st April 2004)

Sl. States / UTs No.	No. of Departments / subjects Transferred to Panchayats with			Status of constitution of DPC's
	Funds	Functions	Functionaries	
1. Andhra Pradesh	05	17	02	Not yet constituted. However, an Ordinance has been issued by the Government of AP in December, 2003 for constitution of DPCs.
2. Arunachal Pradesh	-	-	-	Not Constituted
3. Assam	-	29	-	Not Constituted
4. Bihar	8	25	-	37 districts out of 38 districts constituted on ad hoc basis. Chairman ZP is the Chairman of DPCs.
5. Jharkhand	-	-	-	Panchayat elections yet to be held.
6. Goa	6	6	-	Constituted. President of ZP is the Chairperson of DPC.
7. Gujarat	15	15	15	Not Constituted.
8. Haryana	-	16	-	16 districts out of 19 districts. Rest under consideration.
9. Himachal Pradesh	02	26 subjects	11	Only in 6 districts out of 12. Minister is Chairperson of DPC.
10. Karnataka	29	29	29	Yes, in all Districts. President ZP is Chairman of DPC.
11. Kerala	26	26	15	Yes, Chairman of District Panchayat (DP) is chairman of DPC.
12. Madhya Pradesh	10	23	09	Yes. District incharge Ministers are Chairpersons.
13. Chhattisgarh	10	29	09	Constituted. Minister is Chairperson of DPC.
14. Maharashtra	18	18	18	Not Constituted.
15. Manipur	-	22	04	Yes in 2 districts out of 4, Adhyaksha, DP is Chairperson.
16. Orissa	09	25	21	26 Districts. Minister is Chairperson of DPC.
17. Punjab	-	07	-	Not Constituted
18. Rajasthan	18	29	18	Yes, Chairman of DP is Chairman of DPC.
19. Sikkim	24	24	24	Yes
20. Tamil Nadu	-	29	-	Yes, Chairperson of DP is Chairperson.

Sl. States / UTs No.	No. of Departments / subjects Transferred to Panchayats with			Status of constitution of DPC's
	Funds	Functions	Functionaries	
21. Tripura	-	12	-	Not Constituted.
22. Uttar Pradesh	04	12	06	DPCs are not functional.
23. Uttaranchal	-	11	11	Yes. Minister is Chairman of DPC.
24. West Bengal	12	29	12	Yes, Chairperson of DP is Chairperson of DPC
25. A&N Islands	06	06	06	Yes, Chairman of DP is Chairman of DPC
26. Chandigarh	-	-	-	Not constituted.
27. D&N Haveli	-	03	03	Yes, Chairman of DP is Chairman of DPC
28. Daman & Diu	05	09	03	Yes, Chairman of DP is Chairman of DPC
29. Lakshadweep	-	06	-	Yes. Collector cum Dev. Commissioner is Chairperson.
30. NCT of Delhi	-	-	-	Panchayati Raj system is yet to be revived
31. Pondicherry	—	-	-	Panchayat Elections yet to be held.

Source: Ministry of Rural Development, Govt. of India

NOTE : The provisions of the Constitution (73rd Amendment) Act, 1992 are not applicable to the States of J&K, Meghalaya, Mizoram and Nagaland.