

# POLICY AND LEGAL REFORMS FOR THE POOR IN INDIA

*Articles: N.C.SAXENA, UNDP, New Delhi*

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# Chapter 1: The need for policy reforms

## Scope of the paper

Government of India and the state governments have been implementing several programmes (IRDP, JRY etc.) for eradication of poverty in India. While the objectives of these programmes may be commendable, they are based on a belief that spending of money is in itself a necessary and sufficient condition for poverty alleviation. This belief under-plays the role of non-monetary policies and the impact they have on the lives of the people. It has been the experience of many grassroot workers that often certain government policies harm the poor much more than any benefit that accrues to them through money-oriented schemes like the IRDP.

The knowledge about such anti-poor policies is however scattered and often anecdotal. This paper attempts to collect information about such policies, regulations and Acts of governments which are against the interests of the weaker sections or against achieving higher productivity, and which ultimately result in greater misery and further deepening of their poverty. The cooperation of several thinkers and NGOs has been solicited in this effort, and their suggestions have been incorporated in this paper.

There is a general belief among the policy makers in India that our policies are OK and helpful to the poor, but its implementation does not take place, and hence all that is needed is to improve the administrative capability so that the intention of the policies is fully realised. While the weak (and unfortunately declining) capacity of the delivery machinery is not disputed, often the policies are in themselves defective and need to be amended if these are to be beneficial to the poor. The anti-poor bias in many sectors stems from the belief that economic development and reduction of poverty require two different strategies. It is believed that whereas the former set of policies have to be geared to increasing production and need not take into account the interests of the poor, the latter is the responsibility of the Ministry of Rural Development which has no control over the anti-poor policies followed by other Ministries which are justified in the name of economic development. How existing policies of other departments impact on the poor is hardly analysed by the rural development departments of central and state governments. What is needed is 'mainstreaming poverty concerns' through over-hauling the policies of all government departments, under close supervision of the Planning Commission.

One must also accept the inter-dependence of non-monetary policies and budgetary schemes. But unfortunately the role of Planning Commission has lately been reduced to a large extent to allocation of funds and monitoring of expenditure and not whether these directly result in reduction in poverty or not. For instance, schemes for universal primary education will be successful only when parallel efforts are made for abolition of child labour and vice-versa. The two need to be monitored together. The complementarity of policy and budget is often missed.

## Liberalisation and the poor in India

The proportion of people living below the poverty line was 53% in 1977-78 which declined to 39.3% in 1987-88. Since then, although firm figures are not available, an expert group appointed by the Planning Commission estimated that the initial impact of liberalisation on the poor has not been favourable, as shown in Table 1.

**Table 1: Incidence of poverty in India**

Year	% of people below the poverty line
1987-88	39.3
1988-89	39.0
1989-90	34.3

1990-91	35.6
1991-92	39.4
1992-93	40.7

(Mainstream, Feb. 17,1996)

Thus the percentage of people below the poverty line increased from 35.6% in 1990-91 to 40.7% in 1992-93. However, one should wait for long-term trends before jumping to conclusions, as more recent data show that poverty increased in the first two years of reforms but declined in the next two years. It is generally believed that the overall impact of reforms on the poor in India has not been as adverse as in Latin American and African countries, but it has also not been as favourable as in China and Indonesia. Per capita availability of foodgrains has declined over the last three years from 510 grams in 1991-92 to 466 grams in 1993-94, although again the conclusion about decline or increase would depend upon the two terminal years chosen for comparison. A long-term trend can be seen in Graph 1.

(Graph has been given a separate file name)

The growth of GNP is at best an instrumentality, the objective has to be well-being of people. The below all-India average rates of mortality and fertility in the Punjab and Haryana despite their respectable growth records shows comprehensive subordination of women in these states. To give an example from another vital sector, India has been left behind in the field of basic education even by countries like Ghana, Kenya, Myanmar, Zimbabwe and Zambia, not to speak of the Asian Tigers who are far ahead of India in the field of primary education. Without a positive thrust towards the socio-economic transformation of the marginalised groups, growth may bypass the poor and safety net schemes may only remain short term palliatives. Thus economic growth *per se* is not the solution.

While poverty reduction will perhaps certainly take place if rate of growth is above 8% per annum, it does not follow that the poor are concerned with increase in their incomes only. Certain goals of development, such as participation of the poor in governance, reduction of inequities, social cohesion, control that the poor exercise on their own lives, and empowerment are no longer considered important in the wake of the new philosophy of liberalisation. For instance, inequality of consumption which had been declining steadily since 1977-78 has started rising again since 1990-91. Since the reforms began, the consumption shares of individuals in the lowest three deciles has declined. Liberalisation has also accentuated regional disparities. The per capita income in U.P. has remained unchanged during the five year period, 1991-96, whereas it has actually declined in Bihar in the above period despite favourable overall national growth rate of more than 5% (pers. comm., YK Alagh). These developments should cause concern to the planners.

### **Open markets and the poor - conflicting evidence?**

The above discussion should not be seen as a blanket condemnation of the reform process and pro-market approach. While macro-policies may affect the poor adversely in the short run due to inflation or reduction of subsidies, freeing the poor producers from government controls may in some cases bring immediate benefits to a large number of dispersed and unorganised sellers of goods and commodities. Changing policies in such sectors will be smoother in the present climate when compared to attempting distributive policies which are resisted by the rich.

This paper gives a large number of such instances where the poor will benefit immensely from open markets. Unfortunately, de-regulation has made almost no impact at the state and district level. The systems of buying and selling land, getting a ration card or your security back, and Rent Control Acts, all need a thorough revision. One can set up an industry worth billions of Rupees in India without any license today, but a farmer in U.P. can neither set up a brick kiln unit, nor a rice shelling plant, nor a cold storage, and not even cut a tree standing on his own private field without bribing several officials. A simple operation of converting prosopis (a shrub occurring everywhere in states like Gujarat and Tamil Nadu, the more you cut it the more it grows) into charcoal in Gujarat, which can give employment to thousands of people requires four different

permissions! A study by IIM Ahmedabad of charcoal makers in Surendranagar showed that a farmer cannot cut prosopis without permission, he requires a second permission to transport wood, a third one to set up the kiln and the fourth one to transport charcoal. Almost all occupations in the urban informal sector, such as hawking, small manufacturing in residential areas are illegal! It is a sad commentary on our laws that economic activities in the informal sector which are labour intensive are mostly declared illegal and subject to the whims of law enforcing agencies. State intervention in markets should be to turn markets friendly to the poor, by transferring many functions of the market to the poor themselves, on the other hand these functions have been acquired by government through law, causing more market distortions.

It does not however follow that whatever is being advocated today in the name of freeing markets from government control will always help the poor. There are some well known examples of the adverse effect of liberalisation on the lives of the poor. For instance, the giant, global fish and seafood market worth \$ 8,000 million, has encouraged mushroom growth of intensive and semi-intensive prawn farms along the elongated coastline as well as intensive and mechanised fish farming in the coastal waters. Boosted by the liberal Ex-im policy, shrimp farming developed feverish and unpoliced. Of the 1.2 million ha of brackish water areas inclusive of ponds, lakes and lagoons spread along the coastline, about 80000 ha is under shrimp culture (80% under extensive methods and the rest under modified extensive and semi-intensive modes).

Semi-intensive aquaculture requires loads of organic and chemical inputs. At the end of each harvest the waste is flushed out which pollutes the coastline and other receiving water bodies. These effluents affect the coastal fisheries and ultimately are, to an extent, responsible for depletion in catch of traditional fishing in coastal waters. Although no estimate is available, it has negatively affected the traditional occupations of local fishermen.

Moreover, leasing out of coastal lands for prawn farms has obstructed the flow of fresh water and thus their livelihoods. The salt pans which were a source for salt and thus supported the poor during lean fishing period have ceased to exist. The worst impact of all this is on the ecological balance of the fresh water and sea water fauna that had dwindled due to lack of nutrients. On the other hand, it increases salinity of surface and ground water. It affects the fertility of lands in the adjacent areas and makes agriculture unsustainable; thereby causing occupational displacement of agricultural farmers. By displacing food crops it dents the situation of food security. As aqua-farming requires capital investment. the ownership of lands steadily gravitates to the cash-rich urban businessmen. Though there has been some investigation into the environmental impact of large shrimp farms, there is little, in terms of sound aquaculture policy taking care of above concerns in place to comprehensively deal with the loss of productive assets and threats to livelihood generated by aquaculture.

The impact of reforms on the poor has been adverse because of their vulnerable socio-economic position, and in such a case spending money on development schemes without improving their bargaining power will further impoverish them. The sociological and political factors that lie behind the institutional constraints on poverty reduction get little mention in the government programmes. How existing policies impact on the poor is hardly analysed by the rural development departments of central and state governments.

Government intervention should not only improve the incomes of the poor, but their bargaining power vis-a-vis the moneylenders, landlords and bureaucracy. Such empowering measures need to be distinguished from the populist measures which merely act as doles and do not enable the poor to stand on their own legs or fight for their rights. Empowerment is good in itself, leads to higher incomes, and checks corruption and arbitrary use of power. In the past this was sought to be achieved through land reforms, although it appears to be a closed chapter now. The feasibility of radical transformation of rural society through change in land relations is discussed in the next chapter.

## Chapter 2: The relevance of land reforms today

In a country where 70 per cent of the population is dependent on arable land, relations between various categories of people like big farmers, small and marginal farmers, share croppers and agricultural labourers on the one hand, and the nature of their respective control over land on the other is of paramount importance. Any strategy for increasing agricultural production cannot overlook these structural questions, just as rural poverty and agricultural backwardness cannot be understood without reference to the agrarian structure.

The two important policy thrusts in land reforms have been tenancy reforms and ceiling legislation. The discrepancy between the ownership and operation of land was regarded as one of the basic maladies of agrarian structure that acted as a 'built-in-depressor'. It led to not only inefficient utilisation of given scarce resources but also stood in the way of augmenting these resources. Thus in every state the policy of abolishing all intermediary interests and giving land to the recorded tenants was adopted soon after independence followed by a programme of providing security of tenure to the sub-tenants in some states.

At the same time the research done on size-productivity relationship during the sixties made it clear that in agriculture, given the same resource facilities, soil content and climate, a small farmer produces more per acre than a large farmer. Thus it was no longer necessary to identify viability and efficiency with large holdings and an economic rationale was provided to the policy of imposing ceiling on land holdings that was taken up by many states in the sixties and then more vigorously by all the states in the mid-seventies.

Conferment of ownership right to share-croppers and more equitable distribution of land will not only increase employment per unit of land but it will also improve consumption standards of the rural poor, thus enlarging the size of the market for consumer products. It will improve the world view of the poorest and will make them invest in their future. It will also minimise the chances of social tensions and conflicts that are showing signs of increase in states where the landless constitute a substantial proportion in rural society.

### Changes in laws relating to sharecropping and leasing

A ban on leasing was imposed in almost all states to encourage owner-cultivation and to give security of tenure to sharecroppers and tenants. While such laws should continue in areas characterised by semi-feudal mode of production and may even be strengthened in tribal areas where agricultural markets are not well developed, in green revolution areas where the mode of production has become capitalist there is a need to liberalise and free leasing of land from all government controls.

For instance, in Purnea (Bihar) in 1972-73 about 40% of the land in Purnea was under share-cropping. The percentage of land under share-cropping has come down since then, but still it is probably not less than 25%. Though under the law share-croppers are entitled to security of tenure and the share of the landowner is limited to 25% of the gross produce, in practice the protection granted to share-croppers is illusory. Since the tenancies are oral and the share-croppers are weak politically, economically and socially, they seldom succeed in securing the rights to which they are entitled under the law. They have only a tenuous hold on the land they cultivate and invariably they have to hand over to the land owner one half or more of the produce. In such a situation the tenant has no incentive to make any long term investments in the land or cultivate it efficiently by providing higher levels of purchased inputs and applying larger doses of his own labour. Though theoretically both the landlord and the share-cropper stand to gain by sharing the cost of cultivation and cultivating the land more efficiently, such a practice has not been adopted on any significant scale in Purnea. The landlords do not look upon the land as a productive asset that should be operated efficiently to maximize their income. To them land is essentially a store of value, a hedge against inflation, an instrument for appropriating the large unearned increments accruing from the huge public investments in irrigation and, most importantly, the very foundation of political and economic power and social status. They are reluctant to take any steps that may lead to the strengthening of the economic conditions of the share-croppers. In such

areas there is still need to bring about a change through stringent laws and better implementation of such laws.

However, in green revolution areas, where market awareness is widespread even among the poor, experience suggests that freeing the lease market for land may contribute to equity as well as efficiency of resource use. The nature of tenancies in these areas is very different from regions characterised by semi-feudal labour relations illustrated above. The new forms of sharecropping arrangements in these regions involve high cost and output shares for the land-owner, and a high degree of control by the landlord over the process of production. Like traditional leasing, the tenant participating in these arrangements is a small peasant, who is responsible for all manual tasks, but is not required to own any means of production, which are supplied by the land-owner (Rutten 1986). The tenant is virtually a piece-rated labourer, but his involvement helps the land-owner save on supervision. 'From leasing as a means of rental appropriation, landlords have moved to leasing as a means of control over labour power, the appropriation of its produce, and as a means of further accumulation' (Srivastava 1989).

In such cases the pure tenants as well as the small and marginal farmers would be able to augment their operational holdings by leasing-in area, where there is pressure on land and where wages are low and poverty is high. This may also contribute to the more efficient use of land, labour and other resources. Similarly, in areas experiencing technological change and high growth, where population pressure on land is low and wages are high, the marginal farmers may gain by leasing out their area and taking up non-farm employment. Where wages and the rate of mechanisation are high, the medium and small farmers who are leasing-in area would be able to make a fuller use of their fixed equipment.

The small farmer cultivates his land more intensely and puts in more labour per unit of land. The quality of supervision as well as of land and irrigation is also better on smaller holdings. Since the new technology is size-neutral and it is both labour and capital intensive, there is no reason why the small farmers cannot fully exploit the HYV technology, provided capital is made available to them at a reasonable rate of interest. Other factors of production remaining constant, caste plays an important role in determining productivity. In India, best farmers are not the high caste people despite the fact that they are most favourably endowed in land and material resources. The traditional agriculturist castes (also called intermediate or backward castes) like the Jats, Koris, Kammas, Patidars, Marathas, Vokkaligas, etc. have always been better cultivators. It is not only in their attitude to manual work that the non-working Brahman or Rajput cultivators differ from the traditional agriculturists. There are significant differences in enterprise, thrift, mobility and readiness to exploit economic opportunities. The intermediate castes having more intense knowledge of the practices of cultivation have always given higher yields. Therefore passing on the control over holdings of non-cultivating castes to the marginal and small farmers from backward castes through an open leasing policy will improve overall production and labour absorption in agriculture.

### **Ceiling laws**

While relaxation in the tenancy laws may be advisable in certain areas (such as western U.P. and coastal Andhra), as it may lead to transfer of actual control to the poor tenants over the means of production, any relaxation in the Ceiling laws would have disastrous consequences, because

- - As land cannot be created, creation of larger holdings would increase landlessness. This will depress the already low agricultural wages. Thus the proposal would harm two sections of the poorest - marginal farmers and agricultural labour.
- - Industry operates under conditions of increasing returns to scale whereas agriculture has so far operated under diminishing returns to scale. Even if the inverse relationship between output and size of holdings has become non-significant in certain areas, both output and employment per unit of capital invested and employment per unit of land decline with the increase in the size of holding. Therefore there is no economic rationale for creating larger holdings.
- - Urban labour is highly organised and can look after itself but rural labour requires constant support from the Government. Wages in the urban sector are determined by the bargaining power of the

urban labour whereas because of the poor implementation of Agricultural Minimum Wages Act the poorest have been left to suffer the tyranny of market forces. As government penetration is much better in the towns than in the villages, it is administratively much more feasible to implement laws that would change the rural feudal structure once for all, as was done by the Zamindari Abolition Acts, than to expect that the delivery machinery at the cutting edge level will be able to give credit, water, pump, animals, inputs, infrastructure and social services to the rural poor effectively ignoring the interests of the rural oligarchy.

- **Rising capital intensity in agriculture** - The much debated size-productivity relationship has so far looked at productivity from the view point of land. Another scarce resource is capital, and it is equally important to keep in mind which class of farmers use capital more efficiently. Small farmers have better access to labour, as they exploit their own family labour, whereas large farmers have better access to capital and have to hire labour from the market. These differences result in small farmers' committing more labour to production than large farmers, and large farmers' substituting machines and capital for labour. Thus a small farmer may get an extra unit of output by using home produced mulch and organic manure and the large farmer may depend on chemical fertiliser bought from the markets. In fact capital intensity is increasing for all category of farmers, but at a faster pace in green revolution areas and for large farmers. Thus, the weight of fertilisers, pesticides and diesel which accounted for a mere 14.9 per cent of the total inputs in 1970-71 in the country increased to 35.1 per cent in 1984-85. For a large farmer in commercialised regions it could be as high as 70 per cent. But the proportion of output sold has increased at a much slower rate than the proportion of industrial inputs or of monetised inputs. The implication of this is a resource squeeze in agriculture. Whereas the need for resources to purchase these inputs has been increasing, the marketable surplus has been increasing at a slower rate to absorb this, as growth in industrial employment has become very sluggish. It is not surprising that the repayment of loans is such a problem in Indian agriculture and has emerged as a major issue in farmers' movements. Pressed by the increasing costs, big farmers demand higher output prices, thus setting the cycle of inflation. The need is of a new technology, which would be more labour intensive and would cut cash costs. Unfortunately the general climate in the country today is towards 'liberalisation', which further legitimises increasing use of capital in agriculture. This causes surpluses to increase, leading to a piquant situation - coexistence of hunger and bulging FCI godowns. The anomaly can be avoided by breaking super large holdings into smaller holdings.

It may be worthwhile to quote (p. 95) on this issue from the UNDP Human Development Report 1996:-

- As land is redistributed from big to small farms, not only family labour per hectare can increase sharply. So can hired labour. For both reasons, the employment situation improves even for those who remain landless after the land reform. The main conclusion: an agricultural strategy centred on small farms rather than large simultaneously increases the social efficiency of resource use in agriculture and improves social equity through employment creation and the more equal income distribution that small farms generate.

### **Political impediments in reducing ceiling limits**

The change in the mode of production that has been brought about in the last 15 years and emergence of capitalism in agriculture has to a large extent reduced political acceptability of any further reduction in ceiling limits. During the first decade of planning it was easier for the Government to eliminate a functionless parasitic class of Zamindars who were economically isolated from the production system. Now in the changed context of capitalist agriculture appropriation of land from the rich farmers amounts to not only an attack on the principle of private property but it also goes against the principle of income earned through enterprise in agriculture. It offends the property instinct as also the commercial drive of medium and big farmers. Unless the land hunger of the poor is mobilised into a militant movement to neutralise the property instinct of the rich farmers, more equitable distribution of land does not seem feasible. Unlike landed gentry which lived in towns and took no interest in cultivation the present rural elite is enterprising and very much rooted in the socio-political system and so as much more difficult to remove. Therefore a more pragmatic

approach towards ceiling laws will be to remain content with the present level of ceiling, not insist upon its downward revision, but resist any attempt to increase ceiling limits on the grounds mentioned above.

### **Future of the poor minus land reforms**

A view is often expressed that without radical land reforms pumping of money in rural areas will further exacerbate rural inequities and leave the poor worse-off. A blind emphasis on growth without destroying exploitative elements in agrarian structure is neither economically nor socially desirable. Access to land determines not only income and wealth but is also the basis of stratification of the village community into socio-economic classes. Land attracts fertiliser, capital and water, and thus becomes the main source of rural inequality and power. The commercial banks and other institutions have viewed with distrust and apprehension schemes of helping the landless poor. Therefore it follows that the programme of land reform should be given topmost priority as growth with existing levels of asset inequalities will lead to further impoverishment of the rural poor.

Our stand on this issue is slightly different. Without doubting the desirability of land reforms, we hold that other methods of helping the poor should not be overlooked just because political climate does not favour more stringent land laws. Preoccupation with land distribution as a means of effecting structural changes in the economy in favour of the poor has perhaps resulted in the neglect of other means of augmenting income flows to the poor. Vested interest against land reforms has been much commented upon, but no systematic study has been done of such vested interest in other sectors, such as forestry, common property resources, etc. Benefits which could flow to the poor through suitable policy changes in these sectors could be immense.

The debate "who loses and who gains" from an economic activity is often couched in conspiratorial terms; the neglect and the harm done to the poor is generally explained in terms of compulsions of a capitalist state or the hold that the rich have over policy and delivery. While the explanatory power of social structure is not to be denied, other important factors are sometimes lost sight of. It is simplistic to say that reasons for the failure of programmes such as IRDP and JRY are rooted only in inequitable land distribution. Administrative failures have their own autonomy and do not always stem from class bias. The reasons for slow progress of development projects are often unromantic and mundane. For instance, many assets created under JRY and other similar rural infrastructure schemes are not able to serve any useful purpose because of lack of funds for maintenance of existing assets, which is a non-Plan item. Permitting Plan funds for maintenance more liberally than allowed at present will in itself improve the utility of such assets. About 40% of school buildings in Chotanagpur area have no roof. Instead of sanctioning new buildings greater benefit would accrue at less costs if funds are available for their repairs. Similarly, in backward areas existing posts of doctors and teachers remain unfilled for long periods (CH Hanumantha Rao, *Agricultural Growth, Rural Poverty and Environmental Degradation in India*, OUP 1994). Filling up such posts also does not require any fundamental change in our political economy. In the chapters to follow we have enumerated more examples of such proposed changes in policy and administration.

If poverty alleviation programmes have not helped the poor, part of the explanation can be sought in administrative structures and organisational weaknesses, or in policies followed by Ministries other than Rural Development. By changing such policies and by improving the administrative apparatus incomes of the poor will rise which will itself put pressure on the exploitative structure to change in favour of the poor. As Dantwala argues (1986: 366), 'By using appropriate policy interventions that systematically modify structural consequences, changes in the crystallised structure can be induced. The establishment and strengthening of countervailing non-exploitative institutions may be more effective in enhancing the bargaining power of the poor than attempts at changing the structure.' (*Asian Seminar on Rural Development: The Indian Experience*, ed. M.L.Dantwala, Ranjit Gupta and Keith C. D'Souza, Oxford and IBH, New Delhi).

## **Chapter 3: Current Poverty Alleviation Schemes - A Quick Assessment**

### **Integrated Rural Development Programme (IRDP)**

The Integrated Rural Development Programme is one of the largest micro-enterprise programmes in the world, having reached about 50 million borrowers since its inception in 1979. It seeks to raise the incomes of poor beneficiaries to a level above the poverty line by requiring the banks to extend loans to them for the purchase of assets, and by subsidizing 25 to 50 percent of the cost of the assets. It is a centrally sponsored scheme being implemented on a 50:50 basis by the centre and the states. By the end of 1994, the total cumulative outlay had grown to Rs 132 billion in credit and Rs 82 billion in subsidy (Copestake, James G. 1996, *The Resilience of IRDP: Reform and Perpetuation of an Indian Myth*, *Development Policy Review*, 14, 51-68). However, a government evaluation showed that only 15% beneficiaries could cross the poverty line. In a study Osmani found that 24% of assets did not generate any income and another 50% of the assets did not make any contribution to net disposable income.

The scope of poverty reduction through IRDP is limited both by the debt-capacity of the poor and by the high cost of appraising, monitoring and enforcing small loan agreements. The first limitation is in theory offset by subsidy, but it attracts rich borrowers to the scheme, and thus creates political and administrative problems. The subsidy element has led to large scale corruption on the part of lower level functionaries who certify beneficiaries as being below the poverty line. It has also led to corruption on the part of bank staff, and on the part of borrowers themselves, some of who sell off their assets and pocket the subsidy, or who borrow by proxy for non-target group borrowers.

Large numbers of milch animals are often bought for beneficiaries at the same time in cattle fairs, pushing up their price. The difference in the price and quality of financed assets over their market price, along with the costs of time, out-of-pocket expenses, and payments to middlemen is estimated to raise the transactions costs to the borrower by an estimated 20 percent (Mahajan and Ramola 1995), so that although the interest rate on bank loans under the programme is 12 percent, the effective interest is between 30 and 35 percent entirely nullifying the benefits of the average subsidy amount of one-third. There are in addition huge transactions costs in terms of bank and government staff time.

While the administrative problems associated with the target group approach to eradication of poverty are well known (such as frequent transfer of key officials, inadequate assessment of the ability of beneficiaries to utilise programme service, carelessness in identifying the beneficiaries, corruption), problems relating to strategy and the very design of programmes are hardly questioned. Often the very conditions for the success of these programmes such as vertical and horizontal linkages, and adequate technological and institutional capability are absent. There is also lack of coordination with other concerned departments. For instance, the programmes for poverty alleviation have not been sufficiently integrated and oriented to the development of infrastructure (drainage, soil conservation and afforestation) for increasing agricultural productivity. The programmes are also weakly integrated with plans for area development and do not lead to sustained increase in employment, and the assets created exclusively for the benefit of the poor in JRY are few.

It is well established that unless credit is accompanied with adequate infrastructural support by way of extension, marketing, etc. the result is infructuous lending (ML Dantwala *Dilemmas of Growth: The Indian Experience*, Sage 1996). There is hardly any planning done at the district level to ensure long term viability of the programmes. This is compounded because of the state government's unwillingness to delegate financial and administrative powers, and the sectoral departments refusing to accept dilution of their authority.

The failure by the poor to use assets profitably stems from several factors, of which control over markets is an important factor. The poor are not able to secure economies of scale because of indivisibilities in marketing costs and in insurance opportunities. Low price received by poor for their products is also because of interlocked output and capital markets, lack of value addition technologies, poor organisational base and

insensitive government policies. These problems need to be attacked by the same agency, which is not possible in government system. Whereas NGOs could take initiative in some of these sectors, they cannot change exploitative government policies.

Most poor people operate in very limited segments of highly segmented product and labour markets, and therefore demand for their products gets saturated fast. There was an implicit assumption that the poor loanee possessed information and skills to choose viable options, had access to raw material supplies, and were able to overcome the structures of exploitation which made them poor in the first place. The programme had better success in better regions from infrastructural point of view and for economically better-off people. For the rest, linkages with other departments were too strong to be ignored, and better results would have resulted if holistic view of poverty was taken. Thus the IRDP programme should have taken into account other disabilities from which the poor suffer; their exclusion from community decision making and markets for labour and commodities.

On the whole, the basic concept of IRDP remains flawed. The massive amount spent on subsidies which has by and large not accrued to beneficiaries at all would be much better spent on agriculture, rural infrastructure and social security. Growth in the first two of these are essential concomitants of credit, and the third an alternative to credit for those who for reasons of old age or disability have few if any productive micro-enterprise opportunities (Ghate 1996).

Second, IRDP suffers from the basic misconception that the provision of credit is a one-time event rather than a continuing relationship between lender and borrower. It is unrealistic to expect the larger share of borrowers to "graduate" just on the basis of an "injection" of credit (the medical terminology is significant), even if provided in sufficient "doses" (which was until now not usually the case).

Third, there is still an under-emphasis on activities which require no fixed assets at all such as a large number of trading, service and even simple processing activities. Thus the mix of activities in India is very different from other large micro-enterprise programmes in Bangladesh, the Philippines and Nepal for instance, which finance a much larger component of petty trading and service activities suitable to the poorest of the poor. While these activities are no doubt overcrowded, their discouragement in India (due to a preoccupation with asset formation) has restricted the type of livelihood activities that can be financed, and has led to overcrowding in those which are financed (milk animals for instance). Instead of responding to a demand-led pattern of lending opportunities, banks are still restricted to a list (albeit an expanding one) of "approved" activities. In practice the range of activities for which loans were available was quite narrow. On the demand side, certain profitable enterprises were quickly saturated because of too many loans for single professions and their profitability declined. Dreze found that in U.P. a bank gave 20 loans for setting up shops in a village of 143 households.

Fourth, IRDP totally neglects savings, on the mistaken belief that the poor cannot save at all. The distinction made by banks between the acceptable use of credit for productive purposes and its unacceptable use in consumption is an artificial one in the context of poverty. About two thirds of the borrowing of the poor in India is for consumption purposes (all of it from the informal sector) of which three quarters is for illnesses and household needs in the lean season. (Mahajan and Ramola 1995). In the absence of any system for encouraging even minuscule but regular savings a great deal of IRDP credit gets diverted to emergency consumption needs.

Fifth, one of major lacunae in IRDP is the total absence of "social intermediation". This is the process under which poor borrowers are encouraged to organize themselves into groups and given awareness training in the importance of regular savings and credit discipline in an attempt to build up mutual support systems and peer group pressure and to instil in them a greater sense of self-confidence. In large programmes in other countries this function is conducted by the bank itself (e.g. Grameen Bank, as indeed it is in India by the cooperative banks set up by SEWA and WWF), and by intermediating NGOs, as in the Philippines and in Nepal. In India the self-help groups (SHG) movement is seeking to provide social intermediation through the Women's Development Corporations, but is still small compared to IRDP.

To sum up, although some poor have made moderate gains, not more than one in five have succeeded in crossing the poverty line as a direct result of IRDP. Although 5 million cattle were distributed during the sixth Plan period, it did not get reflected in the figures of cattle census. Little attention has been paid to the main issue in cattle distribution programme: lack of adequate protection for cattle from inclement weather, poor access to grazing lands and veterinary services. These problems can be reduced by group lending which will raise debt-capacity and reduce transaction costs. Intermediation by voluntary agencies may also help. Shifting of influence from local officials to panchayat bodies may improve targeting provided there are strong grass root organisations, but it may have opposite effect elsewhere.

Despite attempts to increase public participation in the identification of beneficiaries, IRDP remains a highly bureaucratic programme whose benefits could be achieved far more cost-effectively by reforming the regular credit delivery system on the one hand, and strengthening credit reception systems through the SHG movement on the other.

### **IRDP and political compulsions**

The scale of programme has outstripped the capacity of government and banks to implement it. The administrative machinery to monitor local physical investment opportunities against which credit disbursement targets can be fixed simply does not exist. There is consequently over-investment and recycling of dairy animals. Appraisal can be improved by a transfer of power over local disbursement from government and politicians to local banks. However, in the last decade the reverse has happened. Inadequate appraisal and political interference contribute to poor recovery performance and high rates of default. The repayment rate has been around 30 to 40 percent, severely affecting the profitability of rural banking in India. Occasional loan melas, lack of active support from state governments for recovery of loans, and loan waiver schemes give rise to a feeling that these loans were government largesse and were not to be repaid. Sound banking practices were replaced by political considerations.

The continuation of IRDP can best be explained by the political need to perpetuate a myth about bureaucratic capability to reduce mass poverty. For politicians at both local and national levels, the IRDP is an opportunity for making political capital out of the patronage potential inherent in subsidised credit delivery. Because of the distortion of objectives, lending policy under IRDP tends to be driven by the availability of subsidised funds rather than by the effective demand for credit. Indicators for monitoring are target and not achievement based. Thus retention and profitability of assets purchased are never monitored. There is a wedge between the long term poverty alleviation goals and its immediate transfer function.

IRDP helps in preserving a certain mai-baap attitude towards the State; it is at best a political sedative. A substantial reduction in total disbursement and making it more demand driven will make it politically unacceptable. Till then it remains a myth; of a benevolent State deeply committed to poverty reduction.

### **Impact assessment of jawahar rozgar yojna (JRY)**

Comprehensive and reliable data about unemployment or its structure is not available. The data available from various rounds of the NSS shows that in 1987-88 there were 4.3 % people who were totally unemployed in the rural areas and 8.7 % people were under-employed. The quantum of under employment in terms of man years has been computed to be equivalent to 13.6 million man-years.

### **Rationale for rural works programme**

The NSS rates of under-employment appear to be under estimates. This data does not take into account the phenomenon of work stretching which occurs when too much free time is available during the slack agricultural season. Thus the whole family may do a certain quantum of work in three days which would actually require only one day for a person, if he had some other productive work. Measurement of employment without prescribing standard work norm is quite hazardous. Secondly, withdrawals from labour force of those who are usually/currently in the labour force during daily or weekly count are not always

voluntary due to lack of perception of employment opportunities. Therefore such days should be counted as unemployment. Thirdly, rural housewives may report domestic work as their usual activity and are also helping in the fields but their number is not included fully in the labour force, thus depressing unemployment. The impact of these factors would certainly increase the figures for unemployment and under-employment in the agricultural sector.

Certain characteristics of unemployment are by now well known. Unemployment and demand for jobs is highly dispersed not only regionally but it is also fragmented in terms of timings and duration. Then, unemployment in the rural areas is markedly higher among the casual labourers as compared to the self employed. This is why there is a positive correlation between State level unemployment rates and the proportion of agricultural labour in the labour force of that State. States like Kerala, West Bengal and Tamil Nadu which have a higher proportion of landless labourers report much higher rate of unemployment. This is perhaps the most disturbing feature of the unemployment situation as in the years to come the percentage of agricultural labourers in total labour force is bound to grow because of displacement from land. Therefore highest priority should be given to creating employment opportunities for the agricultural labourers, more than half of whom belong to the scheduled castes and tribes. It also follows that creating off-farm employment opportunities during the slack season in agriculture will mostly attract the landless people and thus will not adversely affect agricultural operations.

Although labour absorption in agriculture is likely to increase with the increase in the agricultural output yet because of agriculture becoming more modernised and capital intensive the potential for increase in labour input in agriculture will be rising at a lower rate than the number of people dependent on agriculture would rise. The absorptive capacity of allied activities like Dairy Development, cottage industries etc. will also not be high, if past experience is any indication. Even if these sectors show a fantastic rate of growth, the contribution to extra jobs created in absolute terms will be limited, as the base of these activities is narrow.

There is another difficulty in adopting intensive agriculture as the growth model. The relative share of labour in total output is the outcome of output elasticity of employment and the change in wage rate with respect to labour productivity. If the elasticity is less than unity and wage rate remains constant, the share of labour income will obviously decline. Thus the rural labour market fails to give the landless workers a proportionate share in what they produce even when the farmers achieve large surpluses per unit of labour. Technical change causes an outward shift in production function such that output per hectare rises at a much faster rate than labour input per cropped hectare. In simple language, intensive agriculture intensifies disparities, as it has done in Punjab and Haryana. This explains why a large section of rural community remains marginalised and suffer from hunger and malnutrition at a time when the country is no longer deficit in the supply of foodgrains.

The question arises what should be the employment strategy for those for whom agricultural development *per se* is not likely to benefit significantly. The obvious answer is massive public works programmes. Other programmes meant for the poorer sections such as IRDP have touched the labouring population only marginally.

Employment programmes were not perceived as major instruments of poverty alleviation until the beginning of the 1980s. The two programmes of rural employment started in 1980, NREP and RLEGP, were merged into JRY in 1989-90. The objectives of these programmes have been as follows:-

- Creation of wage employment
- Impact on the labour market & wage rate
- Creation of productive assets which will further create employment opportunities
- Social infrastructure, such as schools, to improve quality of life of the poor, and
- May lead to organisation of the poor

#### **Results based on state governments' reports**

Since inception of JRY in 1989-90 till 1993-94, against an availability of Rs.144.63 billion the states had utilised Rs.140.10 billion showing an achievement of 96.86 per cent. During the same period, against the target of 4,332.38 million mandays, the states had generated 4,282.59 million mandays showing an achievement of 98.85 per cent. In 1993-94, about 1000 million mandays of employment was generated. This needs to be compared with the Planning Commission's assessment that the extent of under-employment in rural areas would require generation of 3000 million mandays through government programmes. Thus these reports showed excellent progress.

However, these reports need to be taken with a pinch of salt, as the optimistic picture which comes out of these reports is not supported by other more dispassionate evaluations. Field staff have learnt to report figures in the manner expected of them, that is they must show that targets have been fully achieved irrespective of what the ground situation is. Collectors are under pressure from the state governments to furnish utilisation certificates, so that states could draw the next instalment from GOI. Therefore money is considered to have been spent when it is allotted from the district to the panchayats, even when no physical expenditure has taken place.

There were two evaluations, one by the Programme Evaluation Organisation (PEO) of the Planning Commission, and the other by Social Science Institutions, called Concurrent Evaluation. The PEO reported that the scheme did not provide employment to the extent expected, as the average number of days for which a person got employment was 11.44 days during 1989-90, 15.68 days during 1990-91 and 12.81 days during 1991-92. Moreover, adequate attention was not given to the maintenance of assets. Finally, contractors were engaged by some of the Gram Panchayats for execution of some works, although the scheme bans their involvement.

#### **Main Findings of the Concurrent Evaluation:**

- Only 73 per cent of the available funds were spent by the Village Panchayats.
- Priority was given to the construction of rural link roads, Panchayats buildings, school buildings and the community centres, and less to social forestry, soil conservation and water harvesting, which would have improved productivity of private assets.
- In almost all the States (except Punjab), the average wages paid per manday to the unskilled workers were more or less equal to the minimum wages prescribed under the Minimum Wages Act.
- The wage, non-wage component of the expenditure of JRY works undertaken by the Village Panchayats at the All-India level was 53:47, against the prescribed norm of 60:40.
- In about 84 per cent of the cases, the Muster rolls were maintained and were available with the Village Panchayats.
- Of the total assets created, roughly 74 per cent were found to be of good/satisfactory, 8 per cent of the poor quality and the remaining 18 per cent were either incomplete or not according to the laid down norms.
- At the All-India level, during the last 30 days, preceding the date of the survey, a JRY worker got roughly four days of employment and another one manday of employment was received by other member of the family.
- In majority of cases, the asset created were found to be maintained by the Village Panchayats. However, in 17.5 per cent cases they were not maintained by any agency.
- In majority of cases, Panchayat Heads were not given any training for undertaking JRY works.
- The share of women in employment was only 20 per cent.
- In some States viz. Assam, Jammu & Kashmir, Tripura and Dadra and Nagar Haveli and Lakshadweep and Pondicherry, the Annual Action Plans were not discussed at all in the Gram Sabha meetings.
- In some States viz., Andhra Pradesh, Kerala, Maharashtra, Tamil Nadu and Pondicherry, there was disparity in the average wage paid per manday to male and female unskilled workers.
- The workers who belonged to the category of 'ineligibles' also took advantage of the programme.

- Most funds were spent on construction projects which are capital intensive and generally benefit the rich. Works like soil conservation, watershed development and afforestation were neglected.
- Weak linkages between different programmes and weak organisational base - use of contractors, inappropriate timing, corruption, adhoc projects, delay in payment, poor participation of the people.

### **Field inspections**

In addition to these evaluation reports, Officers from GOI also visited many projects. Certain highlights from their reports were:

1. Only current activities were looked into by them.
2. In H.P. (Oct. 94), muster rolls were not maintained by Gram Pradhan, labourers were not sure of the amount of wages, market rate was 35/40 as against government rate of 24/day, and thus bogus reporting was done.
3. In Orissa, funds were utilised for augmenting State's ways and means. DRDAs were asked on 4.8.94 to deposit all sums in the PLA account, although this practice was banned by GOI vide letter dated 12.7.94.
4. Unspent funds given to departments, such as Forest - to show utilisation, but no monitoring of impact was done of this allocation.
5. Works were executed through contractors, who bring their own labour from outside and pay lower wages of Rs. 25, as against State fixed wage of Rs. 40/-. Registered workers are not getting employment because of involvement of contractors. Foodgrains are of poor quality. Works inspected indicated that the estimates were very high, often fictitious and not based on ground reality. "Therefore, there is a lot of leakage of JRY funds". Muster rolls were fabricated.
6. Extent of employment generated was not enough for a sizeable number of poor to cross the poverty line. In Gujarat, it generated full employment for 2.2% of the poor, equivalent to 100 days of employment for 5.9% of the poor. Employment generation per beneficiary was around 30 days.

### **Problems in monitoring**

In addition, there are certain common problems in implementation and monitoring and rural projects. These are described below.

1. Vested interest all along the line in bogus reporting.
2. Complementarity with other programmes is ignored. For instance, IRDP requires the provision of necessary infrastructure of marketing and technical services, which are not monitored. The progress of many services is monitored, but whether all services are provided in the same village is never known.
3. Field staff reports only on activities, it is not involved in impact assessment, or in qualitative monitoring.
4. No indicators exist for assessing public participation or their awareness
5. No readiness to admit bad performance. The learning process of the organisation is thus blocked.
6. Departments are not keen to take extra load of reporting and filling new formats.
7. Delayed evaluation serves little purpose, as officers have a short time perspective.
8. Donor agencies make little investment in improving M&E & analytical capability of consultancy organisations.
9. Independent assessment by academics which is not sponsored by Ministry never reaches the Ministry. Even senior officers were not aware of the evaluation studies published in EPW in Oct. 1995.
10. Even upto the highest level in government, raw and quantitative data is collected and looked at. It is not possible to do both, collection and its analysis with limited staff. Ministry of Programme Implementation duplicates the efforts of other Ministries.
11. Project and policy are seen as separate inputs, impact of projects is monitored, but not of policy.

12. Giving of funds to consultancy organisations is looked upon as a patronage activity by the State Governments. No interest is taken in ensuring the quality of the report.
13. Most time is spent by State and even by Government in collecting district, and sometimes block level information, and little in analysis. Officers at all levels spend a great deal of time in collecting and submitting information, but these are not used for taking corrective and remedial action, but only for forwarding it to a higher level. This defeats the very purpose for which information is collected.
14. Most schemes follow a blue print and top-down approach, with little flexibility given to field staff. Any change in the scheme requires government level sanction which is time consuming.
15. Financial procedures - There are two important problems here. First relates to the timely allocation of funds from Government, and the other to adequate financial delegation. There appears to be uncertainty about both - availability of funds and its timing. Sanctions are issued in the month of August or even later. A substantial part of the budget is sanctioned in March, resulting in poor utilisation of funds in the stipulated time.
16. The primary monitoring activities have to do with fiscal accountability. While it is necessary, it should not be allowed to overshadow the need for technical and resource monitoring and planning work accordingly. At present, there is great pressure on the field staff as a whole to account for money spent and mandays of jobs generated, etc. but not in terms of longer-term results, because those are not monitored. Thus financial planning is divorced from physical area planning.
17. Under the current monitoring emphasis is laid only on the initial or current expenses. After five years, little is done or monitored. Secondly, when money has been allocated for a particular activity in a particular area, it is assumed that the work in question has been done, and that it was sufficient. This ignores the fact that either of the above assumptions could be wrong.
18. Returns and meetings - Too many returns and meetings are prescribed, which serve no purpose. These need to be reduced. Reporting workload should be standardised so as to be compatible with computer based MIS. Absence of systems for storage and effective retrieval of information results in re-reporting of information that has already been reported earlier. Other problems with returns are:-
  - Duplicate reporting of same information in several reports.
  - Elaborate reporting of 'nil' information. It is suggested all the 'nil' reports for the month be combined and reported as one nil report instead of drawing cumbersome reports for each of them.
  - Lack of availability of pre-printed stationery thus warranting manual preparation of cumbersome formats. This forces the field personnel to spend money from their pockets and hence results in certain undesirable practices.
  - Absence of clarity on 'information needs' at various levels.

The above problems are compounded by large scale corruption and indifference at higher levels. These issues are picked up in Chapter 6.

## Chapter 4: Forests and the poor in India

### **Forests in peoples lives**

The discipline of forestry has been traditionally identified with either ecological stability or as a source of industrial raw material, and not with the subsistence of the rural poor. Afforestation has so far remained a government programme in which participation of the rural poor beyond getting wage labour has been limited. The rural population has been seen as users of forest produce and in that capacity has often been commented upon as destroyers of forests through over-utilisation and overgrazing. Only now it is being realised that dichotomy between managers and users must be narrowed down if forests have to survive.

Forests are not spread evenly in India, but are concentrated in the Northeast, the Himalayas and Shivalik ranges, the central belt, strips along the Western Ghats and other hill areas, and in patches of coastal mangroves. More than 50 per cent of forest land is located in the central plateau, which is the poorest region in India of low agricultural productivity and poor soils with heavy tribal concentration. Therefore, improving the quality of forests will immediately help the poor people in this region. India's forests have generally speaking not been uninhabited wildernesses. Even in the remote forests people have either been living traditionally or were brought by the Forest Department and settled there to ensure the availability of labour. Today, there are about 100 million forest dwellers in the country living in and around forest lands and another 275 million for whom forests have continued to be an important source of their livelihoods and means of survival (Lynch 92).

Poverty in India is generally considered to be linked with lack of private land or its low productivity, or with lack of skills. Changes in collection of gathered items from common property resources such as forests go largely unnoticed, and are not accounted for in GNP. However, much of the misery of tribals and forest dwellers is due to problems in collection and marketing of fuelwood and other non-timber forest products. These NTFPs provide subsistence as these are the source of a major portion of their fuel, food, fodder, fruits, and medicines. Then, the collection of NTFPs is a source of cash income, especially during the slack seasons, because of their increasing commercial importance. However, in actual practice the people face problems in gathering for the following three reasons:

- diversion of NTFPs and forests to industries
- priority to man-made plantations in place of mixed species
- exploitation by government agencies and contractors in marketing of NTFPs

### **Diversion of NTFPs and forests to industries**

First, government has created new rights of industrialists through long-term agreements to supply forest products at a low price. Gadgil writes (1989):-

Following the policy of making all resources available to the industry at nominal prices, the West Coast Paper Mills was awarded bamboo at the rate of Rs 3.12 per tonne of paper, or about Rs 1.50 per tonne of bamboo, less than one-two thousandth of the market price. The three sides of the iron triangle - the politicians who made bamboo available to industry essentially free, the foresters who administered the bamboo stocks, and the industry who used them to reap great profits were all happy. But the basket-weavers of Karnataka found that their very livelihood was threatened by the exhaustion of the bamboo stocks that soon followed its industrial exploitation.

The result of this state-subsidised profitability of forest-based industry has been an explosive growth in industrial capacity, and a non-sustainable use of forest stocks (Gadgil and Guha 1992: 199). Sometimes

industries, in order to maximise the collection of NTFPs, use methods which are destructive to these plants. An obvious example is extraction of resin from pine trees. In tendu bush areas, contractors slash all undergrowth to promote a better growth of tendu leaves. In the process, many fruits, roots and medicinal plants get destroyed. Besides, it causes soil erosion (Dasgupta, 1986). Where industries hold bamboo leases they utilise even the better quality bamboo for pulp, although according to rules only inferior quality bamboo should be used as pulp, and the better quality should be sold to artisans. Furer-Haimendorf (1985) describes how a particular paper mill exploited bamboo in a tribal region by bringing in hundreds of labourers from different states and used methods of extraction which endangered future regeneration.

**Subsidising the rich and taxing the poor** - The total number of cane, bamboo and basket weavers in 1981 in the country was 8.2 lakhs, out of which 6.9 are in the rural areas. A large number of families have the expertise and skills of processing bamboo, and make hats, baskets, etc., but they are prevented from getting the full price for their labour, because of raw material shortages.

For instance, the government of Orissa has decided to assign bamboo forests to paper industry, who have been appointed in 1993 contractors and sub-agents of the OFDC (The Orissa Forest Development Corporation). Similar arrangements exist in several states where bamboo is supplied at a subsidised rate to paper industry and denied to the artisans. In Gujarat the industry pays only 5% of the market rate for bamboo. Despite discouragement to subsidy in the new Forest Policy, 1988 and the prescription in the new Policy that the needs of the forest dwellers will be the first charge on the forest produce, the poor in central Indian states have to meet their demand for bamboo by stealing, while the industry gets subsidised bamboo and has the first charge. The extent of subsidy can be judged by the figures of one depot in district Nayagarh, Orissa from where the disposal of bamboo was as follows:-

To industry	33,60,000 pieces (roughly at 15 paise a piece)
Through open auction	27,275 pieces (Rs 10 to 13 a piece)
Sent to other divisions	2,892 pieces
Local sale to cultivators (tenants)	350 pieces (at Rs 4.30 per piece)
Sale to artisans	nil

Only those who own land and thus are tenants and pay cess are entitled to fuelwood and bamboo, that too after a lot of verification from several officials. There is no system by which the landless and artisans can get bamboo even at a price, and thus are forced to resort to illegal harvesting. The scheme that the artisans should form a cooperative society for bamboo has remained a non-starter. No one in FD has studied the working of these Rules, and why these have not been implemented, nor has any one come up with a viable alternative.

Reporting on the Koya tribe of the Malkangiri district of Orissa, P. Sainath writes (Times of India, March 15, 1994):-

Bamboo is the socio-economic oxygen for the Koyas. An oxygen which is being denied to them thanks to forest laws that have removed their access to that material - while granting access to major corporates seeking huge quantities of bamboo for paper (via the Orissa Forest Corporation). Ironically, Koyas are hired sometimes to do the felling on a casual basis, (but) seldom get the government rate of Rs 25 a day. With the denial of access, indebtedness - unlike the bamboo forests - appears to be growing in certain Koya pockets.

**Contradiction in government programmes** - Often different departments of government pull in different directions, as their programmes are not only not well coordinated but these contradict each other. Take the case of the Korachas, a scheduled caste group resident in Shimoga District of Karnataka. They have traditionally eked out their livelihood making baskets using bamboo available in the forest. In recent years, these artisans have been deprived of their access to bamboo as forest officials had taken stringent measures to stop them from cutting bamboo shoots in the forest.

The Korachas predicament has been made worse by apparently well-meaning government programmes. In the name of developing the craft of basket making, the Government of Karnataka initiated several programmes for them. The important ones were the IRDP and VISWA (programme for artisans) programmes under which hundreds of Koracha families have received financial assistance. Alleviating poverty is the central objective of these programmes, but what they have apparently achieved is make these families even more indebted, this time to bankers. Unable to access bamboo, they have found it difficult to repay their loans and have been categorised as defaulters. It remains a puzzle for the Korachas why the government helps them with finance to promote their craft on the one hand and then prevents them from accessing the raw material required to make the baskets, on the other. The explanation may well lie in that age old truism about bureaucracies: the left hand doesn't know what the right hand does.

**Leasing of forest lands to private industry** - In May, 1996 the Forest Corporation of Madhya Pradesh invited tenders to lease out forest lands to private industry for 30 years. It is believed that the Government of India is in favour of such proposals. It may be recalled that two years back when similar demand was made, several NGOs wrote very strongly against this proposal pointing out how it would adversely affect the forest dwellers as well as farmers who would be deprived of a market for their short gestation crops of eucalyptus and bamboo. Subsidising industry by giving them access to land without realising its market value is against the liberalisation policy of government. Using degraded forest lands for growing raw material for industry will be setting the clock back to the 1960s, showing that we learnt nothing from the mistakes of the past 30 years of trying to create man-made forests, which were ecological disasters, besides completely alienating the people and leading to faster degradation.

No one would object if they are leased non-forest desert lands of Rajasthan, saline lands of Gujarat and U.P. or ravines of M.P., which are so degraded that these do not support the livelihood needs of the poor. But the case of degraded forest lands is different. Such forest lands suffer from extreme biotic pressure, and require not capital investment, nor even higher technology, but protection and recuperation, which can be done only by working with the people, where industry has neither expertise nor patience. The West Bengal experience shows that about 2000 peoples' forest protection committees have regenerated more than 300,000 acres of sal forests at no extra investment, simply by protection on the promise of sharing wood and non-wood products with them. If lands on which peoples' livelihoods are dependent are given to industry, they may have to employ muscle power to keep people at bay, thus escalating social tensions, which are already quite acute in several forest and park areas.

Therefore industry should be asked to establish links with farmers who will produce raw material if given a remunerative price, in ways similar to the linking of poplar growing farmers with a match factory in north U.P. This experiment shows that, with technological backup, timber size trees suitable for sawing can be raised on farm lands within 8 years. In fact, due to farmers' enthusiasm for growing poplar its enhanced supplies have led to establishment of several plywood factories in that area, thus providing considerable downstream employment. It is a myth that industry cannot deal with farmers directly. For several crops like sugarcane, potato, rice, cotton etc. industry has been in touch with the farmers for decades.

### **Monocultural plantations**

Second, scientific forestry in India has meant raising trees in order to get sustained yield of timber for markets in perpetuity. In order to satisfy industrial and market demands, mixed forests were converted into

plantations. This process was hastened after the National Commission on Agriculture endorsed this policy in 1976. It recommended that Forest Corporations should be created to attract institutional finance. It said:

There should be a change over from the conservation-oriented forestry to more dynamic programme of production forestry. The future production programme should concentrate on clear felling of valuable mixed forests, mixed quality forest and inaccessible hard wood forests and planting these areas with suitable fast growing species yielding higher returns per unit area.

Thus the entire thrust of forestry during the first four decades after Independence was towards the high forest system, created after clear-felling and ruthless cutting back of all growth, except of the species chosen for dominance. For instance, the 6th Five Year Plan (1980-85) of Madhya Pradesh stated,

To produce 25 m cu m of industrial wood it would be necessary to subject 5.5 m ha of production forest lands to the intensive management, that is to clear-felling and planting. .... with the massive plantation programme being launched in the state, there would be extensive monocrops of teak in the forests. .. we should clear-fell and plant roughly one lakh hectare annually if we want production of industrial wood to keep pace with demand in future.

**Impact of monoculture plantations on forest dwellers** - Whereas the adverse effect of deforestation on local economy is well understood, the impact of industrial plantations is not so well documented. Plantations have usually been of single species, equally entailing loss of diversity and access, and often on a large scale, and in practice hardly pursuing an objective of benefiting the local people, beyond wages (even wage employment becomes insignificant after the first year of plantation).

Tropical forests were thus rapidly converted into plantations to meet market demands. Turning a complex forest into a genetically simplified plantation may help produce industrial raw material, but ignores the basic needs of forest dwellers - mostly tribals - and is therefore of questionable sustainability. A plantation offers little of the product range of the old forests. For instance, mahua is of no significance to the Forest Department, nor any efforts have been made to increase its number in forests. No doubt, mahua is also not felled by the Department, but its significance for them is not the same as for tribals. Compared with the Forest Department, tribal involvement in mahua is pervasive to a profound degree. In addition to collecting flowers and seeds for sale at the weekly market, or for exchange for salt or cloth, tribals use the wood to support the canopy at wedding celebrations, the dried flower to add bulk to their food or to feed their animals, the seeds and the flowers for preparing liquor and for religious ceremonies. However mahua does not get priority in forest plans.

### **Problems in marketing**

And third, almost all important NTFPs are nationalised, that is, these can be sold only to government agencies. The nationalisation of these NTFP commodities was done in different states in various years from 1960s to the end of 1970s. Initially, this right was acquired ostensibly to protect the interest of the poor against exploitation by private traders and middlemen. Since the state could generate revenue (royalty) through exercising this monopoly right, it has been steadily extended to cover myriads of NTFPs. Throughout, the state agencies have worked with multiple objectives - to collect revenue; to protect the interests of the tribals as sellers; and to satisfy the conflicting demands by industry and other end users. In practice, a hierarchy of objectives developed: industry and other large end-users had the first charge on the product at low and subsidised rates; revenue was maximised subject to the first objective which implied that there was no consistent policy to encourage value addition at lower levels; tribal and the interest of the poor was relegated to the third level. The 1988 Forest Policy made the development of the forests subservient to the major objectives of sustainable growth and the livelihood of the forest-dependent poor. The Policy therefore requires changes in the hierarchical objectives of the FD which in turn requires changes in the policy frame. In actual practice the reverse is happening.

A close scrutiny of the political economy underlying these changes is essential. The major institutions set up by the states, such as the various Forest Development Corporations, are confronted with growing liabilities. They have a huge and redundant capital and man-power base. Even on variable cost basis, they need huge mark-ups to break-even. Faced with this situation, they wish to pursue a completely risk-averse policy. In the commodities that the Corporations trade, purchase transactions are first finalised; these selling prices are down-marked to fix the procurement prices for the tribals; because of the middlemen involved, the actual prices received by the tribals could be lower still. More generally, under the current policy of the day, the institutions have opted to extend their role by becoming rentiers. Beginning with bamboo and sal seeds, collection rights of a large number of NTFPs have been given to paper mills, owners of oil extraction plants, large trading houses acting on their behalf etc. The results are obvious - a cursory study of the markets shows that prices of NTFPs have fallen - even in relation to the low prices set by the state.

Nationalisation reduces the number of legal buyers, chokes the free flow of goods, and delays payment to the gatherers, as government agencies find it difficult to make prompt payment. This results in contractors entering from the back door, but they must now operate with higher margins required to cover uncertain and delayed payments by government agencies, as well as to make the police and other authorities ignore their illegal activities. This all reduces tribals' collection and incomes. Some recent examples are discussed below.

**Monopoly over NTFPs** - NTFPs require simple and easily handled processing and packaging technologies and they have a relatively longer shelf life, and so can withstand small variations in market demand. Rather than improve the bargaining power of the poor, government policies have often acted in favour of traders and created monopolies.

In Orissa, one company has been given monopoly collection rights for 29 NTFPs for ten years. Thus a private trader has been given exclusive rights of collection and marketing. There is no check on the price paid by him to the tribals, although on paper the price is fixed by the Collector. These orders creating private monopolies are adhoc, arbitrary, and against the principles of natural justice, as no tenders or offers have been invited before bestowing monopolistic powers to a private agency. These orders smack of favouritism, and lack of probity and openness. State monopoly has provided room for private monopoly, and is aiding and abetting market imperfections, besides pouring money into the coffers of bribe takers at all levels.

The Rajasthan Scheduled Tribe Area Development Cooperative Corporation Ltd. Udaipur has a monopoly over designated NTFPs. It buys Tholi Musli, a medicinal herb at Rs 250 - 400 per kg, although tribals could easily get from Rs 500 to 1000 in the open market. Similarly, the Corporation pays only Rs 18 per kg for honey as against the market price of Rs 50 per kg. Thus nationalisation has not been of any help to the gatherers.

The Government of Kerala has created monopoly for 120 notified items of non-timber forest products. The Scheduled Tribes and forest dwellers have no right to make any direct sale to outside party. They have to sell it to cooperative societies which auctions the products gathered by the tribals. Although, according to government instructions, 80% of the sale value should be given as collection charge to tribals, in actual practice in 1991-92 and 1992-93 the amount paid to tribals on paper was only 59.8 and 61.5% of the total sale proceeds. In actual practice the amount paid may be even less. Tribals prefer to sell their products directly in the market which offers much higher price to them, though it is illegal. A study calculated that the open market price was more than double of the government price. Thus in Kerala government monopoly was not only inefficient but also exploiting the tribals.

**Ban on processing by the poor** - According to Orissa's laws, processing of hill brooms can only be done by the lease holder, TDCC (Tribal Development Cooperative) and its traders. Tribals can collect hill brooms, but cannot bind these into a broom, nor can they sell the collected item in the open market. Thus the poor are prevented from both, doing value addition through processing and the right to get the best price for their produce. A very tragic case has been brought to light (for details, see Seminar, July 1995 and The Telegraph, 11th June, 1995), in which assurance was given by the Collector Raygada to Women's groups and DWCRAs that they would be allowed to collect and market hill brooms, so that the primary gatherers, who are mostly poor tribal women, may get the benefit of higher prices in the market. The Society started

functioning, but without a valid licence. Rather than helping them with processing and finding the best price, the state government machinery decided to launch prosecution against women and their organisation. Their stocks have been seized, and despite assurances from senior government officers, the full stock has not been released. Thus even when cases of exploitation are brought to notice and publicised in the newspapers, the hold of traders and corrupt elements is so strong on administration that no remedial action is taken for several months. In the mean time the stock has deteriorated and lost all value. The intention of the monopolistic trader seems to be to cause huge financial loss to women, so that for decades no other group dares to break their monopoly.

**Preference for private traders** - Similar monopoly exists in Orissa for a tree called, Oroxylon indicum, the bark of which is used for making *agarbattis*. The trader who enjoys the monopoly of entering forests does not only removes the bark, but often cuts the entire tree, thus causing great harm to the forest. Several cases of injury to forests caused by the trader's men have been reported by the Forest Department itself, but the lease still continues.

**Sal leaves** - These are sold in Orissa by the primary gatherer at Rs 3 for a bundle of 80 plates to TDCC, who has appointed traders as its agents, who enjoy legal monopoly over the product. The gatherers have absolutely no control on the prices they get. The trader often does not pay in cash, and insists on barter payment in terms of grain, thus enjoying double monopoly, as the tribal has no choice, neither in terms of the dealer nor price, nor terms of payment. In one particular case a woman was returned and her plates were not bought by the agent (though he has no authority to return). In another case the agent comes only for four days in a month. Thus the way the scheme works in actual practice is the poor are taxed to support an inefficient government organisation. The stated objective may be to do away with "middlemen", but the unstated objective is to create a patronage by exploiting the poor, and help just one trader (and those who have the powers to "inspect" and grant licenses), rather than allow free market to operate.

**Sal seeds** - The case of sal seeds in Orissa is even more tragic. In 1995, the government just the before the start of the collection season decided to change the previous arrangement and appoint private parties as the sole buying agents. These new private industries could not make advance arrangements for appointing subagents and for reaching the cash to them, with the result that several primary gatherers could not find any ready buyer, and in the process government also lost revenue. Often in such cases the poor who need cash desparately are forced to sell it to a third party illegally at a throw away price, who then supplies to the government agent and gets the benefit of the support price.

**Low returns on collection** - The women living in desert area of Santalpur Taluka of Banaskantha district, Gujarat survive mainly on gathering gum from the Babul trees planted by Forest department. The Forest Department insists on licenses for gum collection, and since the women had no licenses, they were in the past collecting gum 'illegally' and selling to private traders. After joining SEWA they formed DW CRA groups and demanded licenses, so that they could 'legally' sell the gum to the Forest Corporation. The rates for gum are fixed by the Forest Corporation, and to the women's dismay, their legality has resulted in getting poorer rates from the Forest Corporation than what they could get from the open market. Over the years the fluctuation of rates has been as follows:

Year	Rate per Kg. (Rs) fixed by the Forest Corp.	Open market rate per Kg. (Rs)
1992	10	22
1993	6	22
1994	6	40
1995	8	26

The result is that after women started selling to the Forest Corporation:-

- The average earning of women has dropped from Rs 25 per day to Rs 12 per day, though their hours of work have gone up.
- Families are forced to use their children in picking gum. Many have dropped out of school.
- Out-migration in search of work has increased.
- Men have become *sathis* (bonded servants) to farmers in other villages.
- Women have pawned their jewellery, and
- They have mortgaged their land and 63 percent have sold their land.

The tragedy is that women can get a better rate for gum in the open market, but the Forest Corporation will not allow the gum pickers to enter the open market, and they have to sell their gum for 1/3rd to 1/4th of the market price.

### **Possible solutions**

Of the several roles tribals, women and the poor have in forestry, the most important is as gatherers of forest produce. They would therefore be greatly benefitted if opportunities for collection from forest and public lands are enhanced. This would require:-

- a change in the silvicultural practices of managing forests
- a change in the nature of species being planted on public lands from timber to usufruct based trees,
- sharing of management and protection with forest dwellers, and
- publicity about their rights in forest and community lands, and greater control over markets

These are discussed below.

### **Silvicultural practices**

Forests have been traditionally looked upon as a source of revenue and not as a means of meeting the genuine needs of the people. That is why the entire thrust of forestry has been towards the high forest system, which calls for clear felling and ruthless cutting back of all growth, except of the species chosen for dominance. The high forest system has resulted in pure forests being created, but with gathering falling a casualty in the process. It is in this context that a major policy change is required.

A start could be made by deciding that gathering is a legitimate and genuine expectation of the people and that if they are not allowed to gather, they will treat the forests with hostility. What is now termed as biotic interference, i.e., foraging for fuel and fodder, grazing, removal of bamboo and small timber, should be looked upon as a logical and appropriate working of the forests. This calls for an abandonment of the existing silvicultural practices, not so much to achieve high forest as to restore to the forests an admixture in which the appropriate level of vegetation would be available to meet gathering needs. An immediate identification of quick growing shrubs with high calorific value, with their retention in the forest to serve fuel requirements, the development of pastures, i.e., giving over adequate forest land to grasses, and the development of

massive fuelwood plantations around centres of high consumption and encouragement of silviculturally sensible exploitation of fuelwood species would also be important components of the new policy.

Only over-mature, mal-formed, dead or dying trees should be removed, with no particular reservation by species. Ground flora and the understorey should be largely left undisturbed, except for the improvement of hygiene of the forest flora through removal of noxious weeds. The crop would be representative of all age groups because no attempt would be made to achieve an uniform crop in terms of variety or age. In those areas where teak and sal are the naturally dominant species, they would continue to predominate even without silvicultural intervention to achieve an uniform crop. However, because of age and species mix the forests would be able to maintain a continuous supply of miscellaneous small timber and fuelwood for use in gathering. Commercial working would taper off because clear felling by blocks would be totally abandoned, but there would be some production of timber from the over mature trees that would be felled.

### **Change in Species on degraded lands**

Social forestry concepts should be extended to degraded forest lands by changing the nature of species from planting of commercial species to natural regeneration or planting of usufruct based trees, such as neem, mahua, sal, arjun, and tamarind. These should be supplemented with grasses, legumes, shrubs and bushes to yield fuelwood and fodder in the shortest possible time. This would strengthen tribals' access to forests, and therefore benefits would be directly appropriated by them. Unlike commercial timber species, relatively low value non-rotational trees for recurrent products would not so much attract the attention of powerful panchayat leaders and contractors.

Foresters and foreign experts who advise the GOI and the donor agencies, because of their training and experience, have looked upon trees as timber, to be obtained after felling. Therefore, even in the social forestry programmes market oriented species were planted. The traditional Indian way of looking at trees has, however, been different. As opposed to trees for timber, Indian villagers for centuries have depended on trees for their livelihood. There has been little felling. Instead, trees have been valued for the intermediate products they provide, which sustain and secure the livelihoods of the people.

The difference can be understood by comparing how fuelwood species are viewed in the two perspectives. As per received wisdom, fuelwood is obtained by felling trees having a high calorific value, or as a by-product from lops and tops of timber trees. Casuarina and eucalyptus therefore seem perfectly justified on public lands. But the poor tribals obtain fuelwood from twigs and branches of living trees, and not by felling trees, and often get little from the felling of so-called fuelwood trees. Casuarina and eucalyptus may be justified on farm lands, if they improve farm incomes on a sustainable basis. But these hardly serve the poor, when raised on public lands.

Given the inefficiency of administration and `soft' character of the political system, one could generalise that out of a tree on public lands the stem goes to the rich and the towns, whereas branches, leaves and twigs belong to the poor. Therefore the strategy should be to opt for species which have high proportions of branches and twigs relative to stem wood.

This requires a complete reversal of the recommendations of the National Commission on Agriculture, 1976 which favoured commercial plantations on forest land, and trees for consumption and subsistence on private land. Our recommendation is that subsistence and consumption should be met from forest and common lands, and market demand should by and large be met from private land. Using private lands for short rotation products will permit the large area of forest lands to be used for long gestation trees, which enrich the environment and provide a range of products to the poor. For quick benefits to the poor, long gestation trees would be supplemented with an understorey of bushes and shrubs so as to satisfy immediate needs of the poor. "Scientific" forestry should therefore mean that wild fruits, nuts, NTFPs, grasses, leaves and twigs become the main intended products from forest lands and timber a by-product from large trees like mahua and sal. The reverse has been the policy for the last 100 years. Although after the advent of the new forest policy in 1988 there has been some effort to involve forest communities in management, no thought has

been given to make necessary changes in the technology which will be suitable to the changed objectives. The proposed changes are explained in brief in the following Table:-

**Table 2: Technical and policy options**

		old	new
1.	objective	reduce people's dependence on forest lands	increase supply of goods desired by people
2.	'look' of the forest	stem based	crown based
3.	client	market & industry	forest dwellers & local people
4.	timber	main product	bye-product
5.	silviculture	conversion to uniform	improvement felling and protection
6.	species	exotics & commercial	grasses, bushes, shrubs & MFPs
7.	production through	planting	regeneration
8.	usage through	harvesting	gathering

### **Participation in management**

Although Joint Forest Management guidelines were issued six years back, not much headway has been made in ensuring peoples' management over forests. Some of the policy problems in JFM are discussed below.

**Legal issues** - The legal and organisational framework for joint management remains weak and controversial. In many states, villages distant from forest areas have settlement and use rights. Thus, a forest patch does not have a well-defined and recognised user-group, admitting the rights of the entire population of that region or the entire forest area. This kind of a 'right-regime', which makes forests open-access lands, is not conducive to successful protection, as rights of contiguous villages protecting forests may come in conflict with those of distant villages, not protecting but still having rights to enjoy usufruct. Therefore, at least in JFM areas, use rights should be reviewed in order to put them in harmony with the '*care and share philosophy*' which is the basis of JFM.

Another legal problem concerns the status of village communities. The state government resolutions recommend village level committees as functional groups. However, these committees have no legal and statutory basis, and it may be difficult for them to manage resources on a long term basis. Their relationships with the statutory village Panchayats will need to be sharply defined.

**Working Plans and JFM** - Most government resolutions envisage preparation of a village plan. As such a microplan developed for a forest patch will also be a part of a particular forest block, range and division, there is a need to dovetail microplan to Working Plan prescriptions. The integration of village plans with Working Plans will require changes in the philosophy and contents of the Working Plans, which at the

moment are steeped in the old philosophy of maximising production of timber rather than of biomass suitable for local needs.

**Overhauling Forest Policy at state level** - It is not known whether any state government issued any directive revising its state forest policy after the radical overhaul of Forest Policy by the Government of India in 1988. In keeping in tune with the new Policy species choice and silvicultural practices will perhaps need a change in favour of usufruct based trees and multiple outputs. Where a large number of people have claims to forest produce, low management and low value output (but high in biomass) solutions have perhaps a better chance of success. However, 'business' seems to be as usual in state governments, and commercial trees are continued to be encouraged and planted on forest lands.

**Women as JFM motivators** - Given the sex segregated and hierarchical nature of Indian society, separate women's organisations and staff are needed to work among women, to instil confidence in them, so that they can fight for their rights. Therefore, whenever there is recruitment, more women need to be recruited in Forest Department. The village level committees should have adequate and equal representation of women. Forestry staff should be sensitised on gender issues through orientation programmes. As women in many societies still feel inhibited in expressing themselves in mixed gatherings, each committee should have a separate women's cell for raising their consciousness and for improving their skills. The quality of women's participation and the control they exercise over decision making processes is more important than the sheer number of women present in such bodies.

### **Primacy of rights and market reforms**

As already pointed out, tribals' rights of access and their right to collection of forest products are restricted, vague, or not known to them. Sharing arrangements in Joint Forest Management or community forestry schemes are ill-defined or not publicised, or poorly implemented. There appears to be general reluctance on the part of the government to define clearly what people are to get, at what time, and at what price, in exchange for the participation expected of them. But participation of the poor and tribals is improbable unless their benefits are secure.

Therefore, we suggest that outside each forest coupe or social forestry plantation there should be a notice board publicising what rights people have as regards collection. The colonial tradition of secrecy must be given up. A simple notice that, "these trees belong to the community, and not to Government", may in itself, change peoples' attitude towards village plantations. Agreements must be entered in writing with the beneficiaries informing them about their entitlement, and copies given to each village.

**Market reforms for forest products** - As regards marketing arrangements, it must be emphasised that the agencies created by the state have reached a stage where they are unable to play the roles for which they were intended. The policy frame wherein a state monopoly was considered necessary to counteract severe market imperfections has also become counter-productive and are encouraging market distortions. If the poor are to enjoy the fruits of their labour (and of the forests which they are supposed to bring up), a drastic overhauling of the policy frame is necessary.

In most states the sale of most NTFPs by tribals is done without any processing or value addition. The producers' access to consumers is limited to the sale made in local villages and weekly markets. Thus, although these products may finally reach a very large market, the market is geographically very limited as far as gatherers are concerned. This is more true for women entrepreneurs. Burdened with other roles within the family traditionally assigned to women, their ability to look for far-off markets is restricted. The small size of production further aggravates the problem forcing the gatherers into a vicious cycle of a small market, low production and (leading to) small surplus. The limited surplus makes them more vulnerable and makes their exploitation possible because it continuously erodes their bargaining capacity as their need for conversion of small production into cash becomes more acute. Several reforms can be suggested in the marketing of NTFPs.

A large number of families have the expertise and skills of processing bamboo, and make hats, baskets, etc., but they are prevented from getting the full price for their labour, because stocking bamboo and selling bamboo products requires permissions from the FD. Freeing the artisans from such constraints can itself lead to widening the base of entrepreneurial activities in the village, as these value added activities can be undertaken in their cottages itself. Similarly, a lot of tendu occurs on private lands, but the people cannot stock it and convert it into beedies, it must be first sold to government. Every year raids are organised on the poor peoples' houses with a view to prevent them from directly processing the beedies and sell them in the open market. The problem can easily be solved by permitting a certain quantity for storage for different articles of such household artisan activity.

In addition to government organisations, women's groups, VSSs (Village Forest Protection Committees) and even NGOs can be appointed lessees for sal leaves and mahua etc., so that they could do local processing. This will also give them a right to dispose off the collected or processed item in the open market. The suggestion that FDCs should do all processing is not practical, as FDCs would not be able to do so profitably, and therefore restrictions on setting up of processing units should be removed. Thus the process of freeing market from unnecessary controls would begin, without any radical change in the laws.

Government should give up some of its functions to the market, rather than try to do every thing itself. For instance, retail sale of fuelwood and bamboo can easily be done by the open market. In Orissa, OFDC has also been asked to do retail sale of fuelwood and bamboo from its depots. Although exact figures are not available, there are perhaps at least 500 depots from where retail sale is almost negligible. Thus about 1000 men in the OFDC have no work, but are paid to manage these depots. As suggested by us, retail sale should be done by private dealers, which will free the staff of the OFDC for more productive work. This will free staff which can be used for more important purposes. There is no need for having controls under the excise laws on mahua flowers. Its processing and sale can be easily left to free market operations.

The artisans require young and green bamboo, which is not produced by the FD, in fact the present silvicultural practices ban felling of green bamboo. At least in some coupes this restriction needs to be relaxed. If tendu can be maintained only at the bush level and not allowed to grow into a mature tree because of revenue interests of the state, similar concession should be available to the poor artisans so that cottage industries could grow in the state.

Nationalisation of NTFPs has created excellent opportunity for a few private traders (some of them in the garb of being sub-agents of government bodies) and mills to exploit tribals. At the same time practical considerations point out that Government is incapable of effectively administer complete control and do buying and selling of NTFPs itself. It is better for Government to facilitate private trade, and to act as a watchdog rather than try to eliminate it. Monopoly purchase by Government requires sustained political support and excellent bureaucratic machinery. It is difficult to ensure these over a long period and hence nationalisation has often increased exploitation of the poor.

Government should set up promotional Marketing Boards, as distinct from commercial corporations (which are inefficient, and hence demand nationalisation), with responsibility for dissemination of information about markets and prices to the gatherers. The Boards would help in bridging the gap between what the consumers pay and what gatherers get. Free purchase by all and sundry would also be in tune with the current liberalisation and open market climate. Encouraging setting up of processing units within the tribal areas is also to be recommended. In fact the Forest Department should be given targets for setting up of such units by the tribals and local groups, so that the role of the FD becomes that of a facilitator, and not of regulator.

**Legal problems in farm forestry** - Farmers, specially large and absentee ones, in less forested and agriculturally prosperous districts, would like to plant short gestation trees such as eucalyptus, but are constrained due to restrictions imposed on harvesting, transit and sale of wood. These restrictions exist in almost all states. In Madhya Pradesh, the Land Revenue Code prohibits cutting, girdling or otherwise damaging trees in areas prone to soil erosion, fragile ecology; and in the interest of protecting water resources like streams, rivers, rivulets and tree-cover on unculturable lands. However, the implication of this

law is that in all other cases, the tree owner has to obtain a certificate from the revenue officials (which they will give after making due field enquiries and referring the case to forest officials too for their opinion) to the effect that the case does not fall under one of the restricted category mentioned above. The net result is that in all cases the tree owner has to go through a lengthy procedure.

In addition, there are restrictions on movement under the forest laws of the state which regulate the transit of forest produce into or from or within any area in the state. Forest produce includes timber, charcoal, resin, lac, Mahua flower and Mahua seed whether found in or brought from a forest or not. No forest produce can be moved into or from or within any area in the state without a pass issued by Forest Officer.

Freedom to sell without hassles is a necessary, but not sufficient condition for the success of farm forestry. As already pointed out, market orientation has caught the fancy of many farmers, and it would be a great shame if they are not allowed to achieve the full potential of markets, because of totally unnecessary restrictions on harvesting, transit and sale.

Excessive regulations lead to corruption. These laws also keep the over-burdened bureaucracy busy in pursuits which (from the social point of view at least) are totally unproductive. Even when an officer is not corrupt, he is judged not on the basis of his help to farmers, but whether he has been able to contain complaints of illegal fellings within "manageable" proportions. For instance, in 1993 during field work I found that farmers in Betul have many teak trees on their farms, but are unable to get its benefit as the District Collector has not been giving any permission. Yardsticks of performance get distorted, doing immense harm to the farm forestry programme.

Fortunately, there is much evidence that with the removal of restrictions, and with assurance of rights to trees and of freedom to market them, both environmental and social objectives can be achieved simultaneously. When harvesting trees is accepted as legitimate, farmers tend to postpone it and use trees as savings. On the other hand controls and uncertainty about their ownership, rights and marketing promote "irresponsible" felling, by converting trees into cash and other assets which are more secure. Healthy and competitive markets can be developed only when legal and other bureaucratic constraints in the free flow of wood are removed.

### **New Forest Policy, 1988 - a dead document?**

It is generally believed that the new Forest Policy, 1988 heralded a new era in forest management. How does one then explain the continuance of old feudal and exploitative practices in the field, which have been enumerated above?

According to the new forest policy forests are not to be commercially exploited for industries, but these are to conserve soil and environment, and meet the subsistence requirements of the local people. Derivation of direct economic benefit from forests has been subordinated to the objective of ensuring environmental stability and maintenance of ecological balance. It discourages monocultures and prefers mixed forests. The focus has shifted from 'commerce', and 'investment' to ecology and satisfying minimum needs of the people, providing fuelwood and fodder, and strengthening the tribal-forest linkages.

As regards supplies to industry, the first part of para 4.9 states:-

As far as possible, forest based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of a direct relationship between the factory and the individuals who can grow the raw material by supporting the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.

It is also stated in the same para that 'the practice of supply of forest produce to industry at concessional prices should cease. Industry should be encouraged to use alternative raw materials. Import of wood and wood products should be liberalised.'

Why have these provisions not been put to effect? There could be several explanations.

First, the 1988 forest policy is a non-statutory and advisory statement issued by the Government of India, not backed by law. This is distinct from the Forest Conservation Act, 1980, a Government of India legislation which is binding on all state governments. Second, actual implementation of forest projects and policies is under the control of the state governments, who may have different political compulsions from the Government of India. Third, what gets implemented in the field is generally what is provided in the budget and funded, and therefore many policy prescriptions requiring budgetary support may remain unimplemented, if not supported by matching funds. Fourth, bureaucracy in India is fairly powerful and its own predilections may act as a filter to what is demanded of it by governments. Radical and swift changes in policies may therefore take more time in their implementation, if these are found unconvincing by the officers. It is generally believed that the Forest Service emotionally identified itself with the Policies laid down in the 1952 document and the 1976 NCA Report, but has reservations about the 1988 Policy, and this has hindered its translation into action.

Fifthly, there are a number of contradictions within the new Forest Policy and with the amended Forest Conservation Act, both of which were enacted in December, 1988. These are summarised in the Table given below.

**Table 3: Contradictions in the new Forest Policy**

Provisions of the Policy	Contradicted by
Minor forest produce should be protected, improved and their production enhanced (section 3.5).	Forest Conservation Act prohibits plantation of horticulture crops, palms, oil bearing and medicinal plants on forest lands, unless prior permission of the Government of India has been taken.
Degraded lands should be made available on lease or on the basis of a tree patta scheme to individuals and institutions (section 4.2.4).	Forest Conservation Act bans assignment or lease of forest land to the people or institutions not wholly owned by government.
Rights and concessions enjoyed by the tribals should be fully protected (section 4.3.4.3).	Rights and concessions, including grazing, should always remain related to the carrying capacity of forests (section 4.3.4.1).
Domestic requirement of tribals should be the first charge on forest produce (section 4.3.4.3).	MFPs and substitute materials should be made available through conveniently located depots at reasonable prices (same section).
Land laws should be modified to facilitate individuals to undertake tree farming on their own land (section 4.2.4).	Appropriate regulations should govern the felling of trees on private holding (same section).

Thus the Forest Conservation Act prohibits plantation of horticulture crops, palms, oil bearing and medicinal plants on forest lands, unless prior permission of the Government of India has been taken. These provisions should be read with the new Forest Policy, which looks down upon gathering of forest produce by stating that "these (MFPs) and substitute materials should be made available through conveniently located depots at reasonable prices". It also wishes to curtail the rights and concessions of forest dwellers by relating them to the carrying capacity of forests. The new Policy expresses concern for ecology, but read with other provisions and the Act it appears that environment is being used as a new excuse to keep people out of forests, just as "vital industrial needs" were considered enough of a justification to deny legitimate aspirations of the poor in the past.

Although it appears that these new draconian laws are not being implemented rigidly, as usufruct sharing schemes are being promoted by the GOI itself, and the GOI has also clarified that fruit species etc could be permitted, but the power of harassment of NGOs by state officials under the garb of enforcing the Forest Conservation Act is immense. Who knows a more "conservation" oriented bureaucracy at the centre

tomorrow would not wake up to realise the powers given to them by the new Act! Further, as is well known, the legal enactments reach all sections of bureaucracy, but benign circulars favouring people have a habit of disappearing fast before they reach every one. This will further delay the execution of people oriented schemes in forestry sector. The two examples from M.P. and U.P. discussed below show how the Forest Conservation Act has affected lives of the people.

**Legal problems in forest villages** - In Madhya Pradesh, over 100,000 tribal families live in about 500 forest villages but possess no rights to the lands they cultivate, as these are forest lands, according to government records. The Ministry of Agriculture, vide their circular dated 23rd March, 1984 advised the states to confer on them heritable but inalienable rights, but no progress has been achieved. The Madhya Pradesh government passed a law to give them security of tenure, but the Forest Conservation Act, 1980 has struck down this law. The result is that the tribals, although not being displaced from lands that they have cultivated for decades, cannot get loans from banks as they are not legal owners over this land.

Similar problem has been observed in the eastern tarai districts of U.P., where the FD had settled a large number of poor villagers on forest lands to do Taungia plantations. For the last one hundred years, they were cultivating forest lands in the first few years of raising plantations as well as looking after the new plants. However, despite the fact that recorded rights exist showing their possession over forest lands for cultivation, the Forest Conservation Act has denied to them any right now. Coupled with the fact that the practice of Taungia has been given up, these poor people are now without work or assets.

Forest Conservation Act makes it mandatory for State governments to seek prior permission to transfer even one acre of forest land for non-forest purposes. For the U.P. hills, with more than two-thirds of its lands designated as forests, almost every developmental activity has been affected. People of the area offer numerous examples of projects held up for years before receiving permission from the central government: nine years for sanctioning a stretch of road construction, one kilometer of which passes through a reserved forest; traditional irrigation channels that are unfinished because certain sections would have to pass through designated forest lands; electric transmission lines not installed because the Ministry of Environment opines that far too many trees would have to be destroyed for the purpose. The list goes on. Although the Ministry of Environment could argue that cases requiring less than nine hectares of land are processed fairly quickly, the fact remains that smaller appeals for forest land are rarely accompanied by the kind of political pressure that big projects carry and are, therefore, more likely to be shelved indefinitely. Projects like the Tehri and Narmada dams have powerful lobbies in the states. These lobbies push relentlessly until their projects are cleared by the central ministries.

Lastly, it is a well known fact that after 1993 commitment of the Government of India to new Forest Policy and JFM has considerably weakened and these are merely being used as rhetoric to create a favourable public image and to attract foreign funds. The Ministry of Environment and Forests moved a proposal to amend the forest policy to permit leasing of forest lands to industry. Luckily, it was not approved by the Cabinet for fear of reprisals from grassroot organisations. The Ministry has also turned a blind eye to the continuation of subsidised supplies to industry and step motherly treatment to forest dwellers. It is even supporting leasing of forest lands by state governments to industry via the Forest Development Corporations. It also prepared a new Forest Bill which is designed to reduce the control of people over forests. The most draconian provision of the new Bill is that village forests cannot be constituted from reserve forests, whereas joint forest management cannot be applied on the reserved category. Thus about two-thirds of the forest area (as 46 out of 67 m ha of forest is declared as reserve forests) would not be available for management by the people. At the same time, people's rights of entry and usage in reserve forests will now be subject to carrying capacity, and can be 'rationalised' by Government of India. Further, sacred groves can be acquired by the government. The proposed Bill also discriminates against nomadic groups, as it debars them from exercising any rights on forest lands.

Recently, Government of India sought to dilute peoples participation by introducing the concept of van Mukhias who will act as intermediary on behalf of forest officials and receive ten percent of forest revenues. The said GR has still (15.10.96) not been withdrawn, although it is not being pursued vigorously.

## **Change in mindset**

Government of India and the State Governments spend millions of rupees in the name of tribal upliftment. However, tribal policy and forest policy, despite the rhetoric, have never been integrated so far. They run on parallel tracks. It is unfortunate that, while other departments are trying to give new assets to the poor, the Forest Department wishes to reduce access of the poor to whatever they could get from forests in the past. By denying to the people any role in forest management and share in forest produce it reduces the concept of peoples' participation to a mere rhetoric. These tend to define forest-people interaction as a zero-sum game; forests can be protected only when people lose, and any gain to the people is at the cost of forest protection. In this scenario, both lose. The challenge is how to convert this into a win-win game. This is possible only when, 'productivity', 'yield', and 'economic value' are redefined in terms of multipurpose utilisation and satisfying basic human needs. This requires a new outlook and a new strategy, in which poor's interests, of secure rights of gathering would be paramount. Livelihood needs of the poor are preconditions for sustainability of natural resources.

## Chapter 5: Anti-poor government policies and implementation in other sectors -some instances

In the previous chapter we singled out the Forest Department for its anti-poor policies because little change has taken place in the feudal and custodial approach in government towards forests. One of the reasons for continuation of a Zamindar like attitude to public forests is the fact that forests generally exist in the poorest areas inhabiting socially the most backward peoples, who have little control over the processes of government. It was only in the last decade when NGOs started speaking for the voiceless forest dwellers who had been victims of government oppression until now that some cosmetic change took place in the forest policy which too have remained largely unimplemented. However exploitative policies and laws are not unique to the Forestry sector and can be located in many sectors of government. In this chapter we give a sample of such practices from other departments, where a radical change is called for.

### Land laws

**Exemption from Ceiling laws** - Section 63 of the Land Reforms Act, Karnataka has been amended recently increasing the Ceiling limit from 54 acres to 216 acres for unirrigated land. Since land cannot be created, any addition to a farmer's holding would be generally at the cost of deprivation of land by marginal farmers. The amendment of section 109 of the Act which empowers the state government to even give further relaxation to this limit in public interest also needs to be questioned on grounds of transparency and probity in administration. It will not only accentuate disparities in land ownership, but may also lead to corruption.

**Land Reforms Acts** have been promulgated in all states by recognising redistribution of land as a social justice and equity measure, and as a key factor in poverty alleviation in rural areas. In Andhra Pradesh however, the land redistribution effort was distorted through auctioning government land at 75% of the market rate, a process which was undoubtedly in favour of wealthy landlords. This kind of redistribution had to be stopped through grassroot agitation. Another recent government order by the A.P. government made it essential that any assignment of government land to a person has to be approved and signed by the local MLA who is the Chairperson of the assignment committee. This government order is quite against the poor, as MLAs who are local, landed, wealthy, powerful and belong to the upper castes are normally against land assignment to the poor. Often lands are assigned only to those who are close to the MLAs.

**Encroachments** - In Andhra Pradesh, under the Land Reforms Act names of encroachers upon government lands are supposed to be entered in a register and then a nominal fine is imposed upon them. This helps encroachees in registering their claim over such a land as and when encroachments are regularised. The experience of one voluntary organisation, "**Prajwala**", working in Chittoor (AP) is that the encroachment done by the Dalits and the poor are hardly registered. Often lands which are being cultivated by them are shown as being encroached upon by those who wield money and power.

In HP also there is a scheme for regularisation of encroachment. Although on paper it is meant to be for the poor but the fact remains that it is the rich and influential people who alone benefit from such schemes. The procedure is so complicated and non-transparent that only the well connected is able to complete his papers and get his case through.

**Hassles in registration** - The co-operatives could become the real supporters of the poor and needy. However, the procedure of the cooperatives formation and registration is very cumbersome. Despite the location of the district units, the work does not get done without several trips to state headquarters and a lot of money in corruption. In addition to the share capital, the poor people are discouraged from the benefits as they have to provide immovable property as collateral surety which normally they don't possess.

**Transfer of land** - Under a collaborative arrangement between the National Dairy Development Board and the National Wastelands Development Board, Ministry of Environment and Forests, a National Tree Growers Co-operative Federation was set up with the objective of afforesting public wastelands through people's

participation. The scheme can be successful only when the State Governments liberalise the procedures for transfer of land to such co-operatives. Although, the scheme was started sometime in 1987, a note from the Managing Director of the Tree Growers Federation, dated 31.8.1995 indicates that transfer of land takes as much as two to three years. In Karnataka, lease applications put in as far back as September 1992 are still pending. In Orissa, most revenue wastelands have the word "Jungle" in their classification nomenclature and, therefore, cannot be transferred unless permission of Government of India under the Forest Conservation Act is taken. In Gujarat, the process of land lease is lengthy and involves cumbersome procedures. The papers move from the local Mamlatdar to the Collector's office and then these are sent to the Narmada Project Corporation, since all revenue wastelands in Gujarat are reserved for the oustees of the Narmada Project. If the Narmada Project clears it, the papers go to Revenue Secretary, who then issues instructions to the Collector. The entire procedure takes more than a year for wasteland to be made available to co-operatives.

**Sale of land by SC/ST farmers** - Section 42 (B) of the Rajasthan Land Tenancy Act bans the sale of land owned by SC/ST farmers to farmers of other castes, and declares such transactions null and void. This creates a problem for those SC/ST families living close to a town who wish to sell their land at the open market price for a housing colony etc. They are thus deprived the opportunity of changing their profession and migrating to towns in favour of a better profession. Similar restrictions exist in many state laws.

### **Common property resources**

**Cattle flayers in U.P.** - A study of two thousand flayers in four districts of central U.P. by PRADAN, Lucknow shows that the flayers have almost no legal control over their own produce i.e. the hides they flay from the naturally fallen animals. The Zila Parishads exercise control over the produce by awarding contract, either to individuals or to cooperatives for collection and storage of hides. This contract is given annually on royalty basis for a specified area, maximum being a block. The contract provides monopoly control over the hides retrieved in the areas and hence on the flayer. The contract holder can summon any administrative and/or legal measures to enforce the contract on the flayer.

Prior to '70s when the contract system did not exist, the producer would make effort to locate the dead animal, flay it and sell it in the weekly village market. But now no such motivation exists. Instead the flayer is forced to work as the contractor demands and that too at meagre wages. Besides, the contract amount charged by Zila Parishad runs into lakhs of rupees and is out of reach for the actual artisan who is often not able to make his ends meet.

The need of the hour is to affect change in U.P. Kshetria and Zila Panchayat Act 1961 so that the storage and processing of hides is separated from the flaying. The flaying is done by traditional artisans, where as the storage etc. is done by the traders. By combining the two the traders have become monopoly agents or revenue collectors for the government, and exploiters of flayers. There is a need to protect the individual artisan from becoming a victim because of Zila Parishads bye-laws.

The objectives of the proposed changes is to bring about an end to the monopoly system and allow the market forces to play and give flayers whatever the market can support. As of now the flayers get 10% to 20% of what the market will offer to them if there was no monopoly. The poverty issues of the flayers will get automatically addressed since the leather industry is experiencing a compound growth of 15%.

The role of Khadi and Village Industry Board has not at all been encouraging. Instead of facilitating cooperative formation of actual artisans, they have entered in unholy alliances and rapidly set-up 'dummy' cooperatives that have occupied the space. Besides, any attempt to form cooperatives of actual flayers is thwarted under a lot of 'paper' requirements e.g. Kutumb register, Tehsil Certificate, District Magistrate certificate and so on. Introduction of such requirements is easy at the policy level but have disastrous effects at the village level since the moneyed people only can surmount these procedural bottle-necks.

It will not be out of place to mention that in the absence of any constructive dialogue between flayers and policy makers, the only resort is the judiciary. A number of cases are pending both at the Supreme Court level and the High Courts.

Just by a stroke of pen of the State Panchayati Raj Department can remove the contract/license system and free about 80,000 flayers in U.P. from bondage and allow them to enter into an era of prosperity.

Similar policies, regulations and Acts in several other states have made the common property resources i.e. water bodies, stone quarries, and sand inaccessible to the poor.

**Auction of ferry rights** - A report in Frontline dated 19th April, 1996 about Bihar is quoted below:-

In this age of "social justice", the ghats along the Ganga in Bihar are still under the control of zamindars and their contractors. However, a struggle by boatmen, farmers and fisherfolk has emerged now to free the ghats. But this movement has been subjected to brutal suppression: boatmen and fisherfolk are being beaten up and killed, activists have been captured and dogs set upon some of them, boats have been attacked and sunk, and so on.

The Ganga and its affluents are the lifeline for lakhs of people - fisherfolk, farmers, labourers, petty traders and so on. They use the ghats either for fishing or as ferry points to commute daily to the nearby towns to sell their products or to earn a living. Especially in the *diara* region, spread over 9 lakh hectares, the ghats are essential for human existence. A large part of the *diara* land lies inside the river bed and is used for cultivation in summer. It gets flooded in the rainy season. The *diara* land on river banks are available for cultivation for eight to nine months in a year. Above these are upland *diara*, inhabited by millions. The ghats are the only link between this region and the outside world.

The hundreds of ghats in Bihar are officially public property, and the zamindars and their contractors who control them are legally known as "ferry farmers." The ghats are governed by the antiquated Bengal Ferries Act of 1885, which is in force only in Bihar. Under this, the Bihar Government auctions and leases out the ghats to private contractors and zamindars, who collect tolls and taxes for every activity related to the ghats. They also ply ferries or boats and even hire boats sometimes. But no other person is allowed to ply boats or use the ghats in any way freely.

One has to pay to cross the river or to take vegetables, milk, cattle, grass, and so on, by ferries. Fisherfolk and boatmen are taxed for fishing and rowing boats. Poor people who cross the river daily to sell vegetables and foodgrains are grossly overcharged. The zamindars, landlords, contractors and criminals work in close nexus and treat the ghats as their private property.

In such a situation, after the historic struggle against the zamindari, the Ganga Mukti Andolan, a NGO, realised that its victory would be incomplete unless the Ganga ghats were made free. Through meetings, rallies and demonstrations, it has urged the Government to free the ghats from the control of zamindars, contractors and criminals. But the struggle has been subjected to severe repression. The agitators are beaten up and detained, their boats are sunk along with the goods they carry, their houses are looted, and so on. The state government which claims to stand by the poor and the downtrodden has not responded so far.

**Fishery laws in Assam** as enforced on the fishermen of Brahmaputra are totally against the interest of the fishermen and the fishery resources. It requires radical change. At present each sector of the river is leased to the "Mohildhars". The lease deed is done by the Revenue Department. The colonial rule had no other interest but to collect the revenue. But the same procedure has continued in the post-Independence period. The fish catches are auctioned by the Mohildhars. The value of the fish catch is divided into three shares: 1/3 for the lessee, 1/3 for the boat and nets and the 1/3 to the fishermen. The boat and gears usually belong to the Mohildhars. So 2/3 goes to the non-fishermen. This exploitation of the fishermen is accepted as a tradition and leads the fishermen to abject poverty and to a vicious circle of indebtedness.

The Leasees are not for the conservation of fish stock. Rather, they are demanding maximum fish catch by the fishermen. As a result, the fishermen are compelled to use prohibited nets like "Moshi Jal" or "Kapda Jal" made out of mosquito net whose mesh size is 0.5 mm as against the permitted mesh size of 3 mm. As a result, even the fish eggs are captured, let alone fish. Fishermen sometime use dolphin oil to catch the fish and hence, endanger the dolphin population as well. To save fish, dolphin and fishermen "Mohildhari System" should be abolished.

### **Lack of peoples' participation - Watersheds**

In MP most watershed committees which had been constituted are controlled by the non-poor who manage to corner the schemes to their own benefit. It has generally been observed that the lands belonging to the poorer sections in a watershed are away from the main village and are located either at the foothills or sloppy areas. Logically most of the work of soil and water conservation in a watershed should be done on these areas first which would mean that the people at the periphery would be the first to benefit. For example, if some check dams are to be made, they would start from the slopes which would naturally mean work on these marginal lands which belong to the poor. Similarly when water harvesting structures are made on the upper reaches the benefits come naturally to the lands which lie contiguous below it, which again would be the poorer people. It has been observed that often the principles of watershed are not followed in many watersheds and in fact without treating the gullies and slopes, work starts on the main fields which belong to the rich people. A conscious effort needs to be made so that the bulk of the amount is spent on the slopes first and plains later.

### **Land acquisition and displacement**

The **Land Acquisition Act** is a colonial Act, constructed essentially for protecting the interests of the state and the powerful rather than the legitimate rights of the farmers. Often land for housing is bought at cheap rates, and then the urban elite and government servants make huge profits in reselling the plots, of which no share goes to the original farmers. The Act needs to be modified to:

- a. Clearly define 'public purpose' and bar the compulsory acquisition on land by government to allot subsequently to private industry. Let private industry negotiate directly with the land-owners. Change in land use should be freely allowed to facilitate this and to remove distortions in land markets (at least in areas where farmers are aware of market conditions).
- b. At present the LA Act 'compensates' loss of assets. It should more basically compensate loss of livelihood. The relative loss (in terms of life-chances and PQLT) may be much higher for a landless labourer or sharecropper on the fields of an absentee landlord, but it is only the latter who is eligible for compensation. Coal India offers employment to displaced persons in the mine area at the rate of one job per 3 acres acquired. However, most displaced persons are landless people. The Parej opencast project in South Bihar has displaced 257 families, but most have not been provided jobs as they are landless. The Narmada Award is perhaps the first that recognises the right of landless labourers, artisans and adult co-landholders to land compensation, but this should be prescribed in the law.
- c. Rehabilitation should not be discretionary, but it should be clearly defined as a legal duty of the state, with provision that acquisition proceedings would stand annulled in the event of the failure of the state to perform its duty. Along with the notice under section 4 (1), the details of the compensation package should also be published and publicised through radio and television.
- d. In particular, in cases of land acquisition for an irrigation project, the first right on the land of the command area must be of the oustee. Acquisition and allotment of land in the command area for rehabilitation must precede acquisition of land for submergence.
- e. A significant share from the profits/ registration fees of future transactions in the sale and purchase of that land should go to the original farmer.

**Land under temporary submergence** - When villagers are displaced for dam construction, farm land gets submerged in the monsoon season but water starts receding in September or October, and often such land

is fit for taking a rabi crop. But those people who owned these lands are now rendered landless by the project officials, and have no claims to do farming on such lands, except as temporary tenants.

The proposed change that we suggest is that such land should be leased by the government from the land owners for the period of submergence, and the land owner farms his own land for the winter crop. Instead of the government leasing the land to the people, let the people lease their land to the government for the period of submergence, and ownership continue as before.

**Improper land records** - Land records are generally in a bad shape, where share cropping is widely prevalent and tenants are unable to assert their rights, or where land has been recently allotted by the government. In Central India, communications were poor, shifting cultivation was practised, and the identification of individuals with particular plots was weak. These factors worked against proper establishment and maintenance of land records. Lands under the possession of tribals got recorded as government lands and were often transferred to the Forest Department. Thus the poor tribals have become defined as encroachers even on lands which were cultivated by their ancestors. In such cases, no compensation was given to the poor farmers, because their land rights were not properly recorded. For instance, the southern part of Sonbhadra District (U.P.) has a substantial population of tribals living below the poverty line. The tract is dry, drought-prone, rocky, undulating with poor tree cover, and highly susceptible to soil erosion. During the pre-independence period no settlement or recording operation was ever done in this area. Land records were also not maintained. As the soils were inferior and pressure on land was low, people practised shifting cultivation without ever bothering about getting their rights recorded. Therefore, when the Zamindari abolition took place in Uttar Pradesh in 1952, the people in this area got no rights, and most land of the two tehsils in South Sonbhadra was recorded as Government land, which was, in 1953, transferred to the F.D., ignoring the existing land rights of the people. The maps of the villages of the tehsil show that land declared as reserved forest under Section 4 of the Forest Act is interspersed with lands owned or occupied by the people in such a manner that contiguous plots of forest land over a large area cannot be formed. A very large number of government projects have been established in this region, but the experience of Vanvasi Ashram, a NGO working in that area is that very little justice was done to the tribals in providing them either compensation or in rehabilitating them.

**Procedure for referring to Courts** - As per Section 18 of Land Acquisition Act, any land-holder whose land has been acquired can request the Land Acquisition Officer to refer his application to Court for adjudicating the quantum of compensation, if he is not satisfied with the compensation received. The satisfaction or otherwise is recorded at the back of the counterfoil of the cheque indicating whether the money is received under protest or otherwise. Since the landholders are poor and ignorant, they are at the mercy of the Land Acquisition Officer in recording their protest. This forecloses the option of the land owner for a court reference under Section 18. This also affects the right to proceed under Section 53(a) of the Land Acquisition Act. Therefore, it is suggested that whether the land-owner records his satisfaction about the compensation or not, he should always have the option of moving a Court for getting his compensation enhanced. This change in the present practice of burden of proving the satisfaction or otherwise resting on the Land Acquisition Officer would remove a lot of hardship to the land holders during subsequent periods.

**Low compensation amount** - In most large projects for which land is acquired, the cost of land is a small fraction of the total cost. The projects are therefore quite willing to pay a higher compensation. They are more worried about delays, which escalates the overall cost of the project. Despite these realities, land valuation continues to be highly unfavourable to the land owners, as the procedure for valuation is based on the value of transactions of similar land in the vicinity. It is common knowledge that the registration is invariably undervalued and dependence on such undervalued documentation would adversely affect the compensation amount. However, in most cases, the courts have invariably increased the compensation manifold, than the land value fixed by the Land Acquisition Officer. Due to this experience, the tendency on the part of the Land Acquisition Officer is to value the land on lower side as the court is any way going to enhance compensation. This process results in not only delay but in continuance of misery of the landholders. The emphasis on the other hand should be on satisfaction of land owners, expeditious settlement, market plus rate and a comprehensive rehabilitation package.

## Gender

**Denial of inheritance rights** - In a number of north-western states of India, such as Haryana, Punjab, J & K, Himachal Pradesh, Delhi and Uttar Pradesh, the succession rules relating to agricultural land is different from personal laws affecting the devolution of all other property. In these states land devolves on male lineal descendants. The widow and daughters inherit only in the absence of these male heirs. In some other states, such as Bihar and Orissa the tenancy laws prescribe that occupancy rights will devolve in the same manner as other immovable property, subject to any custom to the contrary. This leaves open the possibility of admitting gender inequalitarian customs if established.

In Uttar Pradesh, section 171 of the Zamindari Abolition Act bars a female child from inheritance of agricultural land. After a landowner's death land devolves to the male issues only in equal shares, and in case he had no sons, to his widow and widowed mother. A married daughter would be entitled to a share in the absence of the above claimants, only when the deceased had no father, unmarried daughter, brother or unmarried sister.

One wonders whether such blatantly unfair provisions of law are not violating the equality provisions of the Indian Constitution. Bina Agarwal documents that in most parts of India, women have had no customary land rights, and those that existed have been substantially eroded over time, with State policies playing a catalytic role. 131 out of 145 land owning communities studied by her had patrilineal pattern in land inheritance where women did not get any share. Modern legislation has yet to establish full gender equality in law or to permeate practice.

**Discrimination** - In Himachal Pradesh, if a Himachali woman marries a non-Himachali man, her children would lose all the benefits given to a child of the Himachali resident (specially in the field of education) even though she owns agricultural lands in Himachal Pradesh. On the other hand, if a Himachali man marries a non-Himachali woman, his children do not lose any benefits.

**Hindu Succession Act** - The unequal position of Hindu women in the matters of property, custody, guardianship, adoption and bigamy still continues in law as well as in the social system. Women do not have coparcenary rights. Section 23 of Hindu Succession Act debar a women from claiming rights or share in a dwelling house of inheritance if it is in the possession of male heirs. A desirable step would be that all marriages should be registered. This would help fight bigamy, since registration by itself would be a proof of marriage.

In the context of land, in addition to the resistance faced in implementing the Succession Act and anomalies in the land reform laws, another provision that restricts women's access to land in some situations is that in order to buy land in certain states you need to be an agriculturist. As women rarely have land in their names this further precludes their acquisition.

In JFM Committees, while some states lay down only one person from each family as the beneficiary, others accept only one man and one woman, thus nullifying the rights of widowed sister or mother.

**Rape laws** continue to place the burden of proof, except in custodial rape, on the woman, and police and judicial procedures constitute what is aptly described as a 'second rape'. This needs urgent reform.

**SITA** - Although prostitution itself is not a crime, soliciting is - a question that does arise, especially when we know that in many cases young girls are forced into prostitution at a very young age, why should the customer be let off? SITA needs to be amended.

**Widows** represent 8% of the female population of the country, and their plight is not only exemplified in the large numbers who are abandoned in Kashi, Mathura and Brindaban but also in their abject neglect even if they are located in their homes. Mutations of property in their name are often belated, and although it varies from state to state the procedures of obtaining even the paltry widow pension that the government allows are

often complicated, and often give an advantage to the less needy. Local field officers of the concerned department should be held accountable for coverage. Some concerted plans for rehabilitation of widows by imparting skills, offering shelter need to be initiated.

**Cooperative Act** - The basic conceptualization of the household as arena in which there is equitable distribution of resources reinforces a patriarchal system. In many state the Cooperative Act grants membership to one member of the family, and unless the cooperative is specifically for women it would perhaps be 98% of the time specifically for men. This is also the case in some state in JFM committees, watershed committees etc. The Acts and composition of the committees needs to be changed to allow for joint membership in some cases, and also so that within a particular committee there is a significant proportion of women - 33 1/3 to 50%.

**Bigamy** - The section of the IPC related to bigamy is so specific that an offence occurs only after a man has married a second wife. The problem for many women is that advance information about arrangements for a second marriage are received before the second marriage has taken place, but the police are unable to help to stop that second marriage because the second marriage has not taken place yet. The law needs to be changed to allow the police to arrest a man in the process of going through a second marriage when his first wife is still alive and no divorce has taken place. The present law means that the lives of two women are seriously disrupted and suggested amendment in the law would bring a better situation for both women.

### **Essential Commodities (E C) Act**

The E C Act was formulated during the time when the country was facing severe food shortages and scarcities. At present the country has not only attained self sufficiency in most of the commodities, but has now surplus in foodgrains and other primary commodities. Restrictions by the E C Act, which were relevant 30 years back, now only hamper the market from performing its productive/ commercial activity. All the stakeholders, from producers to traders, transporters to agro-processors are irked by the multifarious controls and restrictions imposed under the E C Act.

There are a large number of licenses and permits to be obtained from the authorities under the E C Act. Apart from this a large number of registers are to be maintained and returns filed periodically. Inspections are carried out regularly to ensure adherences to the licenses obtained. These have increased bureaucratic rents and the operational costs of traders. Some examples of such controls are given below.

In Gujarat, for pulses, if no license is taken, then the stock holding limit is 9 quintals and if a license is taken, then stock holding limit is 25 quintals. The Government of Maharashtra has specified maximum storage period of 15 days for wholesale dealers. In Kerala, stocking of sugar is limited to 250 bags. In Andhra Pradesh, the stockholding in pulses and oils can be upto one months stock of raw material and half a months' stock of finished goods. In Uttar Pradesh, wholesale dealers have a stockholding limit of 1,000 quintals. In Punjab, limit on quantity of rice stored is 250 quintals. In West Bengal there are storage limits for rice (750 quintals) and wheat (400 quintals) for wholesale dealers. In Assam the wholesale dealer can store upto 10 quintals without license.

Some Orders/Notifications passed under the E C Act restrict movement of goods from surplus states to deficit states. The Central or the State Governments issue Movement Control Orders. The Government can specify that transportation of certain commodities can be undertaken only after obtaining a general permit or a special transport permit. Most of these orders and notifications come into being at the harvesting time and are issued by publishing in the official gazette.

In Andhra Pradesh and Tamil Nadu, farmers are not allowed to directly sell outside the State. Permits are required for the same. In Hyderabad, a permit from Managing Director of the Civil Supplies Corporation is required and in all other cases from the District Collector or Civil Supplies Officer of the district. Inter-state movement restriction of wheat in Punjab and Haryana tends to depress foodgrain prices and thus is anti-farmer, especially when government and its allied agencies like Food Corporation of India do not have

enough storage capacity available. In Tanjore district of Tamil Nadu, the State Government imposes restriction on movement of paddy out of the district. Another example of movement control is on cotton in Maharashtra.

Orders like the Cold Storage and Fruit Products Orders specify storage rent to be determined by the authorities and licensee is liable to punishment if he does not rent out his space to Government agencies or cooperatives. The private trader has to estimate his costs which should determine the rent to be charged.

The mere possibility of scarcity conditions recurring temporarily at some point of time in future is not a sufficient justification for keeping a huge juggernaut of bureaucratic set-up under the E C Act. Temporary scarcity conditions can always be dealt with by enforcing emergency regulations and legislation.

The controls and restrictions, imposed under the E C Act, are dis-incentives to production and distribution of essential commodities. These have led to a situation where the trading class is a loser with the maximum benefits being reaped by the inspectors. With the increased agricultural production in essential commodities, it is recommended that all agricultural produce and its products should be deleted from the definition of "essential commodities" of Section 2(a) of E C Act, and all Control Orders relating to or affecting agricultural produce/products should be rescinded. This would reduce the influence of various inspectors and their discretionary activities.

### **Food Adulteration Act**

To start with, the Prevention of Food Adulteration Act (PFA) 1955, is the principal instrument of law, to ensure clean and wholesome articles of human consumption are sold to the public. While the PFA Act by itself is not a very complicated piece of legislation the accompanying rules, are absolutely byzantine in nature. Under Rule 28 of the PFA Rules, yellow basic coal tar dye is not a prohibited colour. Thus, the common supari which millions of Indians consume in their homes, which is usually coloured by this yellow basic coal tar dye which is positively injurious to health, cannot in any way be stopped by the law. Similarly, if a packet of 'lal mirchi' powder is worm-infected the law can do nothing about it, for it specifically seeks to make a distinction between insects and worms and says that while the former are unfit for human consumption, the latter need not be so! So if you find live meal-worms (one of the most common occurrences anywhere in India) you can do nothing about it, under the existing law. Similarly, there are a number of procedural problems in the implementation of this law. It is a requirement of the law, that the food inspectors must pay for the samples that they take. Usually even large districts have a budget of only 4000 Rs per annum, for this purpose. Divide this by 12 food inspectors, one is left with Rs 333 per inspector! A sample of one kg of Khoya costs about Rs 133, which takes care of one-third of a single inspector's annual budget! What does he do for the rest of the year, except make money? the system offers him a tailor-made incentive structure to mint money! Further, the law requires that he take the sample in the presence of atleast two witnesses. Now, in practice no one is willing to go through the hassle of court proceedings etc, for a public cause and as such, finding a witness is an impossible job. The food inspector, cajoles, pleads and begs people to become witness, who agree, only to give a fictitious name and address, which can never be traced the time of issuance of summons, thereby prolonging the majestic and impartial course of justice. In sum, rules such as those mentioned above tend to swerve the legislation from its original avowed purpose and enormous resources are spent in mindless paper-work alone.

### **Environmental Acts**

One can confidently state that the existing three principal Acts, namely the Environmental Protection Act (EPA) and the Water and Air Pollution Acts (WPA, APA) are observed more in their breach than in their implementation. This violation is particularly shocking for it directly impinges on the quality of human life and further accelerates the pillage of resources, on some which one cannot even put a value yet. One small proviso of Section 40(l) of the APA, is the principal loophole which enables all violators to go scot free. It says that provided the owner of a firm/head of a government department is able to demonstrate that the violation/pollution occurred without his knowledge or that it occurred despite all measures taken as

precaution by him, he is absolved of all liability. Routinely, in active collusion with district pollution board officials, such a certificate is obtained with completely defeats the purpose of the legislation itself. Further there is a sixty days waiting period for any citizen's suits to be field under these Acts, which defeats the very objective of checking environmental pollution. Also it gives adequate time for errant firms to destroy/conceal incriminating evidence. Another routine malady, visible from the evidence collected at the district level is the fact that almost always, despite anything between 20-90 hearings, the party is not even aware of the proceedings for it has not been served any notice, again thanks to the power of corruption. Further, the existing Act works through a system of summons such a problem can be largely mitigated. Further, the existing Act works through a system of opaque and non-quantifiable physical controls which puts enormous powers into the grasping hands of the unscrupulous inspector. In an era of economic liberalisation, such physical controls need to be replaced by a move towards a market based system of regulation where the onus would be on the government to prove any violations and that too on the basis of exceptions.

### **The urban poor**

Nearly 93 per cent of the labour force comprising roughly 290 million comes under the informal sector. It is this vast disparate workforce of self employed, casual, contract and migrant workers, present both in rural and urban areas, that keep the engine of Indian economy greased and running. They present the authentic picture of working India - the workers who are concentrated in the agricultural and handloom industries, the home-based industry, the construction industry, fisheries, small manufacturers, agricultural labour, forests and others. In this huge army, more than half are women and a significant section, children. The larger part of this sector, however, is outside the ambit of collective bargaining. And since regulatory and protective laws come in the wake of unionisation, it follows that a very segment of the information sector is covered by such regulation. In spite of all odds, the unorganised sector workers have been struggling to organise themselves. The last twenty years has seen many small but courageous organizations struggling for better living and working conditions for their members. However, the policy atmosphere and the lack of laws and positive programmes generally work against these initiatives, and more and more of these organisations have been feeling the need for representation and support at the policy level.

**Lack of transparent rules** - The really poor often have neither the capital, credit or the enterprise to set up shops, and eke out a hand to mouth existence as street vendors, especially in urban areas. They live in constant fear of being forcibly moved or that they would have to "pay" someone in order to remain undisturbed. With street vendors there is also the anomalous situation that they cannot vend without a license and yet there is almost a blanket ban on their issue, and even if issued there is always the additional whim of the traffic police to deal with. Although in recent times, especially in Bombay and Delhi judicial intervention has played a significant role in asking municipal authorities to demarcate hawking and no-hawking zones, the executive reaction, if it exists at all, has been slow to actually implement the pronouncement. In a few cases authorities have demarcated the no-hawking areas, but the areas which are to be reserved for hawking have not been delineated. Not only does the entire process need to be expedited in those areas which come under the jurisdiction of these pronouncements but a similar exercise needs to be systematically undertaken in all urban areas.

**Vagrancy laws** - The preventive detention sections in the Cr.P.C., particularly those related to vagrancy (Section 109, 151) are most frequently misused to harass, detain and extort from the most vulnerable and innocent poor. This section should be done away with, or contain strong safeguards.

**Legal aid** - In order to balance the extremely unequal access of the poor to the legal system, CPC should be amended to ensure that it is mandatory that litigants below poverty line and from socially underprivileged groups are given legal aid (at attractive rates) to lawyers chosen by the litigants.

**Urban migrants** pushed to the city because of abject rural poverty and unemployment, have no legal access to house-sites or sites to establish temporary petty business activities. They are therefore criminalised by the very processes of survival. There should be careful earmarking of sites for urban poor migrants close to potential work-sites, and land allotted to homeless migrants by a process free from bureaucratic tangles. Equally, sites for temporary lease for petty commercial activities should also be developed at all potential and

existing commercial centres, and these should be available to the rural poor on realistic terms. The process of getting ration card made is cumbersome and poses the most severe problem to migrant labour.

Urban **slum dwellers** are not entitled to water or light connections unless they have a legal title of land. Since most of them are forced to be encroachers, they get caught up in a vicious cycle of degraded living conditions without minimal facilities, because of this unrealistic legal requirement.

In **SHASU** (scheme of employment through housing and shelter upgradation), loans for shelter upgradation is admissible to slum dwellers only when government is willing to give an undertaking that slum will not be relocated for the next 10 years. Even in authorised slums government is unwilling to give such an undertaking.

**Kachi Basti demolition** - Udaipur has just witnessed a demolition of Awri Mata Kachi Basti. It is a basti that has been in existence for about 18 years. People had electricity connections, water connections, ration cards, and their names were on voters list. In the middle of the night about two months ago, the Urban Improvement Trust, with the help of the Police and bulldozers, cordoned off the area and ploughed the basti under. Two legal points are raised - (a) how is it possible for the same municipality to take regular payments for water and light supply, and still have the legal right to demolish the basti, (b) in rural areas, the policy is that those forest dwellers who can prove their settlement on government forest land before 1980 have a legal right to get ownership papers of that property. In urban areas, even with receipts for light and water urban dwellers living on government land are subjected to ruthless eviction and demolition, destruction of property and means of livelihood. Some clarity and parity in the law in relation to urban land has to be developed. The "way" of making a change of urban land use is also under question.

### **Transparency in government**

**IAS Conduct Rules** - In government we are confronted with stunning dimensions of seemingly all pervasive corruption. The scenario appears bleak and depressing, with cynicism, apathy or active connivance on the part of the bureaucracy the ever increasing norm. The ordinary public seems condemned to suffer with fatalism or despair with rare moments of relief with the occasional upright and fearless officer.

One NGO in Rajasthan, Mazdoor Kisan Shakti Sangathan, has blazed a new trail of hope, by fighting corruption and arbitrary exercise of state power through enforcing the people's right to information. It has demanded and secured copies of muster rolls and bill vouchers, read these out in open meetings of the villagers, and collected evidence against corruption. This has mobilised unprecedented mass action against corruption, and broken fatalism and despair.

When the officials felt threatened by this mass upsurge against their corrupt practices, they prevailed upon the IAS collectors not to give copies of the muster rolls to the NGO. Some collectors, even when they wanted transparency, felt constrained because of the restrictions imposed on them by Rule 9 of the IAS Rules, which reads as follows:-

'No member of the Service shall, except in accordance with any general or special order of the government or in the performance in good faith of the duties assigned to him, communicate directly or indirectly any official document or part thereof or information to any government servant or any other person to whom he is not authorised to communicate such document or information.'

Thus a very good opportunity to fight corruption was lost because Rule 9 prevents sharing of information with NGOs.

**The Official Secrets Act** is used as a weapon and alibi by the bureaucracy to maintain opacity and mystification of its functioning, to avoid accountability. It should be replaced by a Right to Information Act which places an obligation on the official to provide information to the citizens when sought, and even pro-actively when not sought.

**Jails**, rescue homes for women, mental asylums, juvenile homes and all other custodial organisations, often become centres of abuse of their inmates again mainly because of their lack of transparency. Active citizen committees with full rights to enter any time of the day or night, examine all records and inmates, would be the best check against abuse.

**Publicity** - The importance of launching awareness campaigns of various kinds regarding programmes, entitlements and rights requires more attention, and this for not only legal literacy but health education and even information about government schemes. Enhancing participation is important. Skewed distribution in location of facilities like hand pumps, schools etc., and the concentration of expenditure in health and education in areas and for people who are not necessarily the most needy perpetuate the miserable nature of the already disadvantaged and powerless.

### **Laws affecting the poorest**

**Dalit converts** - In Andhra Pradesh, atrocities on Dalits at Karamchedu in 1984, and at Tsundur in 1991 forced them to seek en block conversion to Christianity. They were under an impression that they continued to be protected under the SC/ST Prevention of Atrocities Act, 1989. Later, the converted dalits came to know that they did not come within the purview of the said Act. Thus, although the social status of the converted people has not changed and they continued to be sufferers, the protection of law is not available to them.

**Scavenging** - The act of manual scavenging is banned by a special Act in 1972. However, according to Mr. Salappa, Vice Chairman of the National Commission for Safai Karmacharis, the practice of carrying night soil on the head by scavengers still (1995) existed in various parts of the country. In some parts of Uttar Pradesh, the scavengers are paid as low as just Rs 2/- per month or 0.07 paise per day for their services. Mr. B. Wilson, an activist, disclosed that such an inhuman activity continued in the Bharat Gold Mines Ltd., a government undertaking in Karnataka. Further, the money allotted for the scavenging community's welfare schemes is normally diverted towards other S.C. communities. Although a National Commission on Safai Karmacharis has been set up, it has no judicial powers to bring judicial pressure to set right the on-going injustice to their community.

**The Juvenile Justice Act** provides for neglected or abandoned children even with no delinquency record, to be placed in custodial care. This results in emotional and sometimes physical abuse of the child, and must not be permitted.

**The Persons With Disabilities Act**, 1995 confers important legal right on the disabled. However, it is one of the only known Acts which has no penal provisions whatsoever for failure to comply with its provisions. It is therefore nothing more than a pious statement of intentions. There should also be specific provisions to penalise severely neglect or abuse of disabled people, especially by primary care-givers and the state.

**Undertrials** - It is an outrage that even today undertrials languish in jail without trial for periods beyond even the maximum punishment of convicted. There should be legal accountability for such delay, automatic bail in petty offences beyond three months, and automatic acquittal if detention is beyond the maximum period of punishment for that offence.

### **Tribals**

**Andhra Pradesh** - A report in Sunday about the tribal region of Andhra Pradesh is quoted below: -

The lush green jungles of the Eastern Ghats, spread over nine districts of Andhra Pradesh and comprising 11,595 sq. miles of the State, are no longer a secure haven for nearly 33 tribal communities, including seven primitive groups, inhabiting these highlands. In the four decades since Independence, the tribals have steadily lost their hold on much of this area. While many have lost their sources of livelihood, others have sought refuge in deep forests. And despite agitations by environmentalists and non-governmental organisation (NGOs), successive state governments have turned a blind eye to their problems.

According to the 1991 census, the region's tribal-non-tribal ratio had dropped to 2:1 from the 1950 proportion of 6:1. And this demographic change has been largely brought about by official policies. "Thanks to amendments made to the land transfer regulations in the tribal belt by the government, the non-tribals are holding almost 55 per cent of tribal lands either benami or through clandestine means", says P. Shivaramakrishna of Search for Action and Knowledge for Tribal Initiative (SAKTI), an NGO in East Godavari district. The non-tribals - comprising multi-national companies, politicians and government employees - have been steadily occupying tribal land in one form or the other.

In 1989, the state government passed a Cabinet resolution to denotify 314 villages from the list of areas earmarked for tribals in order to legalise the benami holding of the non-tribals. The resolution - the third such attempt since 1965 - was, however, rejected by the then state Governor. In 1976 too, the government proposed to delete 123 villages in Warangal, Karimnagar and Khammam from the list. When environmentalists and NGOs began opposing such attempts, the tribals were subjected to harassment by the administration on the plea that they were hand in glove with Naxalites belonging to the People's War Group (PWG). It is rumoured that the Police burnt down nearly 1,200 Khoya, Khond and Konda-Dora hamlets in the Eastern Ghats for their suspected links with the PWG. The operation affected nearly three lakh tribals (60,000 families). The displaced, resettled in plains villages, had to make a living by working as farm labourers, and many women were forced into prostitution to augment earnings.

The setting up of minor and medium irrigation projects in areas meant for tribals has been another way to dispossess the locals. Although such projects came under tribal sub-plans, the emphasis was on cultivating crops alien to the Adivasis. For example, the tribal sub-plan for Warangal district is aimed at bringing 1.56 lakh hectares under cultivation, though tribals hold only 24,000 hectares. Apparently, the government has been sanctioning too many reservoirs, minor irrigation schemes, lift irrigation and medium canals in the tribal belt only to facilitate the cultivation of land occupied by people from the plains. "While the non-tribal is holding the rich lands, the tribal has to depend on *podu* (hill slope) cultivation," complained another NGO from the West Godavari district.

**Uttar Pradesh** - Another example of anti-poor tribal policies can be cited from the Chakrata Block of Dehradun district in U.P. where a comprehensive study has been conducted by the LBS National Academy of Administration. The whole of 'Jaunsar-Bawar area' of Dehradun district has been notified as 'tribal area' in 1968 but maximum benefit of 'tribal schemes' has been taken away by the richer sections of the society. In the Jaunsar-Bawar area land holding inequalities are very high wherein the lowest stratum of 40% of cultivators control only less than 9% of the cultivated land. Thus the poorest sections i.e. Kolta, Das and Bajgi communities (20% of the total tribal population) within the tribal area have been constantly living under deprivation and not getting the benefits of government schemes. These communities have remained under serfdom or bonded labour to the rich Brahmin and Thakur 'tribals' in that area. On account of 'tribal' status given to the whole area, these communities (Koltas, Bajgis and Das) are not even getting any benefit from SC development schemes. Due to acute poverty the women in some pockets in this area have been forced to do prostitution. There is urgent need to denotify the tribal status given to the Jaunsar-Bawar area and only the Koltas, Das and Bajgi communities should be given tribal status alongwith distributing some of the surplus land among these households.

## **Labour**

**Slate workers in Mandasaur (M.P.)** - Mandasaur, which has huge deposits of shale stones, is the largest producer of slate-pencils in the country. The labourers work with electrical saws, shaping shale stones into small pieces to make pencils used by children for writing on slate boards. But, in the process, dense fumes of dust is sprayed into the air which is continuously inhaled by the workers themselves. Silicon dust is very light and hangs in the air for a long time, unlike heavier coal dust, which quickly settles on the ground. Silicon dust inhaled by a labourer affects his lungs, forming silica patches. These patches reduce the surface through which oxygen is absorbed. As result, a patient doesn't get enough oxygen and suffocates if the patches are large. Some of the patients develop silicosis, a disease resembling tuberculosis in many ways but remains incurable even now. For victims of silicosis, death is certain. As many as 234 men died in the ten years between 1985 and 1995, and many of their widows and children have been forced to work in the same

environment for a living. At present there are about 176 silicosis patients in Mandasaur. They are on a dole of Rs 450 per month provided by the Karamkar Kalyan Nidhi Mandal, a welfare institution. The same organisation also gives Rs 200 per month to each of the widows. There has hardly been any initiative from government to provide relief from such slow death.

**Workers in the slate mines in Andhra Pradesh** are governed by the Mines Act which does not specify minimum wages. On the other hand, the Minimum Wages Act of the state government does not apply to the mine workers. Therefore the workers in the slate mines are virtually without any legislative protection. It is recommended that through a Parliamentary resolution the workers in the slate mines may be given the status of "worker", so that they are brought under the Minimum Wages Act. This will enable even the state government officials to take action for non-payment of minimum wages.

The **Child Labour** (Prohibition and Regulation) Act, 1986 prohibits employment of children below 14 years of age. In contravention of the provision of the Act, slate units in Markapuram, Andhra Pradesh employ children in large numbers to boost their production. The manufacturers prefer children for the process of fixing nails and bolts to the frames as their fingers are slim and flexible and hence, work faster. Their age is always shown as more than 14 in the factory records. Cases related to the age of working children, occupational injuries, accident compensation etc. are referred by the Labour Courts for verification to government doctors who have to certify the nature of injuries, age of the working child etc. The entire process is time consuming and disturbs the tempo of the judicial process. In the absence of such certification the Court is not able to proceed. Therefore simplification of procedure is suggested. Certification even from private medical practitioners should be accepted.

**Protection for workers in the informal sector** - Another category of workers in dire need of protection, again mostly women are the home-based workers, who often work on a piece rate basis. As there is no effective mode of inspection (the Labour Inspectors are more used to factory based inspections) the Equal Remuneration Act is often violated. SEWA, Ahmedabad has done considerable work in this area and have pointed out how in Kanpur for 'beedi' rolling there are different rates for 'mardana' and 'zanana' beedis. Many home based workers actually work long hours but are not compensated for it. One of the possible solutions that is being talked about is implementation through boards on which for a particular trade employers, workers and the government are represented.

**Minimum Wages Act** - Section 26 of the Act authorises the government to fix any other wage which could be less than the minimum wages! It wants to wipe out the principle of an absolute minimum wage. In Rajasthan, a drought prone state, whenever there is a drought, the government under section 26 denotes a "drought relief minimum wage" which is always less than the statutory minimum wage. Drought labourers have gone to the Supreme Court (there is a Justice Bhagwati judgement) and labourers have gone to the High Court (there is a Guman Mal Lodha judgement) both of which confirm that "work" is "work" and lower wages may not be paid. However, in both cases, the judgement has resulted in payment of higher wages for those petitioning labourers only. The problem still remains. The Act needs amending.

Under the Minimum Wages Act the State govt. from time-to time notifies the minimum wages payable to different categories of workers classified as unskilled, semi-skilled, skilled, clerical etc. However, the U.P. govt which is supposed to be a model employer is not paying the prescribed minimum wages to its own daily wages employees who number in excess of 1,00,000. This is a punishable offence but the govt. gets around this obstacle by notifying the govt establishments as exempted from the provisions of the Minimum Wages Act. While the salaries of the regular employees keep increasing with revisions in D.A. the daily wages employees continue to suffer and are also denied benefits of leave, increments, medical services etc.

### **District Primary Education Programme (DPEP)**

The District Primary Education Programme is a centrally sponsored scheme with the objective of hastening the pace of universalisation of primary education by developing and implementing district specific time-bound plans to achieve hundred percent enrolment of children in the age group of 6-11, their retention in school

upto class V and improve quality of primary education. Since the problem of low enrolment and high dropout is largely restricted to poorer segments of the society both in the rural and urban areas, inherently the programme may be considered as pro-poor that has long term impact on the quality of life of the poor. The programme has strong component dealing with disadvantaged group such as tribal, scheduled caste, handicapped children and girl child.

Since the capability building at the grass root and district level to cope with the responsibilities and skills required for decentralised decision making and participatory planning have not preceded the implementation of the scheme, a responsive, transparent and decentralised system of planning and implementation has not materialised so far. To a large extent decentralisation is treated as defining responsibilities at various levels of project planning and implementation but commensurate authority and power have not been fully specified. A number of loose ends remain as for example, the working of village education committees and their relationship with Panchayati Raj institutions, monitoring mechanisms at various levels, poor implementation due to lack of dissemination of information about the programme, persistent bureaucratic approach. The working of the programme however, suggests that the following mid-course corrections are called for:

1. Bring about a change in the mind-set of the district administration with respect to community participation.
2. Change from purely target-driven implementation to objective and process-driven implementation.
3. Prepare the plan document by the districts in vernacular rather than in English.
4. Simplify procurement, account and audit procedures for wider dissemination of these to the implementing agencies.
5. Joint action of the state programme office, district collectorate and district project office relating to primary education and DPEP.

### **Co-operative legislation**

For a variety of reasons, co-operatives have become 'parastatals' with little or no semblance to the well accepted co-operative principles and have not been allowed to flourish due to an overdose of 'State patronage' and almost 'absolute control' of the Registrar. The concept of 'state partnership' has proved to be the undoing of the co-operative movement in India.

Whereas Co-operative principles require that:

1. A co-operative's membership be voluntary, and that all its members be its user-owners,
2. a co-operative be democratically managed by those who derive their authority from members, and are fully accountable to members,
3. a co-operative permits no advantage to members in consideration of capital invested by them, other than the payments of a strictly limited interest, if even that, on the capital,
4. a co-operative distributes surplus equitably, or reinvests it in the business and/or refunds it to members in ratio of their patronage of the coop's services and/or common services,
5. a co-operative provides for continuous education of all concerned about co-operative philosophy and activities, and
6. a co-operative co-operates with other co-operatives both for the promotion of business and for the protection of co-operative interests.

It will be seen that most of the provisions of the Co-operative Societies Acts actually violate these principles. An analysis of the Co-operative Societies Acts of Punjab, Haryana, Jammu & Kashmir, West Bengal, Maharashtra, Orissa, Bihar and Tamil Nadu have confirmed that provisions in the Act which relate to the subjective satisfaction of the Registrar regarding compulsory membership, amalgamation, and division of societies, approval and annulment of the decisions of general body and boards, and enforcement of restrictions of various kinds on co-operatives and their management pattern, removal of boards and entrustment of management of the co-operatives to the administrators or nominated boards, compulsory

restructuring of co-operatives, enforcement of bye-laws, etc. amount to non-observance of co-operative principles.

The following are specific examples of States interference in the functioning of co-operatives.

1. State Governments, and Central Government, which neither use nor need the co-operative's services and which are unwilling to be responsible members, have been permitted, may even be encouraged, to become members of co-operatives by legislative provisions.
2. Most laws now provide that government will conduct elections to co-operatives, and most government's (some for over a decade) have refused to conduct elections to co-operative societies.
3. Most states, with the blessings of RBI and NABARD have not stopped at playing with managing committees - under the pretext of promoting professionalism in co-operatives, they have organised "common cadres" of chief executives of even village level co-operatives, all of whom are hired, fired, transferred, paid by authorities accountable to the Registrar, with all costs being collected in more than sufficient quantum from the co-operatives.
4. Most co-operative laws ensure that much of net surplus is allocated in accordance to statute and whatever is available for business expansion, may be used only after prior approval of the Registrar. To determine net surplus each year, however, the law also specifies that audit be the monopoly of the Department of Cooperation.
5. Most co-operative laws specify that 'X' per cent of the net surplus each year must necessarily be given to the respective State Co-operative Union for member education and training. Most State Co-operative Unions, expected to be the mouthpiece of the co-operative movement in each state, are headed by nominated/State appointed officers.

Although the Planning Commission had set-up a committee in 1991 under the Chairmanship of Choudhary Brahm Prakash, and the report was circulated to all the State Governments, most of them (with exception of Andhra Pradesh) have found ways and means of circumventing the proposed amendments. It appears that the only reason of the states in resisting the movement towards genuine co-operatives is the fear of loss of political patronage and also the need of the government to extend its sphere of influence. One would strongly advocate the adoption of a new co-operative legislation to ensure that co-operatives in India function as genuine peoples' organisations on the lines of co-operative principles.

**Weavers Cooperatives in U.P.** - The weavers co-operative societies were formed in U.P. to provide credit and marketing facilities to poor weavers, in order to raise their standard of living and employment. In practice however these societies became pocket boroughs of powerful rural and semi-urban landlords and moneylenders who were hand in glove with the Co-operative government organisations and took low interest loans in the names of the poor weavers but actually used the money for getting yarn and giving it to the poor weavers on piece-rate contracts. These contractors then took the handloom cloth and sold it in the names of the weavers to the cooperative marketing organizations like UPICA and Handloom Corporation and made hefty profits. Since these Weavers cooperative societies had no full time Secretaries, the Chairman of the Society who usually was the contractor was supposed to keep the accounts of the money lent. However, when recovery proceedings were started upon non-payment of loans it become very difficult to trace the Chairman and the Secretary of the society, as many of these societies existed only on paper. To compound matters a decision was taken jointly by Govt. of India and the U.P. govt to write-off these loans upto a ceiling of Rs. 10,000 for each individual, which indirectly only benefitted the contractor.

### **Panchayati raj**

**Two Child Norm** - Some States like Andhra Pradesh, Haryana and Rajasthan in their respective Panchayati Raj legislations have provided that a candidate having more than two children shall not be eligible to contest the elections. Recently two members of Gram Panchayats in Bhilwara District in Rajasthan were disqualified for flouting the two-child norm, one of them being a woman. This provision will debar a number of representatives of weaker sections who, on the other hand, have been provided reservation to contest in the elections to Panchayati Raj bodies. In our society it is mostly the weaker sections who have a large number

of children in the context of their poverty situation. This provision is also anti-women in so far as in our rural society women, by and large, do not have control over their fertility.

**Gram Sabhas** - The 73rd Constitutional Amendment makes a provision for a Gram Sabha in each village, to exercise such powers and perform such functions as the legislature of a State may, by law, provide. This is a provision of great import in so far as the Gram Sabha constitutes the entire electorate to whom all elected representatives in the local bodies, state legislature as well as Parliament are accountable. Proper functioning of the Gram Sabha could ensure a vibrant democracy with a great degree of transparency and accountability. However, several states have given short shrift to the institution of Gram Sabha and vested them with only ritualistic powers of consideration of annual accounts, administration reports, audit notes, etc. of the Gram Panchayat. Even the suggestions and recommendations made by the Gram Sabha could be ignored by the Gram Panchayat. This is the situation in States such as Andhra Pradesh, Gujarat, Madhya Pradesh, etc.

On the other hand, certain States like Punjab, Haryana, Bihar, Himachal Pradesh, Tripura, Maharashtra, etc. have devolved more effective powers to the Gram Sabha, such as approval of the budget of the Gram Panchayat, identification of beneficiaries for developmental programmes, constitution of vigilance committees, etc. In some States, failure to convene the Gram Sabha disqualifies the Sarpanch from holding his/her office.

Apart from the inadequate devolution of powers and functions to the Gram Sabha, the experience shows that the meetings of the Gram Sabhas are organised at a time of the day when most of the weaker sections are busy working in the fields and the women are busy with their house-hold chores. This hampers effective participation of the weaker sections in the deliberations of the Gram Sabha.

A study (Panchayats in Western Uttar Pradesh: 'Namesake' Members, GK Lietaen, Economic and Political Weekly 31:39, September 28, 1996, 2700 - 2705) of Panchayats in prosperous Western Uttar Pradesh showed that the vesting of powers into the Executive Members virtually meant that the Pradhan was all powerful. He never called meetings and often the signatures of Members were forged. The rest of Executive Members remained namesake members. The Pradhan on the other hand blamed block officials for corruption. The system can be improved if powers of the block and executive to sanction and approve works are transferred to the Gram Sabha. Otherwise positive expectations from the 1994 Constitutional Amendments are by and large unwarranted.

### **Poverty alleviation programmes**

**IRD** is the most important rural development programme undertaken by government. However, there are several loopholes. A village level worker (VLW) is allotted 8-10 villagers for monitoring and coordinating the IRDP programme. Often, the VLW does not visit the village but gets names from the local leaders. While identifying the poor families in the villages, many rich families are also recommended by the local leaders. Without the VLW's processing the application, the poor and the needy hardly get any benefit of the IRDP programme.

The recent field experience of the Academy's faculty in carrying out a research study in Chakrata - a remotest, most under-developed tribal block in western Himalayas clearly revealed that the implementation process of subsidies under IRDP programme has led the target group to further impoverishment and misery by diverting them from their subsistence activities.

A study (evaluating IRDP from 1981-82 to 1992-93) conducted by the LBSNAA in 1994-95 in Tehri-Garhwal district of Uttar Pradesh shows the rich people bias in this programme. Identification of non-genuine beneficiary is mainly due to non-transparency of the programme. Very few gram sabha meetings have been organised to identify the IRDP beneficiaries. Women were generally denied IRDP assistance due to absence of land ownership in their names. Even in identifying schemes, the backward and forward linkages were never incorporated into the network. Thus due to retrogressive power structure, insensitive attitude of the

administrators and absence of integrated planning approach the poor remain poor despite spending money and achieving IRDP expenditure targets in poverty concentrated districts.

There is no government scheme for meeting the consumption needs of the poor. Some self-help groups are now trying to meet this important need of the poor, but here they face a tough problem. A large number of the poor are IRDP defaulters, as the resource given to them did not generate enough profit. This means that the Banks will not now consider their inclusion in any loan scheme, however viable it may be, because of their being old defaulters. Thus the efforts of the NGO in initiating self-help groups are frustrated. Sometime, if the number of defaulters are more, the entire village is declared as defaulter village and hence no benefits would be given to the village.

**Irrigation** - In West Singhbhum district, Bihar, nine minor irrigation projects were completed between 1960 and 1990 with a capital outlay of Rs 14.1 crores. About 20,000 ha of land was supposed to benefit by way of irrigation, but a study of the largest irrigation project, called the Roro Irrigation Project, which was supposed to provide irrigation to 5500 ha, showed that only 80 ha of land belonging to the well-to-do farmers had benefited from this project. What is more distressing is the fact that 377 small farmers of 37 villages had surrendered part of their meagre land for the canal, totalling upto about 240 ha, but they got no benefit from irrigation. To add insult to injury, land tax is still being collected on the land that they surrendered 30 years ago and in many cases even water tax is being collected, although no irrigation is being provided. Thus "Irrigation Development" Projects often end up in depriving the poor and marginal farmers of their lands.

**Land alienation** in Jharkhand area in favour of non-tribals has continued unabated. According to a note submitted by a voluntary organisation, Jharkhand Organisation for Human Rights (JOHUR), in 1960 the percentage of tribals doing personal cultivation was 72, which came down to 60% by 1985. Similarly, the percentage of tribals working as casual and contract labourers was 9 in 1960. It increased to 21% by 1985.

A new section 211 was added in UP Zamindari Abolition Act to prevent land alienation of tribals in the tarai area. However not even one tribal has been restored land under this section in the last 15 years.

After the visit of Sri Rajiv Gandhi to Kalahandi in Orissa in 1985-86, a two-member team comprising of Secretary, Rural Development and Secretary, Planning Commission, Government of India had visited the area and noticed massive land alienation from tribals to non-tribals. The tribals have often been forced to work as bonded labour on their own piece of land, which is still in their names in revenue records, but under the control of others. Unfortunately the report was marked confidential, and its findings were never made public. It is also not known if any new initiative was taken to restore the possession of alienated lands to the tribals.

**Land distribution** - A research study on Kols (a weaker section in U.P.) in Manikpur Block of Patha area in district Banda has revealed several irregularities in land distribution. Out of the 300 Kols families studied, 39% families have been allotted land on paper only. For another 39% the allotted land is still in the position of the upper caste landlords. For the remaining 22% families the most unsuited land for cultivation - rocky and undulating - has been allotted.

**Stop dams** - During a period of last five years more than 1,000 stop dams have been constructed in Jhabua district on small rivers and nalas under JRY, DPAP, IRDP and other developmental programmes. These were constructed by several agencies like Rural Engineering, Irrigation, Agriculture, Soil Conservation, etc. Cost of these stop dams varies from 3 to 10 lakhs. The objective was to conserve rain water through these structures and provide lift irrigation to farmers in small areas. Today about 75% of these are lying in non-functional state, because gates are not working or leakage of water is taking place. In majority of cases dams have broken down. A simple reason for this failure is that the government has not made any provision for their maintenance or if it is made is not known to the public. Management of these dams is centralised at State level, i.e., for opening and closing of gates orders are issued from Bhopal. In many cases gates were never opened during the rainy season and thus dams were damaged. The local people were not involved in planning, selection of site and management of these dams.

**House allotment** - In almost all states there is a government programme to set up rehabilitated colonies for the Scheduled Castes and Tribes in which electricity, water and other facilities are provided. In Kerala, such colonies are often set up in suburban areas away from the traditional habitation of beneficiaries. The result is that the beneficiaries who were mostly landless agricultural labourers and tenants, find themselves uprooted from their previous occupations. In some cases, the landlords on whose lands they were tenants have used this scheme in getting them evicted from their holdings.

In some other cases, where the tribal families were dependent on collection of forest products, they have now been ousted from their traditional homes in forest areas and have been given new houses in urban centres away from previous places. Such transplantation often suits forest officials but is not in the interest of the poor as they have no alternate secured employment in their new surroundings. A study of Wayanadu area in Kerala showed that when tribals were shifted to the market place of Pulpalli the tribals became poorer and in many cases women were forced to turn to prostitution and men became pimps. Thus the implementation of housing for the poor resulted in acute injustice to the people.

## Chapter 6: Improving administration - some suggestions

This chapter describes the general malaise afflicting administration in India, specially the higher civil services and the IAS working at the state and field level. It then suggests some changes towards its improvement.

### ***Characteristics of government system of working***

Many problems of government are quite old and well known. Obsession with rules rather than concern for output, promotions based on seniority rather than merit, delays, and mediocrity at all levels are some of the factors inhibiting output in government. Bureaucracy in India is considered to have the following characteristics:-

- too large and slow.
- extremely rigid and mechanical.
- consequently not flexible and adaptive to cope with change.
- not innovative and enterprising.
- low motivation and low morale.
- accountability is low.
- not democratic.
- lack of expertise.

Despite expansion in the role of government during 1970-90, not much improvement has taken place in the effectiveness of administration. Here we will highlight two trends which have become more prominent in the last ten years, increasing corruption and declining performance.

**Corruption** - Honesty at lower levels was as rare in the colonial past as it is now. The British appeared to believe that as long as the man at the top was honest, corruption at lower levels would not really do much damage. However there are indications that corruption is on the increase even in higher echelons of bureaucracy. People in the past looked upon functionaries at the cutting edge levels as an organised band of exploiters. In the not so recent past, members of the IAS were not considered a part of this mafia. Rather they were looked upon by the people as saviours from the tyranny of lower level functionaries, and were never considered corrupt. But of late the distinction seems to have got blurred, if not totally eliminated. Corruption at the top has emboldened lower level officials who now openly exploit the masses with impunity. Bureaucracy has today become a parasitical force. It is a part of the problem, rather than part of the solution.

**Alienation from public and declining performance** - Over the years the bureaucracy has become insensitive and even hostile to the poorer sections of society. The district magistrate, in any given district, enjoys a status far out of proportion to his output. He lives in a palatial bungalow, surrounded by a horde of servants and staff who add to his inaccessibility aura. He meets politicians and the more privileged sections of society of his district, and spends most of his time in state capital and Delhi seeking a better posting. Night halts within the district, outside a few well located inspection bungalows, are unheard of. He is supposed to be accountable to the people, especially the unorganised poor, instead he feels happy if he can "buy" the support of an important sectarian leader, which ensures a comfortable stay in the district.

It does not follow however that the old generation of civil servants, those who worked in the fifties and sixties were idealists or were devoted to the cause of the poor. Even in the past, senior civil servants were dedicated to the public service only in the abstract. That somehow failed to translate into service to the individual citizen. It seemed to be run for the convenience, first and foremost, of civil servants themselves. Civil servants even at that time were mostly status conscious; their styles of leadership, supervision or motivation were too archaic; they were obsessed with control and authority; and most important, they had no faith in anti-poverty and asset distribution programmes. The customer in India was always 'kasht se mar'. He

was harassed so much by the maze of rigid rules that he died several deaths before his legitimate prayer was heard. Gradually the civil service became too big, costly and slow, and was not even able to put its own house in order (judged by a large number of writs and cases filed by government servants on issues of seniority and promotions). Today it is not able to provide even a patchy service to the citizens.

Some of the factors responsible for deterioration, such as secrecy, cumbersome procedures, and unnecessary controls are well known. Here we will highlight two factors, the external political environment, and the changing internal bureaucratic culture.

### ***The new political environment and low priority to good governance***

Political pressure can be healthy if it results in greater demand on administration for efficiency and better services to the people. Pressures properly regulated and wisely tempered, improve the spirit of administration and help to keep it on an even keel. Unfortunately the main problem today is that the politics of the country has itself become divorced from public welfare and is more concerned with narrow sectarian interests. An impression exists, specially at the state and district levels, that people have low expectations from political processes (except in purely caste and communal terms), as their economic problems are to be taken care of by market forces. This impression is more prevalent with the state-level politicians who can always blame GOI for price-rise, unemployment, etc. Therefore as far as they are concerned, the state machinery can be milked dry through rent-seeking behaviour without any harm to their political interests of getting re-elected. Politicians think that electoral behaviour can be manipulated through precipitating caste or other populist wave at the time of elections, which does not require sustained work in the constituency. At the same time elections require funds which have to come through the looting of the Government treasury. A vast gap exists between stated and unstated objectives of government. On paper the avowed objective of government is to give clean administration, but many posts are auctioned to the highest bidder. Corruption is rampant. People have unfortunately accepted the position as *fait accompli* and resigned themselves to their fate. They too tend to seek short cuts and exploit the system by breaking rules or approaching mafia gangs and politicians for favours.

The imposition of emergency in the country in 1975 led to Indian State being treated as a private property of those who are at the top, and this culture of using executive power for private gains became the norm during 1980 to 1995. So the Housing Minister thinks that all government houses and shops are her private property, and she can allot them to any one she liked, often for a price. The Petroleum Minister thinks that he can distribute any number of petrol and kerosene depots at his discretion. An impression exists that the State of India is an open treasury which can be looted at will. From Pandit Nehru to Pandit Sukhram, we have really come a long way. During this period, for various reasons the effective control over civil services was transferred from its peer group to politicians. Today the postings of Collectors and SPs in a district are not decided by the Chief Secretary or DG Police but by the Chief Minister or those who are close to him. The degree of politicisation may be less for Audit and Accounts or the Foreign Service, but is quite high in the IPS and the IAS. This erodes the credibility of the government not only in the eyes of the people, but also for civil servants who think that government is not a level playing field, one cannot expect fairness from government, and one has to approach the politicians with right kind of contacts for favours, whether due or undue. There emerged a new culture which can be best summarised as "lick up and kick below", and "rules are for fools". That is, one can forget about the people but just please those who are above you, because masses do not matter, the elite in government have absolute powers and they are beyond law. The fact that half of the politicians in some states are either criminals or have strong criminal links further compounds the problem.

The IAS serves the State but the State structure is itself getting increasingly dysfunctional and diminished. In some north Indian states parallel authority structures and Mafia gangs have emerged. In such a situation it is no surprise if the bureaucracy too is in a bad shape. Unfortunately many civil servants are accepting a diminished role for themselves by becoming agents of exploitation in a State structure which now resembles more like the one in the medieval period - authoritarian, brutal, directionless, and callous to the needs of the poor. A few competent and ambitious civil servants would be able to rise above all this, by joining the UN and other such organisations. Their material success will further fuel the desire of the ordinary members of the service to enrich themselves by hook or by crook. In the process they would become totally indistinguishable

from other rent seeking parasites - politicians, Inspectors and Babus. Perhaps they had not imagined that they would end up like this at the time of joining the service. Stagnation in their intellectual capabilities and a decline in self-esteem has further demoralised them.

There is greater integration now both socially and in terms of group objectives between the members of the IAS and the politicians of that state. Many civil servants are deeply involved in partisan politics: they are preoccupied with it, penetrated by it, and now participate individually and collectively in it. This is understandable, though unfortunate, because between expression of the will of the State (represented by politicians) and the execution of that will (through the administrators) there cannot be any long term dichotomy. In other words, a model in which politicians will continue to be casteist, corrupt and harbourers of criminals, whereas civil servants would be efficient, responsive and behave as change-agents is not a viable model. In the long run administrative and political values have to coincide.

Over the years, whatever little virtues the civil services possessed - integrity, political neutrality, courage and high morale - are showing signs of decay. While defending the continuation of the all India Services, Sardar Patel had said, "they are as good as we are". At that time it was taken as a big compliment that the civil service was being compared with statesmen who had won freedom for the country. One does not know how many civil servants will like to be told today that they are like politicians. But things have moved a full circle, and perhaps some of us have become like politicians, the English speaking politicians, with short term targets, narrow horizons, feudal outlook, contributing nothing to the welfare of the nation, empty promises, and no action.

### **Growth of political populism**

To be fair to the modern brand of politicians, it must be admitted that except for high integrity, neutrality towards party politics, and provision of minimal administrative services in times of emergency, the IAS even in the past had little to commend for itself. Efficiency in the IAS was always very narrowly defined; it was in terms of contempt for politics and adherence to rules, but never in terms of increased public satisfaction. Even after three years of liberalisation and given the fact that states have to compete now with each other for attracting private and foreign capital, the general impression of industrialists is that bureaucracy is mired entirely in red tape and the bureaucrats are incapable of taking even simple decisions in an innovative fashion.

In such a scenario of low institutional capability it is unfair to expect that the political processes would be totally free from populism or sectarianism. Because of the inability of the system to deliver, politicians do not perceive good governance as feasible or even important for getting votes. No chief minister seems to be saying to his constituents, 'within three months all canals would run on time, you would get 10 hours of electricity, rations would be available for the poor, you apply for a license today and within a month it would reach your doors, your grievances will be promptly attended to, etc.' One reason why he does not say so is the total lack of faith on the part of voters in such promises. It is here that the civil service has failed miserably. Politics is after all 'art of the possible', and if the civil service is no longer able to ensure good governance, politicians are forced to resort to populism in order to keep the faith of the voter alive in the political system.

### ***Internal changes in bureaucracy***

In addition to the political environment various changes have taken place which are internal to bureaucracy leading to poor working conditions and low morale of the civil servants. To an outsider it may be a matter of surprise that the morale of middle and senior level civil servants has been fast declining in recent years. Why should the members of the most powerful service manning senior positions in the country feel demoralised? It is tempting to explain this in terms of loss of power caused by the opening up of the economy which will slash the maze of controls operated by bureaucrats. However, the fact is that liberalisation is yet to make any significant impact on the functioning of the government at the state and district level, and therefore, cannot be the prime reason for the feeling of irrelevance which has gripped the top service. The reason cannot also

be solely political interference as it has been a fact of life for the last four decades and is not of recent origin. Several changes affecting the IAS in the last fifteen years are internal to the service and have little to do with the external environment. Some of these are discussed in the succeeding paras.

**Vast expansion** - At present for each class One officer, there are about sixty class Three and thirtysix class Four employees. In Madhya Pradesh, the number of government servants increased from 8,50,000 in 1981 to 12,75,000 in 1991, despite the fact that government threatened to reduce expenditure on establishment every year by 10%! With the changing role of government the size and scale of the civil services no longer relate to the nature of functions that government can or should undertake. Although some efforts has been made to reduce the intake of the all-India service recruits, there has been no drive to reduce recruitment at lower levels, which would be politically a very unpopular step.

Due to the vast and unplanned expansion throughout the 1970s and early 80s in the numbers joining the IAS, and due to the control that the IAS lobby exerts on the system, a very large number of redundant posts in the super-time and superior scales have been created to ensure quick promotions to IAS officers. Often a senior post has been split into many posts, thus diluting and diminishing the scale of responsibilities attached with the post. There are instances galore that previously where one officer was found to do a job, there are now four or more. For instance, in some states against the post of one Chief Secretary, there are many officers now in equivalent but far more less important posts drawing the same salary.

The has apparently been done to avoid demoralisation due to stagnation, but the net result has been just the opposite. First, it leads to cut-throat competition within the service to get into more important slots. The old camaraderie has given place to rat-race. Instances are not lacking when IAS officers wanting a plum job, say a foreign posting, have gone to the Press denigrating their competitors. This has also resulted in the decline of superior-subordinate relations, even when both are direct recruit IAS officers. Previously, the junior officer was always a colleague, now he appears more as a subordinate wanting favours from his superior. The *annadata* and the *maibap* culture of the bygone feudal days now pervades interaction within the IAS. Second, this no-holds-barred competition is then exploited by politicians in playing up one against the other leading to officers becoming more pliable. Third, for IAS officers in marginalised positions government seems remote, heartless and more unjust now than ever before. Previously, IAS officers were the government, now the individual officer considers himself alienated from government. Many have gone to the Tribunals and Courts for promotions and postings, a phenomenon which was unknown ten years ago.

**Lack of market value** - In addition to the fear of marginalisation, another factor which contributes to the surrender of senior officers before political masters is the total lack of any market value and lack of alternative employment of government officers. Beyond government they have no future, because their talents are very few. As the process of liberalisation of the economy catches momentum, the only job for which they were suitable, that of liaison officers for private sector, would also no longer be available for them. At a time when Indian business is going all over the World, it will be a pity if the best brains of the country who join the IAS are allowed to operate conceptually at the level of 'mofussil' mafia gangs and become rotten eggs.

**Lack of professionalism** - A high degree of professionalism ought to be the dominant characteristic of a modern bureaucracy. The fatal failing of the Indian bureaucracy has always been its low level of professional competence. The lack of professionalism is reflected, as Mr. Appu wrote, 'in the growing reluctance of senior civil servants to give frank and fearless advice, the inept handling of the major problems that bedevil the nation, inability to innovate and come up with imaginative solutions to the difficult questions that confront us, failure to keep abreast of modern developments and acquire new skills, slipshod approach to the preparation and implementation of projects, lack of cost-consciousness, dilatoriness, extreme reluctance to take decisions, and above all the unpardonable neglect of routine administration.'

Two-thirds of the IAS career is spent in policy formulation, which requires sound theoretical knowledge of the concerned sector which is possible only by inculcating a life-long habit of reading and writing. Unfortunately the power hungry IAS officer, soon after his recruitment, gives up studies, and sees no reason for making efforts to improve his skills. There is an exponential growth in both, his ignorance and arrogance. It is said

that in the house of an IAS officer one would find only three books - the railway timetable, because he is always on the move, a film magazine because that is the only book he reads, and of course, the civil list. Stagnation in his intellectual calibre leads him to believe that the state structure has been created to pander to his ego. When the world is moving fast to a new culture, the IAS officer is sliding back to the 18th century mentality.

**Lack of concern for the poor** - This is reflected in the way IAS officers grade their jobs. Although the unofficial gradation of jobs varies from state to state, certain common points can be noted. Posts in the Industrial and Commercial Departments and the corporations occupy a very high rank. These enable the IAS officer to hobnob with industrialists and businessmen with whom he has class affinity. Next in the list would be posts which carry a lot of patronage and influence like a district charge, the Departments of Home, Establishment, Finance, etc. The lowest rank goes to jobs where excellent performance would directly benefit the poorest, such as Tribal and Social Welfare, Revenue Administration, Land Reforms, Urban Slums, Rural Development, etc.

This kind of orientation has serious implications. The IAS officer is not so much worried of a transfer *per se*, as he is worried of being transferred to a job which everyone else considers to be an unimportant one. He would use all kinds of pulls and pressures - both administrative and political - to avoid it. If it does not work he proceeds on long leave; in fact, that is the only time he takes earned leave. The punishment to an officer for annoying the authorities would be a posting in the tribal districts or other backward areas. No one realises that in the process the *adivasis* and people of the backward area get punished for being saddled with an officer who has no interest in continuing there.

Another by-product of this attitude is that in this milieu proper career planning is impossible. In this age of specialisation a healthy personnel policy would mean that many officers specialise in sectors where good administration is needed most, such as Welfare of Weaker Sections, Watershed Development, Administrative Reforms, Animal Husbandry etc. Unfortunately, due to the unwillingness of the IAS officers to work on such "condemned" posts the development of the state suffers. On the other hand, because of the pressure which the IAS lobby exerts on the state governments, the number of commercial corporations has increased several fold, each demanding monopoly of controls and budgetary support from the State. Despite this, or may be because of this, several states have remained industrially backward.

### ***Winds of change***

A question arises, will this degeneration continue like in the past or are there signs of change? My reading of the situation is that judicial activism has emerged as a big corrective factor on the arbitrary use of executive power. Hopefully the recent arrests of bigwigs and the judgement against Mr. Gill of Punjab will help in demolishing the belief that "rules are for fools", and it is one step forward to restore the rule of law in our country. Just as Bofors was a turning point in the history of our country which legitimised corruption, the arrest of Chandraswami, HKL Bhagat, Kalpanath Rai, Sanjeeva Rao, etc. has to some extent restored the faith of the common man in rule of law. When some IAS officers were arrested in Tamilnadu recently, another IAS officer of HP wrote a middle in Indian Express, that now IAS officers should include in their career graph a stint in the jail, not as Jail Supdt. or IG Prisons, but as jail inmates. Hopefully other IAS officers will take a cue from the fate of their bretheren in Tamilnadu and Bihar.

One factor why officers thought that they were beyond law is because of the licence-permit Raj which had permeated the Indian economy for the last 20 years. Every little business activity was dependent upon the goodwill and the good wishes of the administration which gave a feeling of absolute power to the officers. With the demolition of licence-permit Raj and liberalisation, there would emerge a group of professionals, journalists, and academicians who would be entirely independent of the Government. Their bread and butter would not be dependent upon the bureaucrat's smile and they are the ones who would be in the forefront of a campaign against bureaucratic indifference and poor performance. Zee TV comes up with a programme, Helpline, which highlights the problems of consumers, it shows bureaucrats in very poor light, be they incharge of DDA or Directors of Telephone services, because these civil servants are unable to explain delay

or inaction on the part of their departments. In future there would be more independent TVs and radios which will apply healthy pressure on our administration.

Another very important element which is emerging in the country is NGOs. There may be NGOs just making money and doing nothing wonderful, but there are also a large number of good NGOs who are working independent of government and they would after some time be very powerful and the Civil Services would have to compete with them. In Bangladesh, 80 to 90% of all development funds are spent through the NGOs. The coming years will see increasing importance of NGOs in policy making and implementation in India too.

So long as government controlled all the goodies of the world, the civil servants looked upon government as *mai-baap* and defined their relation with the government as *jeena yahan marna yahan, iske siva jaana kahan*, and they were prepared to do all kinds of wrong things for politicians. But today there are several escape routes, and new powerful forces are emerging in India making it a truly plural society. Just to give one example, in the 70s states wooed Government of India if they wanted projects, and this required political manouvering, now the states have to woo private capital and specially foreign capital, and these new donors will demand better administration and better professional management. It is a very healthy trend that the monopoly of capital, the monopoly of powers, the monopoly of authority which government enjoyed in the past is breaking down today. The civil servants have to operate in the open market, and establish their credentials and then only they would be able to build up their careers. Top jobs would be given not on the basis of pulls or manipulations but expertise. In the Finance Ministry today, which is the Mecca of all IAS officers, the three top positions are occupied by academics, Montek Ahluwalia, Jairam Ramesh, and Shankar Acharya. It is they who make all decisions, and not any pen pushing bureaucrat. And knowledge is going to emerge as one of the most important resource of the 21st century. Marx talked about three resources: land, capital and labour, I think if he had been alive today, Marx would have added knowledge as the most important resource, much more important than land, labour and capital.

The new pressures on the political system generated by judiciary, NGOs, an elite which is independent of government, and International donor agencies are likely to act as a sobering influence on political irresponsibility. It also creates a favourable climate in which some of the reform proposals designed to give more functional autonomy to the civil service and to make it resist unwanted political pressure would be acceptable to the decision makers. These proposals are discussed below.

### **Suggestions for improvement**

Where is the solution? How do we restore the credibility of the 'steel frame'? How to make more IAS officers stand up to the illegal pressures and temptations? As already stated, it would be unfair to lay the blame with the politicians alone. The problem is similar to what is known as 'tragedy of the commons'. It is rational for the individual politician to use the government machinery for narrow ends, creating a situation where individual rationality does not lead to group optimality. The classical solution which is advocated in such situations is to change the terms at which interaction takes place between the two groups, in this case civil servants and politicians. This change can be brought about in several ways discussed below.

### ***Stability of Tenure***

A malaise afflicting the civil service generally is the instability of tenures, leading not only to a lack of sense of involvement but also to the inability to contribute effectively to amelioration of the system. In U.P., the average tenure of an IAS officer in the last three years is said to be as low as six months. In the last 15 years, the Andhra Pradesh Forestry Department has seen 16 heads, 25% of its officers above ACF level stayed in thier jobs for less than a year. Transfers have been used as instruments of reward and punishment, there is no transparency, and in the public mind transfer after a short stay is categorised as a stigma. Officers who are victimised are not in a position to defend themselves. Internally the system does not call for any reaction to explain one's conduct, while externally public servants are debarred from going public to defend themselves.

Frequent transfers and limited tenures are playing havoc with public organisations. With every quick change in the head of the office, a funereal air is noticeable and down the line the respect for authority is wittled away. Rapid changes erode the mandate of the Department or Organisation. There are two other consequences. The incumbent himself is not sure of how long he will stay. This affects his attention to detail, the capacity to master the situation and begin thinking, even incrementally, about how to change things and improve them. Since he is not too sure of what has to be done, the preference is to opt for whatever was tried out in the past and seemed to have sufficed. In the process, changes which may have been initiated by the predecessor are either disregarded or thought of as being disruptionist. Most public organisations do not possess the 'memory' which will absorb change and continue it even under adverse circumstances. Second, there are even more deleterious consequences down the line. Other staff in the organisation do not extend the commitment so necessary for change to be institutionalised. Their assessment is that everything new being temporary administrative improvement and practice, different from the ordinary way of doing things, represent the foibles or prejudices (at worst) of the incumbent, to be sent packing immediately on the departure of the officer. An attenuated hierarchy, which disorients intent and initiative, further impels the status quo.

It is in this context that it is crucial and critical to remove uncertainty and imbue the officers with a certain security of tenure in every post, barring cases of promotion. In order to ensure this several options are proposed, with varying degree of political acceptability.

- To begin with, the Department of Personnel and Training (DOPT) should calculate for each state the average tenure of collectors, commissioners, etc., publicise this fact, and build up consensus on the need for longer tenures. Stability of administration should be included in the 20-Point Programme.
- There should be adequate publicity about who can transfer officials at various levels in government. This power should not be exercised by an authority higher than the appointing or punishing authority. This will ensure that government does not meddle with the transfers of low level officials.
- Stability index should be calculated for important posts, such as Collectors, and a norm of at least two years be fixed, so that although government would be free to transfer an officer before two years without calling for his explanation, the average must be maintained above two years. This would mean that for every short tenure some one else must have a sufficiently long tenure to maintain the average. Just as every government order carrying financial implications has to quote the authority of the Finance Department, every transfer order must indicate in arithmetical terms how the average has been affected by the transfer in question.
- There should be a high powered and statutory Civil Services Board in the States, which should process all proposals of postings and transfers and there should be an ACC kind of procedure (followed by the Government of India whereby an officer joins a Ministry for a fixed term of 4 - 5 years) in the States also. Once a person is posted he should not be transferred except by following the same procedure once more. The ACC system does ensure stability of tenure at the Centre. If it is operated properly in the States there is no reason why it should not succeed in the States too. At least all proposals for premature transfers should be first cleared from this Board before these are implemented by the Government.
- At least for higher ranks of the civil services e.g. Chief Secretaries, Secretaries of Government and DGPs, postings may be made contractual for a fixed period, and officers be monetarily compensated if removed before the period of the contract without their consent or explanation,
- Rule 11 of the Civil Service Rules be amended to include 'transfer below two years' as a minor penalty; so that no politician is able to arbitrarily transfer an officer without calling for his explanation.

It is not correct to assume that there would be political resistance to the idea of stability of tenure. Many Chief Ministers would welcome this proposal, as they are often pressurised by their MLAs to resort to frequent transfers, and with a change in law, they would be able to resist the pressure in a better manner. It may also be mentioned here that many transfers are initiated at the request of the officer himself, and this tendency will also get curbed with new laws.

The hankering after posts is also linked quite often to the 'trappings' of the post - vehicles, domestic help etc. It is clear that to a large extent these are dictated by the nature of jobs and should also constitute an element in determining how to categorize posts. If minimum levels of 'perks' can be made uniform at certain levels of government, it will reduce the temptation of officers to seek political favours.

### ***Transparency and corruption***

During the last ten years there have been many instances of the high and the mighty being accused of corruption, the hawala scam being the high point of this trend. But what about the all-pervasive, petty, institutionalised corruption, in public works and police stations, collectorates and courts? The fatalist ordinary Indian has learnt to live with these varieties of corruption as easily as with his pantheon of Gods. The Mazdoor Kisan Shakti Sangathan (MKSS) in the districts of Rajasthan has tried to break out of this circle of fatalism and despair by pressing on the citizen's right to information. This has enabled poor farmers to realise that it is possible to corner the corrupt and seek remedial action. 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.

It is not enough only to recognise this right, and accede to it if and when an organisation like MKSS or the independent ordinary citizen demands information. It should be the duty of an officer who is genuinely committed to fight corruption and oppression by the state machinery, to pro-actively attempt to increase the power of the citizen in his or her relation with the state, through building in transparency into all official procedures and systems, and suo-moto making available all relevant information to the people. In the context of development workers, for instance, this would mean enforcing the rule that all muster rolls and bills are regularly read out and explained to the people in gram sabhas.

To do this, no radical change in official rules is required. On the contrary, existing rules already provide for such sharing of vital relevant information with the public and gram Sabhas. However, such rules are mostly observed in the breach, because it suits the bureaucracy to sustain or even enhance the capacity of its functioning to enable its arbitrary malafide, nepotistic and corrupt exercise of power. It is therefore necessary that GOI issue clear guidelines on the subject.

Most political manipulations succeed because of the environment of secrecy which pervades government functioning. There is no early check because decisions are taken behind closed doors. The sharing of information and making the entire system more transparent would certainly reduce the danger of the system being hijacked by crooks. In particular:

- . Review the Official Secrets Act, and replace it by a Right to Information Act.
- . Rule 9 of the All India Services Conduct Rules which prevents information from being provided to an ordinary citizen should be deleted, and another rule is added highlighting the intention of the Government in favour of transparency and stating that all such information which is generally provided by the Assembly/Parliament to a Member of Legislature, should also be provided to any member of the public, including NGO. This would drastically reduce the cost of answering Parliament/Assembly questions, as today for an ordinary citizen the only route of getting information about administrative matters is to approach a Member of the Legislature who, in turn, would raise a question in the Legislature. This all can be avoided if information is provided at the point at which it is generated.
- . At the initial stages of a career in the IAS there is a view that the whole process of cadre allotment is mystified. Today many, who join the IAS and have alternate career options, may have preferred to remain as doctors etc. if they are unlikely to be placed in a cadre of their choice. Reform in this direction would be to allot the cadre with appointment letters so as to dispel the notion that these can be manipulated. The number of state-wise vacancies indicating the insider/outsider division and the vacancies reserved for various categories need to be announced before the final results. People should be able to make an informed choice about their career.
- . Information about performance, reasons for promotion/non-promotion should be accessible and shared. Even mundane things like the fact that certain officers can 'manage' house allotment and others don't

have the nature or wherewithal to do so, result in disillusionment, and the feeling that although the UPSC examination system may be a leveller, after that it is not a level playing field.

- - All files, except those marked confidential for reasons of the security of state, should be accessible to everyone, especially those who are affected by that decision. At least in some offices, all information (say, relating to house allotment, or getting a new telephone) should be computerised, so that an applicant knows where exactly his paper is pending.
- - Amend Conduct Rules to allow officers to write articles on current national problems, even if it means criticism of the system, without having to obtain permission from government. To begin with, Associations can be permitted to write freely on public matters, especially if it leads to minimising corruption, both political and administrative, and improving the delivery system. The Indian political system is highly resilient to public opinion. Free expression of thought will lead to building up of pressure of informed opinion, so necessary for radical reforms of the nature suggested in this paper.
- - An officer seeking deputation to the GOI should be free to suggest the names of the Ministries where he would like to go, or the Ministries for which he would not like to be considered. This would avoid a great deal of hard burning and frustration which results when an officer lands up in a Ministry where he does not like to work.
- - The control which the politicians exercise on the civil servants amounts to backseat driving. In the present system it is difficult to fix responsibility for decisions, or for not taking decisions. The term public interest is most abused today, as it is used to cover hidden and malafide motives knowing fully well that the public is not in a position to challenge the bonafides of decision makers. It is here that a fundamental change is required in the Rules of Business. The advice given by civil servants should no longer be secret, it should be mentioned in each government order the level at which decision has been taken, the reasons for disallowing a petition should be fully mentioned, that is, it should be a speaking order, and the reasons for delay in disposal of petitions should be fully explained. For instance, it is seen that the requirement of seeking FCRA clearance by NGOs before getting foreign funds has been misused for harrasment and extortion by the IB officials, because the order which is ultimately passed by the Home Ministry is not required to disclose the reasons why the application has been rejected. Often the IB official does not even visit the NGO, and just gives a one line report that the reputation of the NGO is not satisfactory in the field. Things would be different if the order from the Home Ministry is required to mention in detail the date on which the official visited the organisation, persons contacted, etc.
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### ***Reduction in the size of the cadre***

In the long term, steps need to be taken to drastically reduce the number of meaningless posts in the IAS, so that only such posts where people can contribute meaningfully are retained. After the first fifteen years in service, an average officer spends at least 50% of his time doing useless work on posts which call for no challenge. Indian Government must be the only organisation in the modern World where half of the top management is deliberately and consciously forced to waste its time on useless posts, both at the Central and the State levels. Working much below their capability results in stagnation, and many officers ultimately become 'dead wood'. The suggestions are:

- - Retire 25% to 50% of the officers at the age of 52 to 55, as it is done in the Army;
- - Drastically reduce the cadre as well as ex-cadre posts, especially in the supertime and above, leading to slower promotions;
- - Encourage officers to join NGOs, educational and research institutes during mid-career. The DOPT should play a more active 'placement' role by maintaining a list of officers who wish to be out of the service for a temporary period, and liaise with the desirous NGOs and other institutions;
- - Increase the period an officer can be out of the system from 5 to 7 years,

- Many posts in the government should be earmarked to permit lateral entry of people from NGO/ professional institutions at various levels to bring in a fresh outlook.

### ***Professionalism***

It will be interesting to compare the work culture of young IAS officers with those coming out of the IIMs. Both come from the same social and educational background, and both enter their respective organisations at senior positions at a young age, while their other colleagues and subordinates are much older to them. The young manager has to establish himself by proving his effectiveness and utility to the organisation by generating more sales or showing greater savings etc. With no prospects of a time bound promotion, he must strive hard to earn a name for himself in the market and keep growing. The young administrator, on the other hand, relies more on acquiring traditional and ascriptive traits which distinguish him from others; aloofness, greater use of English, calling on seniors and trying to achieve social integration with them, and at the same time enforcing symbols of subordination on others. In other words, he is trying to prove to every one that he belongs to an 'exclusive club'. He maximises his status and social prestige and not his output. The fact that he has shorter tenures in junior positions helps to hide his mediocrity.

All talk of excellent or brilliant performance is meaningless unless a bottom line of minimum acceptable standard of performance is stipulated. This has to be at two levels viz. organisational and individual. It is imperative that each Ministry/ Department of the central and state governments and all departments and agencies under the district administration, have a well defined and spelt out criteria by which performance of their functionaries can be evaluated. For example the Railways/ Airlines promise running of trains/planes as per the announced schedule. Non-adherence to this should entail adequate compensation for non-delivery of promised service. This concept could also be extended to other service sectors, such as Banks, Telecommunications, and Post Offices.

In consonance with the organisational performance standards, each individual's performance standard needs to be spelt out. Such a measure will perforce compel imbibing of professionalism and performance norms will shift from platitudes and aspirations to concrete output. This will in turn arrest the tendency of seeking 'plum' posting as the capacity and ability to take the challenge will determine the choice.

### ***Accountability to the people***

At present the system of government is such that it is difficult for an average citizen to have access to information about schemes and programmes that affect him, and even about his rights and records. The complicated procedures not only distance government from the very people that are sought to be provided with services but also create possible sources of corruption. Therefore the stress needs to be on developing computer based information systems so that discretion and delay can be reduced. For instance, why can't in some tahsils we instal a computer where you insert a ten rupee note and get land ownership record of the entire village? Some suggestions are:

- Departments such as the DDA, Police and Revenue, which have more dealings with the people, should be assessed by an independent professional organisation, consisting of journalists, activists, NGOs, and even retired government servants, once in three years. These should look at their policies and performance, and suggest constructive steps for their improvement. UNDP can help in the building up of such evaluation organisations. At present the systems of inspection are elaborate but often preclude the possibility of a 'fresh look' as they are totally governmental and rigid. The system should be made more open so that the civil service can gain from the expertise of outsiders in the mode of donor agency evaluations of projects and there is a feeling of greater accountability. The teams should consist, in addition to government servants, of development practitioners from other fields, academicians and even members of the public. The reviews conducted should also form the basis of time bound changes and improvements which should be monitored.
- Programmes similar to Helpline (on Zee TV) should be shown regularly on Doordarshan and Metro, as also on all Radio Stations to improve accountability of the civil servants to the public. One

understands that the programme Janvani on Doordarshan was dropped as the civil servants did not appreciate being criticised by the public! If the slogan that administration exists for the satisfaction of citizens as consumers has to have any relevance, they must learn to take the criticism in their own stride, and earn public's appreciation through hard work and greater output.

- Action against corrupt officers cannot be initiated as the power to sanction prosecution is vested in state governments. This should be declared a semi-judicial process, and the powers to sanction prosecution should be vested with a designated authority, who should pass a speaking order on receipt of complaint from CBI or other agencies. Corruption at senior levels in India has unfortunately become a low-risk and high-reward activity, unless the political government is itself voted out, as witnessed in Tamilnadu in 1996.
- More emphasis needs to be placed on a system like that of the 'Desk Officer' where the operating level concerned is responsible for the maintenance of record. This would lead to an increase in result-orientation, the possibility of flatter organisations and a reduction in dependence on lower levels. Upto Joint Secretaries to the GOI, and Special Secretaries to the State Governments, officers should be encouraged to keep the most important files in their personal cupboard, so as to reduce the chances of corruption by the lower functionaries, and increase transparency in decision making.

### ***Administrative reforms***

In Britain the sweeping changes that have taken place have been possible because of the priority that has been accorded at the highest level to the implementation of change and a regular system of monitoring and evaluation. At present the status of the Department of Administrative Reforms in both the states and the centre is as an appendage to the Department of Personnel and the advice is considered recommendatory but not necessarily binding on other Ministries etc. If evaluations become more open, as suggested, departments would find it very difficult not to carry out the changes suggested.

There are a large number of IAS officers in Delhi who do not have more than an hour's work. On the other hand, the Department of Administrative Reforms does not have trained personnel who can carry out evaluation studies and interact with the top managers in government. Teams of IAS officers who are otherwise idle may be made to study the procedures and policies, and suggest reforms. Similar step should be taken at the state level. Rather than recruit new researchers for Administrative Reforms, the existing idle manpower should be harnessed.

### ***Decentralisation and redefining the role of government***

The 73rd Amendment envisages a polity where more and more powers are decentralised to the third stratum, but ironically in many of the States (barring W.B. and Maharashtra perhaps) administrative and financial powers have been heavily concentrated in the Secretariats and Directorates. This process of centralisation of authority has specially been going on in the last thirty years. At one time the Chief Secretary of U.P. used to be the junior most Commissioner, and all Secretaries used to be junior to Commissioners. Today priorities have entirely changed. Last year, a Secretary of a minor department felt humiliated, and moved heaven and earth, when he was transferred as Commissioner Lucknow! The reason is that Secretaries have become Zamindars - all power and little responsibility - and therefore everyone wishes to be there. This concentration, in addition to facilitating political corruption, results in making decisions the outcome of a long and tedious process which inconveniences the public.

Every organisation/department/Ministry needs to clearly work out a plan for reduction of its powers. This decentralisation would naturally devolve greater responsibility down the line as well, and would have to be accompanied by delegation of powers, both administrative and financial.

Specifically in the context of the I.A.S, the tendency to concentrate powers and functions which are rightfully the domain of other departments needs to be curbed. This manifests itself in various ways, for example, District Magistrates are quite often designated as Chairpersons for a plethora of meetings, not always in a coordinating role, but more as a target chaser for various departments. The DMs do not have adequate time

to actually supervise or coordinate effectively, and in any case the task at hand has to be performed by functionaries of other departments. With a proper definition of objectives, and the concomitant accountability these functionaries would be responsible for their own actions.

With the changing role of government the size and scale of the civil services no longer relate to the nature of functions that government can or should undertake. One should identify surplus staff, set up an effective redeployment plan, and a liberal system for exit. For the time being recruitment should only take place of functional posts, and vacant posts of secretarial and clerical posts should not be allowed to be filled. Generous golden hand shakes have to be introduced. One should learn from China which in a span of three years reduced its bureaucracy by 25%.

It is clear that reducing the size of government, ensuring more goal orientation, and stability of tenure leading to specialisation is likely to be a time consuming process. But if the process is initiated immediately and in right earnest, the country should be able to enter the 21st century with a vision of the future.

## Suggestions for improvement

Where is the solution? How do we restore the credibility of the 'steel frame'? How to make more IAS officers stand up to the illegal pressures and temptations? As already stated, it would be unfair to lay the blame with the politicians alone. The problem is similar to what is known as 'tragedy of the commons'. It is rational for the individual politician to use the government machinery for narrow ends, creating a situation where individual rationality does not lead to group optimality. The classical solution which is advocated in such situations is to change the terms at which interaction takes place between the two groups, in this case civil servants and politicians. This change can be brought about in several ways discussed below.

### ***Stability of Tenure***

A malaise afflicting the civil service generally is the instability of tenures, leading not only to a lack of sense of involvement but also to the inability to contribute effectively to amelioration of the system. In U.P., the average tenure of an IAS officer in the last three years is said to be as low as six months. In the last 15 years, the Andhra Pradesh Forestry Department has seen 16 heads, 25% of its officers above ACF level stayed in their jobs for less than a year. Transfers have been used as instruments of reward and punishment, there is no transparency, and in the public mind transfer after a short stay is categorised as a stigma. Officers who are victimised are not in a position to defend themselves. Internally the system does not call for any reaction to explain one's conduct, while externally public servants are debarred from going public to defend themselves.

Frequent transfers and limited tenures are playing havoc with public organisations. With every quick change in the head of the office, a funereal air is noticeable and down the line the respect for authority is wittled away. Rapid changes erode the mandate of the Department or Organisation. There are two other consequences. The incumbent himself is not sure of how long he will stay. This affects his attention to detail, the capacity to master the situation and begin thinking, even incrementally, about how to change things and improve them. Since he is not too sure of what has to be done, the preference is to opt for whatever was tried out in the past and seemed to have sufficed. In the process, changes which may have been initiated by the predecessor are either disregarded or thought of as being disruptionist. Most public organisations do not possess the 'memory' which will absorb change and continue it even under adverse circumstances. Second, there are even more deleterious consequences down the line. Other staff in the organisation do not extend the commitment so necessary for change to be institutionalised. Their assessment is that everything new being temporary administrative improvement and practice, different from the ordinary way of doing things, represent the foibles or prejudices (at worst) of the incumbent, to be sent packing immediately on the departure of the officer. An attenuated hierarchy, which disorients intent and initiative, further impels the status quo.

It is in this context that it is crucial and critical to remove uncertainty and imbue the officers with a certain security of tenure in every post, barring cases of promotion. In order to ensure this several options are proposed, with varying degree of political acceptability.

- . To begin with, the Department of Personnel and Training (DOPT) should calculate for each state the average tenure of collectors, commissioners, etc., publicise this fact, and build up consensus on the need for longer tenures. Stability of administration should be included in the 20-Point Programme.
- . There should be adequate publicity about who can transfer officials at various levels in government. This power should not be exercised by an authority higher than the appointing or punishing authority. This will ensure that government does not meddle with the transfers of low level officials.
- . Stability index should be calculated for important posts, such as Collectors, and a norm of at least two years be fixed, so that although government would be free to transfer an officer before two years without calling for his explanation, the average must be maintained above two years. This would

mean that for every short tenure some one else must have a sufficiently long tenure to maintain the average. Just as every government order carrying financial implications has to quote the authority of the Finance Department, every transfer order must indicate in arithmetical terms how the average has been affected by the transfer in question.

- - There should be a high powered and statutory Civil Services Board in the States, which should process all proposals of postings and transfers and there should be an ACC kind of procedure (followed by the Government of India whereby an officer joins a Ministry for a fixed term of 4 - 5 years) in the States also. Once a person is posted he should not be transferred except by following the same procedure once more. The ACC system does ensure stability of tenure at the Centre. If it is operated properly in the States there is no reason why it should not succeed in the States too. At least all proposals for premature transfers should be first cleared from this Board before these are implemented by the Government.
- - At least for higher ranks of the civil services e.g. Chief Secretaries, Secretaries of Government and DGPs, postings may be made contractual for a fixed period, and officers be monetarily compensated if removed before the period of the contract without their consent or explanation,
- - Rule 11 of the Civil Service Rules be amended to include 'transfer below two years' as a minor penalty; so that no politician is able to arbitrarily transfer an officer without calling for his explanation.

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- Departments such as the DDA, Police and Revenue, which have more dealings with the people, should be assessed by an independent professional organisation, consisting of journalists, activists, NGOs, and even retired government servants, once in three years. These should look at their policies and performance, and suggest constructive steps for their improvement. UNDP can help in the building up of such evaluation organisations. At present the systems of inspection are elaborate but often preclude the possibility of a 'fresh look' as they are totally governmental and rigid. The system should be made more open so that the civil service can gain from the expertise of outsiders in the mode of donor agency evaluations of projects and there is a feeling of greater accountability. The teams should consist, in addition to government servants, of development practitioners from other fields, academicians and even members of the public. The reviews conducted should also form the basis of time bound changes and improvements which should be monitored.
- Programmes similar to Helpline (on Zee TV) should be shown regularly on Doordarshan and Metro, as also on all Radio Stations to improve accountability of the civil servants to the public. One understands that the programme Janvani on Doordarshan was dropped as the civil servants did not appreciate being criticised by the public! If the slogan that administration exists for the satisfaction of citizens as consumers has to have any relevance, they must learn to take the criticism in their own stride, and earn public's appreciation through hard work and greater output.
- Action against corrupt officers cannot be initiated as the power to sanction prosecution is vested in state governments. This should be declared a semi-judicial process, and the powers to sanction prosecution should be vested with a designated authority, who should pass a speaking order on receipt of complaint from CBI or other agencies. Corruption at senior levels in India has unfortunately become a low-risk and high-reward activity, unless the political government is itself voted out, as witnessed in Tamilnadu in 1996.
- More emphasis needs to be placed on a system like that of the 'Desk Officer' where the operating level concerned is responsible for the maintenance of record. This would lead to an increase in result-orientation, the possibility of flatter organisations and a reduction in dependence on lower levels. Upto Joint Secretaries to the GOI, and Special Secretaries to the State Governments, officers should be encouraged to keep the most important files in their personal cupboard, so as to reduce the chances of corruption by the lower functionaries, and increase transparency in decision making.

### ***Administrative reforms***

In Britain the sweeping changes that have taken place have been possible because of the priority that has been accorded at the highest level to the implementation of change and a regular system of monitoring and evaluation. At present the status of the Department of Administrative Reforms in both the states and the centre is as an appendage to the Department of Personnel and the advice is considered recommendatory but not necessarily binding on other Ministries etc. If evaluations become more open, as suggested, departments would find it very difficult not to carry out the changes suggested.

There are a large number of IAS officers in Delhi who do not have more than an hour's work. On the other hand, the Department of Administrative Reforms does not have trained personnel who can carry out

evaluation studies and interact with the top managers in government. Teams of IAS officers who are otherwise idle may be made to study the procedures and policies, and suggest reforms. Similar step should be taken at the state level. Rather than recruit new researchers for Administrative Reforms, the existing idle manpower should be harnessed.

### ***Decentralisation and redefining the role of government***

The 73rd Amendment envisages a polity where more and more powers are decentralised to the third stratum, but ironically in many of the States (barring W.B. and Maharashtra perhaps) administrative and financial powers have been heavily concentrated in the Secretariats and Directorates. This process of centralisation of authority has specially been going on in the last thirty years. At one time the Chief Secretary of U.P. used to be the junior most Commissioner, and all Secretaries used to be junior to Commissioners. Today priorities have entirely changed. Last year, a Secretary of a minor department felt humiliated, and moved heaven and earth, when he was transferred as Commissioner Lucknow! The reason is that Secretaries have become Zamindars - all power and little responsibility - and therefore everyone wishes to be there. This concentration, in addition to facilitating political corruption, results in making decisions the outcome of a long and tedious process which inconveniences the public.

Every organisation/department/Ministry needs to clearly work out a plan for reduction of its powers. This decentralisation would naturally devolve greater responsibility down the line as well, and would have to be accompanied by delegation of powers, both administrative and financial.

Specifically in the context of the I.A.S, the tendency to concentrate powers and functions which are rightfully the domain of other departments needs to be curbed. This manifests itself in various ways, for example, District Magistrates are quite often designated as Chairpersons for a plethora of meetings, not always in a coordinating role, but more as a target chaser for various departments. The DMs do not have adequate time to actually supervise or coordinate effectively, and in any case the task at hand has to be performed by functionaries of other departments. With a proper definition of objectives, and the concomitant accountability these functionaries would be responsible for their own actions.

With the changing role of government the size and scale of the civil services no longer relate to the nature of functions that government can or should undertake. One should identify surplus staff, set up an effective redeployment plan, and a liberal system for exit. For the time being recruitment should only take place of functional posts, and vacant posts of secretarial and clerical posts should not be allowed to be filled. Generous golden hand shakes have to be introduced. One should learn from China which in a span of three years reduced its bureaucracy by 25%.

It is clear that reducing the size of government, ensuring more goal orientation, and stability of tenure leading to specialisation is likely to be a time consuming process. But if the process is initiated immediately and in right earnest, the country should be able to enter the 21st century with a vision of the future.